

Summary Report
of the Case Study of
South East Child and Family Services
"Politics and Program: A Case Study of a
First Nations Child and Family Service Agency"
by Pete Hudson

summarized by

Joyce B Timpson DSW

for the
Royal Commission on Aboriginal Peoples

5 October 1994

The South East Child and Family Services (SECFS) study examines internal and intergovernmental relationships through a review of documents of the agency, its governing body, and non-First Nations governments, and key informants interviews from these groups. It demonstrates the service implications of internal and external political relationships. It outlines SECFS' experience with the issues and the recommendations that follow.

GENERAL

One of the original First Nations Child and Family Services in Canada, SECFS serves about 4,000 persons in 9 scattered First Nations communities in South East Manitoba. Five are accessible only by air, the most distant being 300 km from Winnipeg. Between 1983 and 1993 there was a 50% rise in South East's on reserve population with a 36% rise in the 0-18 year population. While actual on-reserve numbers are increasing, the off-reserve percentages are increasing faster. The \$5 million budget in 1993 is 9 times the 1983 start-up budget and 5 times the 1987 total budget for operations and child care.

INTERNAL RELATIONS

SECFS is governed by 3 separate but interrelated bodies. At the regional political level the South East Resource Development Council (SERDC) is a body of the 9 regional Chiefs. To operate the agency, it delegates a Regional Committee (RC) comprised of volunteer representatives of the 9 communities, with the SEDRC portfolio chief and the Executive Director as non voting members. Each of the 9 communities has a Band appointed voluntary

Local Child Care Committee (LCCC) of interested citizens or workers in human services, and a local portfolio Councillor. The agency shows formal support of the LCCC importance with orientation, honoraria and expenses and technical advice on case matters. One representative of each LCCC sits on the RC. Hence agency components at both the community and political level are formally linked. (Figure 1)

SECFS philosophy and structure upholds community decision making as much as possible with a "bottom up" process of governance. The following structural issues are discussed: communication, orientation, accountability and authority, centralization versus decentralization, centrality of local committees.

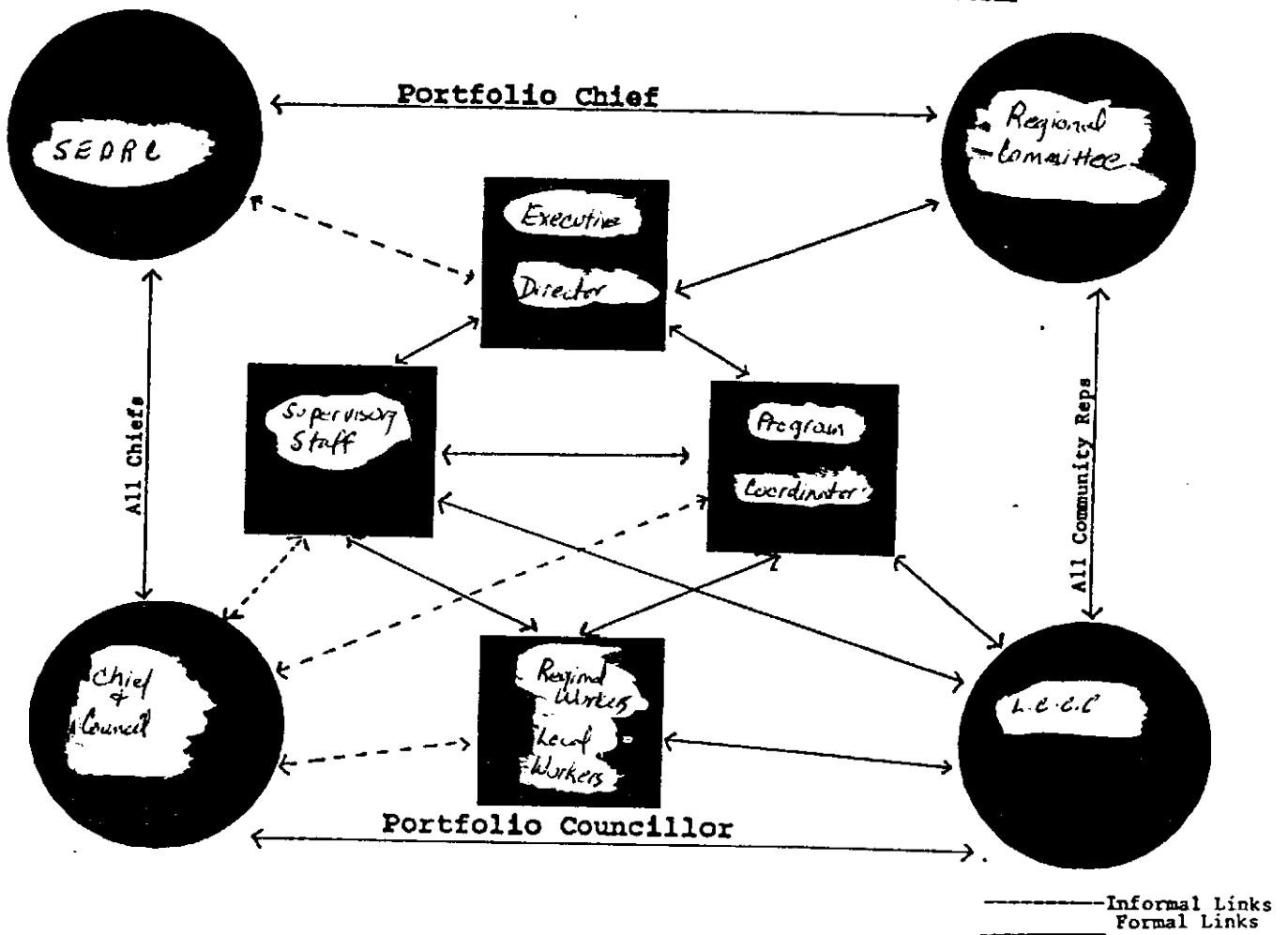
Communication breakdown is the greatest risk with this complex structure and is aggravated by political and staff turnover. Lack of knowledge of the services and no feedback from meetings were reported. The formal linkages have improved communication.

The improved communication network has assisted with definitions and orientations for the members of these political and voluntary governing bodies. The orientation to the agency for these groups is ad hoc and very brief. Time limitations for the volunteers hinder routine training.

Tensions exist between the agency's community based philosophy and the province which upholds the legal role of the RC to whom it delegates the child welfare mandate. At the community level, staff report both to the LCCC and their supervisors at SECFS. Complications arise when local Chiefs and Councils want involvement. Informants reported an overall supportive role from Chiefs and Councils with a few exceptions when, for political gain, local politicians overturned case decisions or influenced hiring. Crossing the line of "interference"

FIGURE 1

Figure 1. REPRESENTATION OF SECPS GOVERNANCE STRUCTURE



is not difficult at the community level as Chiefs are traditional mediators and jobs are scarce. To address these difficulties, the agency has maintained arms-length relationships between elected and operational levels and the RC upholds LCCC decisions. The Chiefs have signed a declaration of non-interference recognizing the LCCC authority while upholding the right to remain informed.

In full support of full community control of child welfare is the Assembly of Manitoba Chiefs Task Force (AMCTF). Informants to this study, however, had reservations about full decentralization. The concerns were: limits to financial and human resources, the need for outside checks and balances to protect victims of family violence from community denial, and their unreadiness to operate the service. The agency balances decentralisation with centralisation by including Band employed community based workers and agency employed regional workers. The agency supports LCCC autonomy by requiring regional workers to be in communities for several days at a time.

The strength of the LCCCs is critical to the success of community based Child and Family Services. Small core membership and poor attendance at meetings are common. Closeness of relationships in communities, fear of disapproval, literacy problems and scheduling meetings hinder success. The reconciliation of the LCCC role as advisory or governing is necessary.

Recommendations:

To ensure good communication, knowledge of individual roles and responsibilities while balancing community autonomy with the SECFS mandate, the report makes the following

recommendations:

- * The agency must continually remind individuals in key linkage positions of their roles and responsibilities.**
- * The Regional Committee should develop formal ways to address communication breakdowns from the community linkages.**
- * A commitment to deal informally with communication breakdowns from elected members should be made.**
- * Knowledge of the agency functions could be improved by routine (quarterly) summation reporting and advance consultations with the Council on controversial actions. Similar routine reporting to the LCCCs should occur at the community level with a delineation of which case matters should or should not be routinely reported.**
- * Case precedents can be used to inform members of policies and child welfare issues.**
- * An independent body to facilitate, mediate and act as an appeal body as last resort should be considered as a means of resolving issues.**
- * The AMC Task Force recommendations are ahead of community aspirations. Ways that self government at the community level could meld with regional structures in a cooperative mode should be explored.**
- * Careful attention to the selection and orientation of LCCC members should be a priority for strengthening effective community control.**
- * Staff time should be allocated to work with the LCCCs in education and orientation, assistance with meetings, follow-up of LCCC decisions.**
- * Each community should receive encouragement to address ways to facilitate the success of the LCCCs .**

INTERGOVERNMENTAL RELATIONSHIPS: PROVINCIAL AND FEDERAL

The federal government is the funder and the province the administrator and regulator of First Nations' child welfare services. While responsible for standards, the province has no control over funding. The jurisdictional split renders agency-provincial relations as

simultaneously undermining and problematic in political and service spheres. The province is supportive in some spheres.

By its constitutional authority and its Child Welfare Act (1985), Manitoba mandates, and could withdraw, executive powers to SECFC through the RC while legal and judicial powers remain with the province. SECFS is subject to provincial policies and standards such as foster care rates which may not fit cultural and economic circumstances. Subjugation to the province undermines self-government aspirations.

First Nations entered into child welfare agreements as interim measures only arguing their inherent, unrelinquished jurisdiction for child protection. Manitoba argues that it delegates the authority to the RC. SERDC argues it delegates the authority for child welfare to the RC arguing that the province cannot delegate an authority which it does not have.

The province accommodates the conflicting positions for First Nations' benefit in some areas and not in others. Its legislation now acknowledges cultural, heritage and linguistic principles in both family services and determining "best interests" of children. It has assisted with training of local workers, has provided funds for repatriation of children adopted years earlier with non-First Nations families, and has provided consultation such as for program reviews. On the other hand the province has refused to provide supervisory training, prevention services, and support for the agency developing its own codes and standards. The use of the adversarial court system is inappropriate and punishes rather than heals relationships in child welfare matters by undermining the need for consensus.

Service to off-reserve members has been partially accommodated. The province now directs, but not by law, all non-aboriginal agencies to consult with First Nations agencies when

an off-reserve child is apprehended. Manitoba claims jurisdiction over off-reserve members although SECFS argues this is their responsibility, as increasingly the population moves between the reserves and Winnipeg. The off-reserve services' position appears to be based on the federal government's wishes to avoid further fiscal responsibility.

The tensions caused by the jurisdictional issues cannot be addressed by either the "hands-off" or "hands-on" extreme. With its tenuous position of holding responsibility while having no say in funding, Manitoba could ally itself with SECFS as an "interested party" to gain more favourable financial terms. The province could take a proactive political stance when requested by SECFS, such as with the proposal to develop standards. A commitment towards equal partnership in dialogue at administrative levels is necessary and possible. For example, contracts between SECFS and with mainstream agencies to deal with off-reserve residents could address the controversy on this issue. The province could contract SECFS to serve non-Status Indians living near SECFS reserves. Agreements between the province and SECFS in areas of provincial interest are possible. For examples, in post secondary education it could allow SECFS control over staff training. It could enter agreements for SECFS to provide corrective services for damage by past provincial policies.

The federal-provincial funding system hinders both the agency and the provinces from realizing child welfare service relevant to the area. The 1991 federal equalizing funding formula had two parts, the first of which is an open ended agreement for child care costs. The second has four components which have been implemented: a per capita grant per child; a fixed amount per band; a fixed administration grant for all agencies regardless of size; a remoteness factor. Two other critical components, socio-economic factors and inflation

adjustment, are not enacted.

The formula's philosophy presumes that problems are exceptionalistic and unrelated to socio-economic conditions. This ignores problems affecting entire communities that require community wide healing and prevention. It does not address special needs of First Nations agencies such as staff training, volunteer committee costs and development costs for standards development. Salaries, foster care rates and specialized child care rates also do not reflect SECFS' reality.

Despite the federal government's dictates on financing, it is unwilling to reconceptualize the role of the province. While insisting the province be a party to the agreement, it predetermined the condition of provincial authority. Why the federal government supports this agency-provincial relationship is unknown. The minimal fiscal commitment of the province for a duty about which it has always been ambivalent may be central to its adherence to the status quo. Federal legislation could reconcile this dilemma and was recommended by the ASMTF but no federal response is forthcoming. The federal stance affects service by hindering appropriate healing approaches reflective of the culture and socio-economic conditions. The recognition of First Nations' inherent rights in this area are ignored by both the federal and provincial governments. Political will to address this does not exist in these governments.

STAFF TRAINING

Staff training interweaves all the above issues. An effective community based program requires trained community based staff. New staff will be untrained, completion of full-time or part-time study would be impossible or difficult. A commitment to long term planning for

ongoing training programs geared to the barriers of combining work, school, family obligations, and workers' own personal healing are needed.

CONCLUSION

The essence of SECFS is the focus on community control and autonomy. The cooperative quality of relationships has assisted smooth running of the service despite an intergovernmental system that supports provincial jurisdiction and regional agencies. Intergovernmental relationships impact the communities' ability to address cultural, political and socio-economic realities. These relationships force the agency to operate largely on its own and to treat problems as individualistic rather than communal. A reconceptualization of the provincial role by both federal and provincial governments could facilitate more appropriate service.

RECOMMENDATIONS FROM THIS STUDY OF NATIONAL RELEVANCE:

- * South East Child and Family Services has developed a system that balances the voluntary and elected segments aimed at promoting community autonomy while protecting services from political interference. Its model of internal relations is worthy of examination by other agencies.**
- * Despite recommendations for full community control, the reticence of SECFS communities for full control should serve as a caution to proceed only at each community's willingness to assume control.**
- * Regional structures supportive of community autonomy by enmeshed structures should be examined as an effective accommodation to regional and community self-government issues in child welfare.**
- * Federal funding formulas must reconceptualize their philosophical underpinnings to consider child welfare problems as community not individually based, and as such require community not individual approaches.**

*** A reconceptualization of provincial roles of is required given the constitutional anomaly of First Nations Child and Family Services. In the interim, provinces should reexamine areas in which accommodation is possible within the context of constitutional and moral obligations to First Nations.**

*** For the strength of community based programs, reconceptualization of on going training possibilities for community based workers to accommodate their personal and work realities is necessary.**

Royal Commission on
Aboriginal Peoples



Commission royale sur
les peuples autochtones

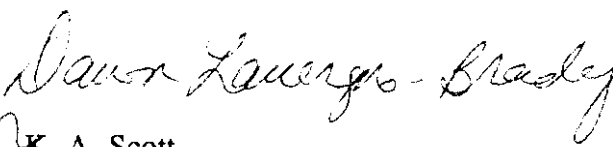
September 6, 1994

Prof. Peter Hudson
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Dear Prof. Hudson,

I am writing to advise you that the revised final version of *Politics and Program: A Case Study of a First Nations Child and Family Service Agency* has been received. Thank you for your meticulous attention to peer reviewers suggestions and a valuable, comprehensive report. I suspect that it will inform a substantive part of our work on child and family issues. All the best in the United Kingdom.

Sincerely,


for K. A. Scott
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Ms. Kim Scott,
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Dear Ms. Scott,

As per your letter dated August 9, 1994, I enclose with this letter:

- * One copy of the final report Politics and Program: A Case Study of a First Nations Child and Family Service.
- * An Executive Summary, Table of Contents, and a bibliography integrated with the report.
- * A diskette in WP5.1 with the executive summary as a separate file.
- * Hard copy of the draft report indicating with marginal comments the changes made.

I found the comments of the reviewers helpful, and I think the final product is the better for the revisions. These were fairly extensive and included:

- * Removing the contradiction between innovation and generalisability of the report. The latter point was strengthened; the former was rethought and eliminated.
- * The provision of more agency specific data in Sections III & IV, which deal with relationships with the provincial and federal governments.
- * Removing some of the apparent contradictions in some parts of the text. These included discussion of the level of authority of the Local Child Care Committees.
- * Clarifying the focus of the study, partly in order to deal with reviewers request for more data on program. This was not the focus of the study and no data was collected which would have enabled me to do that.

.../2

- * Strengthening the section which describes the data sources.

- * A complete reformatting of the conclusions in order to better deal with issues of generalisability and to place the jurisdictional issue in perspective. ie. It is one of the more pressing governance issues, which is not to say that other pressing issues do not face the agency. The conclusion also adds reference to the need for a Tripartite mechanism which was only implied in the text.

- * A section was added on Medical Services Branch as a result of feedback from the agency, and a revisiting of the data.

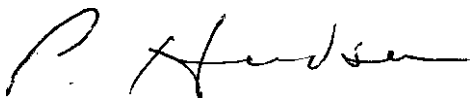
- * The final result was not a shorter report as called for by two reviewers. I think Section II could have been reorganised as per reviewers suggestions, but the amount of effort would have exceeded the gain.

- * Numerous editorial revisions were made in order to eliminate some inaccuracies, clumsy sentence structure and lack of clarity. Most of these are indicated in marginal notes on the draft, but I doubt that I caught them all.

I hope that this does it for me, because I will be in the U.K. for 6-9 months, from Sept. 19. I will establish a permanent address in the event that you wish to be in touch.

I trust that the finished work will be of value to the Commission, and I wish you well as your work approaches completion.

Sincerely,

A handwritten signature in cursive script, appearing to read 'P. Hudson'.

Pete Hudson, Associate Professor.

POLITICS AND PROGRAM: A CASE STUDY OF A FIRST NATIONS CHILD AND
FAMILY SERVICE AGENCY

PREPARED FOR THE ROYAL COMMISSION ON ABORIGINAL PEOPLES

by

Pete Hudson
Associate Professor
University of Manitoba

August 30, 1994

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EXECUTIVE SUMMARY

This case study of a First Nations Child and Family Service agency is one of three commissioned by the Royal Commission on Aboriginal People (RCAP). The scope and methodology of each of the three were not coordinated, and thus are not the same, but the objectives were similar. These were to assist the RCAP to present recommendations to the Federal government regarding its policies with respect to Aboriginal Child and Family Services, as well as to share the studies with other aboriginal agencies in the hopes that there is sufficient similarity in circumstances, that the experience of one may be of assistance to another. There is also an attempt in this study to include content which might be of specific assistance to the participating agency, Southeast Child and Family Service (SECFS). It was believed that SECFS was sufficiently "typical" that the first two objectives could be met through the case study approach.

The study focused only on issues of governance and structures. This was separated into three areas: internal governance of the agency itself, structural relationships between the agency and the Province, and structural relationships between the agency and the Federal government. No attempt was made to evaluate the specifics of program delivery, although it was found that some aspects of intergovernmental relationships impacted programs.

In terms of internal governance, a common thread is a strong

adherence to a philosophy of community based programming and community autonomy, combined with a regional structure of governance and administration. The respective roles of the community and region are in delicate balance and in constant adjustment. The system provides all of the advantages but also some of the tensions inherent in a federated system. An additional part of the structure in need of continuous review and adjustment is the nature of the relationship between Indian government, as embodied in the Tribal Council and the Band, and the service delivery agency operating at both these levels.

Five issues arising out of this structure are identified: communication, training, accountability and authority, decentralisation and the central role of the local committees in case and policy decision making (Local Child Care Committees or LCCC's). All of these issues were interrelated. Most particularly it was found that management of these issues was dependent in large part on the functioning of the LCCC's which had not entirely fulfilled their promise. It was found that one of the deficits was lack of skilled staff supports for these committees.

The relationship with the Province of Manitoba at the staff level has been mixed, but generally improving over time with the cultivation of personal links and increased understanding of the needs and agendas of each party. The problematic aspects of the relationship has been primarily when funds have been involved and

decisions have been made at the political level to deny requests for funds for specified purposes. The most important of these was the withholding of funds for SECFS to develop a code of standards through a series of intensive community consultations. The code would have been an important step towards articulating and implementing a culturally appropriate practice.

The issue which has been the most problematic has been that of jurisdiction. This too is an essentially political issue. The province "delegates" its authority to the agency in much the same manner as it does to other non-profit agencies delivering child and family services on its behalf under the authority of the Child and Family Services Act. This issue is not just a continual affront to First Nations self-government aspirations, but the study found that working under the authority of the Act and provincial regulations and directives pursuant to it, places some significant constraints on the ability of the agency to develop its own forms of practice which are more consistent with cultural values, and the socio-economic circumstances of the communities.

The primary role of the Federal government in the system is to provide for operating and child maintenance funds. In this, the new funding formula has achieved equity, some measure of predictability and even generosity when provincial funding to its non-aboriginal counterpart agencies is compared. The critique of the formula is primarily in its emphasis on "treatment" responses to

"exceptionalistic" problems, as opposed to assisting with the development of healing responses to problems which are epidemic and community wide. Included in this critique is the absence of routinely allocated dollars for developmental tasks, especially for staff development and training.

Summary of Recommendations

The recommendations which follow are extracted from the text of the report. They are not repeated in summary form in the text.

SECFS:

- * The Regional Committee continue to emphasise routine communication and reporting between the different parts of the system. In addition there is a need to routinely conduct orientation for incoming key links in the system, especially Regional Committee members and their reporting responsibilities to the local level, and portfolio councillors and their reporting responsibilities to the chief and council.

- * Orientation should not be confined to a "one shot" event, but also include briefings around major issues and events as and when they arise. In this supervisory staff should have a major responsibility in supplementing and supporting the reporting links provided by the volunteers within the system.

- * Some staff resources should be devoted to building a body of "case law" or precedents from these major issues or events with a view to beginning to establish guidelines and standards for decision-making by local committees. This is so that in the medium term, each decision is not treated as exceptional and entirely unique, even though every situation will have some unique features. Examples of the content of such guidelines would be:

- the circumstances under which a child might be removed from its family.
- the processes for removal.
- conditions of continuing involvement of the parents and other members of the family.
- procedures for long term planning for the child.
- a hierarchy of priorities for long term planning.

- * Efforts at a consensus style of decision making should be maintained. An independent panel of respected people in the

local community should be established to mediate or arbitrate any disagreements which are not resolvable through existing mechanisms.

- * Continuing opportunities to decentralise authority and decision making should be sought. At the same time there are evident advantages to maintaining a regional structure.

- * Funds should be sought, or resources otherwise redirected into the provision of skilled staff support for the LCCC's. They cannot be expected to fully function in the very central role assigned to them within the system without this. At the same time each LCCC should consider options, prepared by staff, for ways of discharging their obligations and maintaining their rights in more efficient ways. Training, for example, could be, with skilled staff assistance, related to real decisions on current agendas, as opposed to the special topic workshop format.

THE PROVINCE OF MANITOBA:

- * At the political level a commitment to a re-examination of Provincial authority over First Nations children is required. This jurisdictional issue applies to both on-reserve and off-reserve services. At the same time, or as an interim step, provincial staff could extend their co-operation in further examination of the service constraints which result directly from the application of provincial authority, with a view to shorter term change in regulations or legislation to better accommodate an emerging culturally appropriate practice.

- * Provincial staff, and ultimately Cabinet, should engage with agency staff to develop clearer criteria on the funding responsibilities of the Province.

THE GOVERNMENT OF CANADA:

- * Further work is required on the existing funding formula. Some important objectives are already met, such as predictability, and equity. The major outstanding piece of unfinished business is an examination of a formula which is based in an "exceptionalistic" model of social welfare, as opposed to a "universal" or holistic model. The latter model is more appropriate to the cultural and socio-economic circumstances of First Nations communities.

- * The same model appears to be in effect within Medical Services Branch. INAC should take responsibility for all billings currently handled by MSB to avoid two sets of reporting requirements. In addition, MSB should examine and be prepared to change its approval process, and the regulations which limits the options for choice of service provider.

* It is not certain at what level of government the insistence on provincial authority is located: senior staff or Cabinet. Ultimately, however, this policy is the responsibility of the government of the day which is urged to review this policy.

ALL PARTIES:

* All three parties are confronted with staff training needs which are unique to the First Nations agencies. The needs are persistent, pressing and not easily resolved. Three way discussions are required in order to develop a long term plan to address these needs. Any planning should recognise the special difficulties referred to in this report, and recognise training as an ongoing need.

* Most of the foregoing recommendations will be difficult, if not impossible to implement, without a commitment from all three parties to a vehicle through which they can enter into serious and sustained discussions around the outstanding issues identified in this report. Thus the creation of a Tripartite Committee at the highest level is recommended.

POLITICS AND PROGRAM: A CASE STUDY OF A FIRST NATIONS CHILD AND
FAMILY SERVICE AGENCY

PREPARED FOR THE ROYAL COMMISSION ON ABORIGINAL PEOPLES

SECTION I: BACKGROUND TO THE STUDY

Introduction

The Royal Commission on Aboriginal Peoples (RCAP) has chosen to undertake research on aboriginal child and family services in Canada. A case study approach was chosen for which three First Nations Child and Family Services were selected, whose experience might serve as useful models for other first Nations communities. The Southeast Child and Family Service (SECFS), the subject of this case study was one of the agencies chosen.

The case studies were to be used in two ways:

- 1) To assist the RCAP to present recommendations regarding First Nations child and family services to government.
- 2) To share the results of the review, either in its original form or in a policy paper, with other Aboriginal communities, service and political organizations.

From the point of view of SECFS, it was hoped that such a review and its process would be a chance for it to assess its opportunities and constraints and plan for change where appropriate in the areas discussed in this report. This is especially timely

given the agency's need to digest the implications of a recent Task Force Report and respond to it (Manitoba, 1993).¹

Selection

Selection criteria included:

- * The degree to which the agency could be viewed as "typical" thereby increasing the probability of applicability to other First Nations agencies. Manitoba has seven mandated First Nations child and family service agencies, covering all but one of 61 First Nations communities. The remaining one is served by a non-mandated First Nations agency. Winnipeg is served by a "status blind" non-mandated agency. All but the Winnipeg agency were among the first in Canada created as a result of formal tripartite agreements. This model has since been followed in other parts of Canada.
- * All of the agencies have a body of experience in working with the model in excess of 10 years.
- * SECFS in addition had characteristics which included:
 - existing links and a relationship with the author of this report.
 - an organisational commitment to, and a record of support for, research and evaluation efforts.
 - a positive reputation in both aboriginal and non-aboriginal communities in its attempts to work cooperatively within the model while at the same time develop a critique of it.

Focus and Method

Initially the study was to be much more ambitious than that which was subsequently undertaken. It was to involve all of the member communities in a fully participatory process, covering the complete range of service and governance issues. Neither time nor funds permitted this. The case study instead focused solely on issues of governance. This was separated into three components: internal structures and relationships between different components

of the system (for example, between the local communities and the regional structure), the structure and quality of the relationship between the agency and the Provincial government, and the structure and quality of the relationship between the agency and the Federal government. An attempt was to be made to discuss how these relationships have evolved over time, outstanding issues, how these are currently being managed and any implications for change. No attempt was made to evaluate the quality of program delivery, but the study did attempt to assess the general impact of internal and external relationships on program delivery.

The method also was more modest and traditional (in the non-aboriginal sense of traditional). Consultations on the project occurred at the Board and senior administration level, from whom approvals and a commitment to participate was achieved. It was agreed that the agency's busy daily operations and service delivery functions, as well as a sense of being over studied, dictated a methodology which was the least intrusive possible. Thus a two stage data collection process was designed.

The first stage of data collection consisted of a document review.

These documents included:

- * Regional Committee Minutes 1985-93 (61 documents)
- * Management Meeting Minutes 1988-1994 (69 documents)
- * Staff Meeting Minutes 1986-1993 (15 documents)
- * Southeast Community Services Review, 1990
- * Agency Planning Documents 1987-1991 (2 documents)
- * Miscellaneous Correspondence, Child and Family Services Directorate 1986-1990 (15 documents)
- * Agency Annual Reports 1985/6-1991/92

- * Southeast Community Services Review, 1990
- * Provincial Review, 1993
- * Manitoba Indian Child Welfare Subsidiary Agreement, 1983
- * Canada-Manitoba-Indian Child Welfare Agreement (Master Agreement), 1982.
- * First Nations' Child & Family Task Force Report, 1993
- * Comprehensive Funding Arrangements (Federal), 1992

These documents represented all that were available to the researchers which were judged relevant to the research questions. No sampling was necessary. All documents were searched for information which would aid in understanding the three subject areas of the study. All data deemed relevant was recorded and sorted into the 3 subject areas, as well as into sub categories for ease in later qualitative analysis.

In addition, a total of seventeen interviews were conducted seeking information from key informants on the same 3 sets of questions. Fourteen of the respondents were associated with the agency. These included members of the Regional Committee, senior managers, supervisory staff and regional workers. The others were officials in the Provincial Child and Family Support Directorate, and the Regional office of Indian and Northern Affairs, Canada (INAC).

In selecting the agency personnel informants, accessibility was important. Funding of the study simply did not permit travel to the communities to interview local staff. Thus all of the agency informants were drawn from professional and administrative staff located within the regional structure. Nevertheless, the staff based at the central office of SECFS are well placed as key

informants given the focus of the study on issues of governance. Much more than local workers or clients, their duties give them daily experience in working within the tripartite model. They are the staff who most frequently are called upon to liase with Provincial and Federal officials. In addition, all are familiar with the one or several communities for which they have supervisory and other responsibilities. The Provincial and Federal officials were selected because of their specific roles as liason with SECFS and other Manitoba First Nations Child and Family Service agencies.

No atttempt was made to sample the agency staff interviewed. All were interviewed who were able to make themselves available. Three were unavailable. No demographic data was obtained on the respondents themselves as to age, gender, or length of service. A role within the agency was identified, but little reference to this is made in the report in the interests of confidentiality.

Background to SECFS

Prior to 1983 the Southeast communities were receiving very limited services from the Children's Aid Society of Eastern Manitoba and the Eastman office of the Province. Throughout 1981, resource development workers established the infrastructure for the current SECFS agency. The Canada Manitoba Indian Child Welfare Agreement was signed in February 1982. The necessary Subsidiary Agreement was signed by Southeast Resouce Development Council (SERDC), the Province and the Department of Indian Affairs in April 1982. A

year later in April 1983, Southeast Child and Family Services received its mandate under the 1974 Child Welfare Act of Manitoba. Under the provisions of these agreements the Province agreed to "grant" executive authority to an agency to be established by SERDC, and the Federal government agreed to fund the new agency.

The latter was the agency studied in this report, SECFS, in operation since 1982, and mandated since 1983 to provide child protection and family support services to people living in nine First Nations communities in Southeastern Manitoba which are members of the SERDC. These are scattered over a huge area of southeastern Manitoba, several located on or near the Eastern shore of Lake Winnipeg. The communities are Berens River First Nation, Bloodvein First Nation, Buffalo Point First Nation, Poplar River First Nation, Brokenhead Ojibway Nation, Hollow Water Nation, Black River First Nation, Little Grand Rapids First Nation and Pauingassi First Nation. Five of the communities can be reached only by air most of the year. The furthest is Poplar River approximately 300 air kilometers from Winnipeg. The closest is Brokenhead, only one hour by road.

According to INAC's Band Membership Program, population counts have increased significantly from 1983 to the present. In 1983, the total band population of the SERDC was 4,781 with 3,307 (70%) on-reserve and 1,213 (25%) off-reserve (Crown Land figures excluded). The child population (0 to 18) was 2,520 or 53% of the total band

population. Of that figure, 1,730 (69%) lived on-reserve and 656 (26%) lived off the reserve (Crown Land figures excluded). Comparative data for 1992 gives a total band population of 7,498 with 4,644 (62%) persons residing on reserve (excluding Crown Land) and 2,761 persons off-reserve (37%). The child population in 1992 was 3,452 or 46% of the total band population. Of that figure, 2,238 (65%) reside on reserve and 1,175 (34%) are off-reserve.

Department figures have not always coincided with the Bands' population counts. The figures are intended only to orient the reader and should be considered as approximations. Of particular significance to this report, however, is the high proportions of children in the totals and the relatively large numbers of members resident off-reserve.

Paralleling growth in the population, as well as a phased in transfer of responsibilities and caseloads from the Province, the SECFS has experienced rapid growth in its first 10 years of operation. In 1983, the annual budget included only an operating grant, and totalled \$702,018. By 1987 budgets included funds for the maintenance of children in care as well as an operating grant. In this year the budget was set at \$2,372,248 of which the operating budget was \$1,276,222. By 1993, the last year for which these figures were available, the total annual budget was set at \$5,916,494. of which \$2,134,114 were operating funds.²

Growth in the staff complement has not been as rapid as budget growth. In 1983 the staff complement was 28. This had grown to 38 by 1993. This verifies the large proportion of the budget growth which has been driven by the maintenance portion of the budget; reinforced upon examination of the child in care statistics -the only indicator of case load growth available. On December 31, 1984 the agency had 43 children in its care. By 1987 these numbers had reached 160, and on March 31, there were 257 children in care.

SECFS is still a relatively small non profit agency which has nevertheless experienced the stresses of rapid expansion. It serves a widely scattered rural and Northern population, as well as providing some limited services to its members resident in Winnipeg: also the location of its Regional office. Socio-economic indicators specific to the catchment area were not readily available, but this population is representative of the Canadian aboriginal population characterised by high rates of unemployment, low family incomes, some reliance on subsistence activities such as fishing and trapping, educational achievement lower than the Canadian average, as well as high rates of family violence, and other manifestations of social malaise. The population under the age of 18 years - the sub group with which the agency is most concerned is a particularly high percentage of the total. For example the 43% of the SERDC population under the age of 19 is considerably higher than the Canadian average projected at 28% for 1991. (INAC(d), 1989)

SECTION II: INTERNAL ORGANISATION.

Description

The internal organisation of SECFS is complex for a relatively small social agency. This is not a result of inefficiencies or poor planning. It arises partly from external forces and relationships. Briefly put these include the current arrangements for First Nations government under the Indian Act, and the nature of the relationship with the Province of Manitoba inherited from the first Tripartite Master Agreement for First Nations delivery of Child and Family Services. These external factors will be addressed fully in later sections of the report. In addition complexity arises out of a deliberate implementation of the philosophy and objectives of the agency.

The ultimate governing body of the agency is the Southeast Resource Development Council (SERDC). This is a body consisting of the chiefs of each of the nine communities affiliated with the Council. This is the political body for which SECFS is the service arm for the purposes of delivering protective services to children and supportive services to their families in the communities. For practical purposes the responsibility for governance of the agency lies with a Regional Committee. (R.C.). The R.C. is made up of one representative from each of the nine communities. The executive director of the agency and the portfolio chief from SERDC sit ex officio without voting powers. Usually a few senior staff are in

attendance as resource people without voting powers. The R.C acts in a capacity which is similar to that of a Board of Directors of a non-profit social agency; discussing both policy and administrative matters, with decision making powers in respect of both. Reports are made periodically to the SERDC through the portfolio chief. Generally these reports are accepted as information. The exception is any matter of major financial importance including approval of the annual budget estimates.

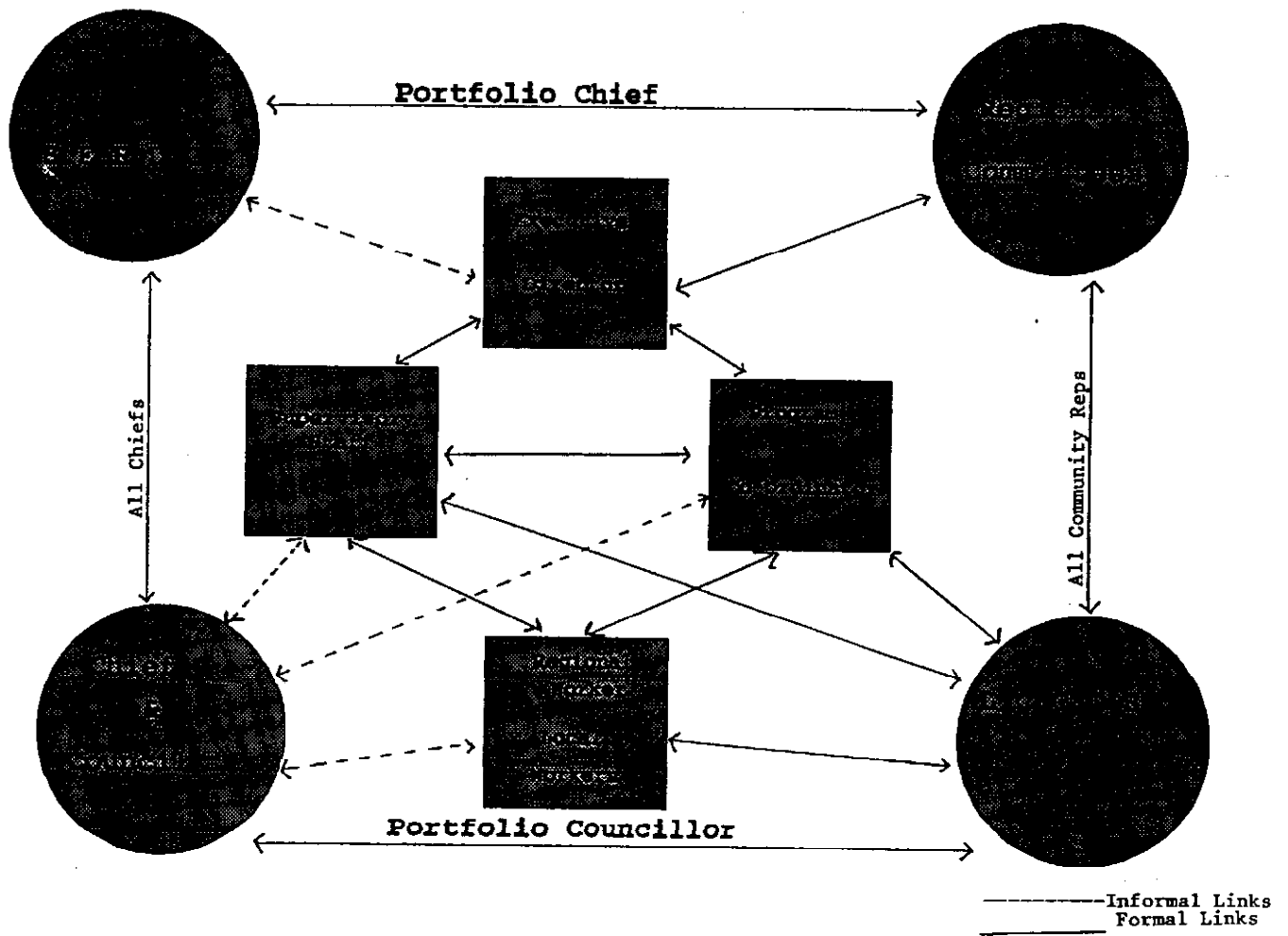
A second part of the organisational structure involves the establishment of Local Child Care Committees (LCCC's). These committees operate at the level of the community and are an integral and central part of the system. The members are primarily volunteers, although some members may be paid care givers in the community. There is no one way in which committees are appointed. In one community for example, the members are appointed by the Chief in Council, but not confirmed until a Band meeting formerly does so. In others the CFS staff may recruit interested and contributing people. In some communities members may have a set term of service; in others the term may be indefinite. The mandate is to consider all matters of child protection and family support in the community. Much of their deliberations involve case planning, approval of foster homes etc., but they will occasionally debate matters of procedure, policy and community needs.

The LCCC's are linked into the governance structure in two directions. Firstly it is always a member of the LCCC who represents the community on the Regional Committee. Thus there is a direct link between the local structure and the regional structure. Secondly, they usually include the portfolio councillor ex officio who links the LCCC with the chief and council.

The Southeast Resource Development Council, the Regional Committee of the Child and Family Service, the Local Child Care Committees and the Chief and Council of each community are the four components of the political or voluntary governance structure of the agency. At the executive (staff) level of the structure, there is an executive director plus two kinds of senior staff who operate out of the regional office. One is supervisory staff, responsible for overseeing the work of staff at the community level. The other is regional staff with specialised roles such as in placement and child abuse. Regional workers hired for most, but not all of the communities, act as the link between the local workers and the regional structure. These workers spend 3-4 days of the week in the community to which they are assigned, but are not permanent residents as are the two or three local workers hired to carry the primary responsibility for the front line work in their community. An attempt to capture the structure and its philosophy is contained in Figure 1.

Figure 1

Figure 1. REPRESENTATION OF SECFS GOVERNANCE STRUCTURE



Evolution and Rationale of the Structure

Most parts of the current structure have been in place for most of the 12 year life of the agency. At the outset the R.C. was the the sole decision making body. The link to SERDC was informal and periodic. A formal link in the person of the portfolio chief, was established approximately 5 years ago. The other change which has occurred as the agency has evolved is not in the structure itself, but in the language used to describe and affirm that structure. The document search indicates that it was not until the late '80's that SERDC began to assert its ultimate authority. By 1990, SECFS was being regarded as "first and foremost an institution of Southeast Indian Government". By 1992 the "policy and management powers" of the R.C of SECFS was described as "delegated" by the SERDC.

A part of the rationale for the creation of these two bodies is already implied. At the very least, the political body requires to be informed, and at the most it retains ultimate authority over all matters within its purview. This legitimately includes child and family services. The use of the term "delegated responsibility" is probably the best compromise which can be achieved between the rights of Indian government and the prudence of an arms length relationship with a service delivery agency. The arms length relationship between the R.C. and SERDC is further maintained through the general respect accorded by the SERDC to the decisions made by the R.C., and an avoidance of what could be its veto

powers. In addition, as a matter of policy, the members of the R.C. cannot be chief or members of the Band Council in their communities. This policy has been overridden on occasion, but always for good reason, and when the statesmanlike qualities of the person involved were sufficient guarantee of avoidance of conflict of interest.

The rationale for the composition of the R.C. is found in the paradox of Indian government. The SERDC is a federation of autonomous First Nations communities brought together out of a common geography, history and culture. Similarly with the CFS. Although organised along Tribal Council lines, the attempt is made to uphold the autonomy of each community. Thus the R.C. is not regarded so much as the overarching ultimate authority as would be the case with a non-aboriginal non-profit Board, but rather a coalition of the communities. The prevailing philosophy is governance from the bottom (community) up; not from the top down. Hence the strict adherence to a Committee composed of representatives from each community, with no community having a greater voice than another.

The philosophy underlying the LCCC's again involves the maximising of community autonomy. The assumptions are twofold. One is based in quality service: the belief that local decision making in these matters is generally superior to more remote decision making. These are the people who know the community, the families and

children at risk and the local resources. The other is political: that each community is self-governing. Local interests and self governance have been partially subsumed in the regional structure, but the rights to local self-governance have not been relinquished. Over half of the key informants interviewed made reference to both of these rationales for the role of the LCCC's in the system, and all made reference to at least one. Many references in the documents surveyed repeat the theme, using such phrases as "community based service" and "local control".

The central place of the LCCC's in the structure has not changed since the agency was formed. Both the document search and the key informant interviews attest to the consistency with which the importance of the LCCC's have been upheld.

The relationship between the political structure and the service delivery structure at the local level is an almost exact mirror of the relationship between the federation of chiefs and the SECFS operating at the regional level. The portfolio councillor acts as the link between the volunteer committee concerned with child and family service delivery, and the elected politicians at the community level. The language used to describe the relationship has also evolved in similar ways. For example, one documentary reference as early as 1984 used the term "delegated responsibility" to describe the relationship between the Chief and Council and the

LCCC. This was apparantly effected through a formal Band Council Resolution in each community.

Staffing arrangements have changed over time in two respects. One is the normal adjustments made to the growth in responsibilities assumed by the agency transfered from the province as well as other growth in service demand. This has resulted in the appointment for example of some specialist staff operating out of the central office. The other change has been in using staffing patterns to strengthen the ability of the communities to deliver service. The main change here is the hiring of the Regional Workers for 5 of the communities.

Issues Arising

Communication

There are several clusters of related issues which emerge out of this complex structure. The first is the issue of communication. As can be seen from Figure 1, the LCCC's, alone, give and receive communications from a total of at least 5 sources; the Regional Committee, at least 4. The documents searched are replete with concerns about communication breakdown, between all parties. The majority, as might be expected, involved the governance or what might be termed the "voluntary" section of the agency. There is a great range of complaint, all the way from the specific event such as failure to inform of a meeting, to failure to inform about the results of a meeting (or meetings - for example " we never hear

what goes on at the Regional Committee."), through to the more general such as the chiefs' concern about their lack of knowledge about the CFS, which parallels the concern of staff who decry that same lack of knowledge on the part of the Chiefs. Some of this is ideosyncratic such as a period of time during which a community has an uncommitted or not confident representative on the Regional Committee; some is more systemic such as the difficulty in maintaining a flow of information routinely to all concerned parties in such a complex system. Reference was frequently made to turnover in personnel which compounds the difficulties. Turnover in staff has slowed somewhat in the past few years. To a lesser extent this has also been true of the LCCC's membership. Elections held every two years for Chief and Councillors guarantee some turnover amongst the politicians, and turnover occurs amongst the representatives to the Regional Committee, even if the member remains on the LCCC.

Training

An overlapping issue is the issue of training. The plea for more training is another recurring theme in the life of the agency. Again this includes a wide range of concerns. It overlaps with the issue of communication in that some of the concerns indicate the need for something more akin to orientation than actual training. This concern has most frequently been applied to the Chiefs and Councillors, and to the LCCC's (and by extension to the members of the Regional Committee). For the politicians this seems to intend

a general orientation to the agency; its purposes, organisation, policies and procedures, as well as the restraints under which it operates and the opportunities it can create.

For the LCCC's, training seems to mean something broader. It at least includes one extra dimension which is knowledge of the provincial legislation which, under existing arrangements, the service operates. Briefing notes for the LCCC's prepared in 1984 make reference to the need for this knowledge. Over one half of the those interviewed identified the lack of knowledge of the statutory requirements as one of the limitations of the LCCC's. For example, a Temporary Contract Placement whereby a child may be placed in substitute care by the agency has a time limit on its use. At the end of this time the child must either be returned to the parents or a court order must be obtained. The LCCC might believe (rightly in some cases) that the TCP should be continued. Yet this is not possible under existing legislation. Thus sometimes, what appears to be a difference of opinion between staff and committee on the best possible plan is in fact a question of what is or is not possible under existing legislation. Staff expressed their frustration at the frequent delays in decision making which arise out of the need to explain such constraints.

Beyond orientation and training in the statutory requirements of the service, the repeated requests for training for members of the LCCC's are diffuse and unspecified. Reference is made to

prevention, to community development and to child abuse (beyond definitions in the Act and procedures called for in the regulations). The briefing document of 1984 in addition refers to the need for members to "provide guidance, counselling and other services to families when requested to assist workers." This seems to call for training for the development of skills and knowledge similar to that expected of the paid staff. The evidence of the documentation and interviews indicates that these expectations for training for LCCC members have not been met. The issue is compounded by turnover in the membership of the committees.

Accountability and Authority

A third issue evident in internal governance is the issue of accountability and authority. As can be seen from the description of the structure and from the outlining of the issue of communication, the structure lends itself to some confusion around who makes what decisions. The issue appears, and is treated at some length in a recent Provincial review of the agency. Reference was made during interviews and in the document search to a few critical incidents where disagreement occurred between different components of the system with no clear way to resolve them.

This is true at all levels and between different parts of the system. Firstly, the relationship between the LCCC's and the Regional Committee has within it the normal tensions inherent in a Federal structure. The philosophy upon which the structure is

based is one of upholding a community based service and maximising local control. Yet the fact remains that there does exist a Regional Committee presumedly with powers to set policy for all communities. Even though that body is composed of community representatives, each community is only one voice in nine.

The issue of the limits to the decision making authority of the LCCC is complicated by a particular aspect of the relationship of the agency to the Province of Manitoba. Current arrangements and agreements place the Regional Committee in the position of being the body through which the legal mandate to carry out the responsibilities outlined in the the Provincial Child and Family Services Act passes. It is the body held accountable by the Province of Manitoba for the quality of service and case decisions. In effect this subverts attempts to uphold community based decision making through the LCCC's. It certainly goes contrary to the rhetoric of community control. The most recent surfacing of this issue was in 1993 in the form of legal liability. If the LCCC's make a decision which is subject to litigation, to what extent are they liable? It was clear from the recorded discussion that the LCCC's, while they may be recognized internally as a vital part of the decision making process, they are not recognized as such externally. "The LCCC is not really recognized as a Board. The RC is responsible for whatever happens." As a consequence there is no liability insurance available for LCCC members. More significantly, the fact that responsibility, legal or otherwise,

rests with the R.C. contradicts the degree of responsibility which the agency philosophy asserts for the LCCC. By the same token, to the extent that the R.C. allows effective decision making at the community level, it is placed in the position of being held responsible for decisions not of its making: a situation which has a degree of discomfort attached to it.

Secondly, disagreements can and do arise between staff and the LCCC's. These are sometimes in connection with the Provincial legislation, but not exclusively. Service decisions independent of legal constraints have also arisen. In such cases the data is mixed on where the final decision lies.

Finally, while it has been established that the relationship between the political body and the service delivery body at the regional level has evolved in a satisfactory manner, there is some evidence to suggest that such has not always been the case at the local level. The local staff have a reporting relationship to supervisory staff and also to their LCCC. Two masters are manageable, but, although not revealed in the structure, Chief and Council have also sometimes asserted a role. Structurally, the reporting relationship to Chief and Council is from the LCCC in the person of the portfolio councillor. Ten of the 11 staff interviewed indicated that that most frequently the agency staff and LCCC make case decisions and these are simply reported and received as information by the Chief and Council. Moreover, these

same respondents indicated that at times specific assistance has been requested and has been forthcoming. In other words a non-interfering and even actively supportive role was reported as the norm.

However, 4 respondents did refer to incidents, albeit infrequent, of interference from the political level that was considered unacceptable. These involved overturning, or attempts to overturn, case decisions, or influencing hiring of local workers. There was even reference to a turnover of local workers every time a new Chief and Council were elected. What made these actions unacceptable interference as opposed to the exercise of legitimate authority, was that the best interests of the child appeared to be secondary to a political agenda.

In this the chiefs and other elected politicians are in a somewhat difficult position. First Nations government, as it is currently constituted places the chief especially, but also other councillors, in the role of all things to all people. This, as with so many other things in the system of government which has replaced pre-contact government, runs counter to tradition in that leadership roles were divided and diffuse depending on the function. In the current system of government anyone in the community who has a grievance or complaint about any matter will seek redress through the chief and or other councillors. The elected officials feel bound to respond to these grievances. The

line between ensuring that child and family service policies are fair and clear, and fairly and clearly implemented, and actually acting as the final arbitrator, even with "pure" motives, is a very fine one. It is all too easy to cross it. In regard to hiring, unemployment levels are so high in many of the communities that jobs become a commodity. The constant temptation is for the politicians to retain control over job allocation.

Centralisation versus Decentralisation

All of these issues are interconnected; this fourth issue especially with the issue of authority and accountability. The documents searched and the interviews indicated that the agency has always tried to be sensitive to this issue, but it has since resurfaced in the form of a radical restructuring in favour of total self governance at the community level recommended by the First Nations Child and Family Task Force (Manitoba, 1993). The impetus for the Task Force came from several allegations of "political interference" on the part of First Nations politicians in the affairs of the First Nations child and family service agencies. These were highlighted in a much publicised inquest into the suicide of a teenage boy in the care of another First Nations agency. Despite the original impetus for the Task Force, the political interference issue does not appear in the terms of reference. The closest reference is in an introductory section headed "Issues to be addressed" which were to include "the structure, management and governance of First Nations Agencies..."

The issue of political interference is dealt with surprisingly briefly in the Report, while an appendix contains a reproduction of rather generally worded conflict of interest guidelines developed earlier by the First Nations Child and Family Service agencies in Manitoba.

On the subject of decentralisation the Report states: "One of the primary goals of First Nations at the inception of First Nations child welfare was that child and family services would eventually be community controlled and operated. This goal has not been achieved and it is still a priority among First Nations communities." Indeed, the Subsidiary Agreement for Southeast CFS, signed between the three levels of government in 1983 states "The mandate of the Tribal Council is to facilitate the transfer of control and responsibility of programs and services to member bands. The Tribal Council seeks to develop the administrative and management skills necessary to help each deliver local services". The same document later states "Our goal is to ensure that services will be community based and programs locally controlled."

The Report seems to translate this terminology into meaning that each community will have full control over its own child and family service: the potential for Manitoba thereby being 61 autonomous agencies. It is ambiguous in its reference to First Nations communities or groups of communities (emphasis added), leaving open the possibility of a continued regional structure, but it is quite

clear on the subject of where ultimate authority in any self government arrangement lies - the community level. Unfortunately, the Report does not suggest any steps to achievement, not does it identify any difficulties which might arise if the goal were to be achieved. On this issue all the Report has done is to reiterate the issue and come down on the side of local control in a way which suggests something more than just further decentralisation of the structure.

The Centrality of the LCCC's

Finally, there is the issue of the central role assigned to the LCCC's and their ability to perform it. The Task Force Report referred to in the earlier section, recognised that the LCCC's throughout the First Nations Child and Family Services in Manitoba were both the strength and weakness of the system. They are the strength in that they represent a genuine attempt to maintain a community base for decision making. In the Southeast briefing document to committee members for example they are referred to as part of the team; the other two parts being the local worker(s) and the regional worker(s). The weakness lies in the heavy and important role assigned to a purely voluntary body, and the question as to whether or not a voluntary body can sustain the role. This weakness is implicitly recognized in the Task Force Report which called for renewed efforts to restore LCCC's to the level of functioning originally envisioned for them.

The data for Southeast CFS indicates that this agency has not been immune from the difficulty. Three references were made in minutes of the Regional Committee to LCCC's with a very limited core membership. There were other references to poor attendance at LCCC meetings. In addition to the almost universal plea for more training, seven of those interviewed mentioned more than one difficulty associated with the functioning of the LCCC's. These included:

- * difficulties arising out of frequent turnover of membership
- * difficulties arising out of member's personal relationships with clients,
- * difficulties associated with members dealing with their own and family issues in meetings.
- * difficulties in making some decisions because of fear of community disapproval.
- * low levels of literacy and general understanding of child and family services.
- * difficulties of scheduling meetings and gaining good attendance.

Thus there have been both quantitative and qualitative concerns about the functioning of the LCCC's. This issue relates to issues of accountability, but is also separate from it. Whether the role of the LCCC's is advisory or something more, it is seen as central, and the issue of general functioning of the committees becomes one of vital concern to the agency. It is also related to the issue of decentralisation in that if, and as the agency further decentralises its decision making, the committees assume an even more central place in the system.

The agency's management of these issues

Communication Issues

The agency and the SERDC has attempted to respond to this issue by putting in place structural links between the different components of the system. These include:

- * The Portfolio Chief for the Tribal Council linking the two regional political and service bodies.
- * A representative from each of the LCCC's making up the membership of the RC and linking those two bodies.
- * The portfolio councillor for each community linking the LCCC to the Band Council.
- * Supervisory and specialist staff with responsibilities for several communities which include meetings with local staff and the LCCC's

The data indicates some degree of success in improving communication through these measures. All of the agency respondents made mention of increased understanding and awareness throughout the system. Eight of these attributed the improvements directly to these measures.

Training

On the issue of training this section of the paper will concentrate on the elected officials, and the LCCC's. In regard to the former, although the term training is most frequently used, orientation is the more appropriate term. Extensive training in child and family service matters is not called for here. Elected officials need a general overview of the philosophy, role and functions of the agency, its structures, especially decision making, and relationships between it as a service delivery agency and Indian government. For the most part the agency has managed this issue

through attempting to clarify the reporting relationships, as mentioned in the section on communication. Nothing in the data would indicate that special efforts at orientation of elected officials goes beyond this. There does not seem to be an orientation package or guide of any kind to oral briefings. Again, the interview data indicates some improvement in the level of understanding of the agency on the part of elected officials. This can be attributed to the process and content of improved communication, rather than any formal and sustained efforts at orientation.

Orientation as well as training for the LCCC's has been managed by the agency in a somewhat ad hoc fashion. The briefing notes for the LCCC's state that committees were to identify their own training needs. For the most part these have taken the form of short one or two day workshops. These have occurred sporadically depending on what requests were received and the availability of facilitators and funds. Most of the requests for training have been on the subject of the Manitoba Child and Family Services Act. Generally training expectations, as evidenced by repeated calls for more in the documents and in the interviews, have not been met. As already stated, the LCCC's assume an important and time consuming role. Meetings, at least once a month, may last one or more days. Special meetings in between as situations arise demanding their attention, leave little space for an ongoing training program. Thus the agency is confronted with something of a "Catch 22" situation.

The importance of the role decreases the time available for training, while at the same time creates a demand for more training.

Accountability and Authority

Little more needs to be said about accountability and authority in regard to the relationship between the Regional Committee and the SERDC. The compromise which has evolved between the authority of Indian government and the need for some arms length distance from the operation of a major service delivery agency seems to be effective.

In regards to the relationship between the Regional Committee and the LCCC's, the agency has managed this as best it can by consistently upholding the importance of the LCCC's in their role in local case and policy decisions, and as advisors to the R.C. as it discharges its role to oversee the operation of the whole program in each and every community.

Nevertheless, some tensions and confusion remains. The most frequent mention of the role of the LCCC's in the documents refers to them as being in an advisory capacity to staff. The interviews, however, nearly unanimously referred to the final decision making powers of the LCCC's in case matters. The best sense that can be made of this conflicting data is that for all practical purposes, the LCCC's do have the final say in all matters involving only the

local community and its families. It is only in the strictly legal sense that they are only seen as advisory, because Provincial legislation and the tripartite agreements do not recognise the authority of any such body. It is not at all certain from the data, however, that this last interpretation of the powers of the LCCC's is universally shared or understood. For example, one staff respondent offered the opinion that supervisory staff should and do make the final decision in the case of disagreement. Other workers seek a more autonomous and respected role for themselves (eg. "We have the education.").

In regard to the relationships between the service delivery structure (the local team) and locally elected officials, and particularly in regard to the issue of "political interference", all the Chiefs (ie. the membership of SERDC) have signed a declaration of non-interference. The declaration recognises the importance of the LCCC's within the system, recognises the regional Committee as the ultimate authority in the system, promises non-interference in any case decisions, and retains rights to question and remain informed in order to be accountable to their communities. No enforcement of this declaration is of course possible, except by the chiefs themselves, but it is a significant gesture of goodwill, and a public affirmation of the arms length relationship between the political structure and its service agency. It has been put to the test on at least one occasion and the Chief in question abided by the declaration.

In addition to these specific measures, the agency has generally managed disagreements wherever they occur on a case by case basis. Management has appropriately been characterised by a consensus style of conflict resolution. Typically the disagreement is resolved by all parties meeting and attempting to talk out the disagreement until agreement is reached. These attempts seem to have been reasonably successful, but it was difficult to ascertain the degree to which there were residual bad feelings implied in such responses as "the LCCC's should be more supportive of the agency." The piece which seems to be missing is any neutral body which could arbitrate should it be required in these situations.

Centralisation versus Decentralisation

The agency has tried to manage the issue of decentralisation versus centralisation by recognising the aspirations of the local community for maximum control over decision making, as well as its general desirability. Apart from the original structure of the agency which reflects the philosophy of maximum local control, the agency has taken several recent measures to further strengthen local control. One is to hire Regional Workers. These are personnel who are expected to be resident in the communities for 3-4 days of the working week. They are seen as part of the local team, thereby shifting more functions to the local level from the regional level. Unfortunately funding limitations have prevented the hiring of Regional Workers for all communities. Secondly, some of the centralisation-decentralisation tensions have been removed

by having the funds for staff salaries and staff benefits administered by the Band administration. This has only been possible where staff salaries and benefit packages are similar between the Band and the agency. Finally the agency has made available a small allocation of discretionary funds to each local CFS team for them to administer in accordance with their own program priorities.

The Centrality of the Role of the LCCC's

The agency has attempted to manage the issue of the central role of the LCCC's by giving them some support. Orientation and training workshops have already been mentioned. In order to acknowledge the burden placed upon the time of volunteers, the agency's policy has been to reimburse members for any expenses incurred for attendance at meetings such as child care and travel. In addition, despite an earlier policy commitment to volunteerism, an honorarium is now paid in most cases. This was an attempt to overcome difficulties in gaining attendance at meetings. Some technical assistance is offered for specific situations. Two examples are guides to action and options in cases of child abuse, and assisting the LCCC's with hiring of local workers through regional staff consultation, provision of interview guides and recommended criteria.

Implications and Recommendations

Communication

This issue by itself does not indicate major structural change, and the agency has managed this issue in structural terms in the best way possible. Because of the human factor and the many components of the system, it remains only for the agency to continuously remind the key actors in the system especially those with linking roles of their responsibilities. This would especially be needed when there is turnover as part of the orientation of new people. It is also especially true of new members of the R.C. and portfolio councillors which is where the turnover is greatest and where the breakdowns appear to occur most frequently. The only further measure which could be taken is where a key linking person is continuously in default of their responsibilities. No clear mechanism exists for calling people to account or effecting their removal in the last resort. One key informant speaking to this issue reported that the community has acted when the local representative is not doing its job, and that the RC should not be responsible for this. However, it does appear that when such default occurs, a part of the agency operation is placed in jeopardy, and that the R.C. should concern itself in some way with the breakdown. In the matter of portfolio councillors, the issue is much more sensitive, because the agency has no powers over their behaviour or performance. These are elected locally and are accountable only to the people of the community, and to the Chief. Such eventualities can only be resolved in informal ways, and as is

also the case other parts of the system, dependent on goodwill and commitment.

Training

In regard to the elected officials, while it is the portfolio councillor's responsibility to link the LCCC's with each Band Council, and while this person should at the outset receive an orientation to all aspects of the agency, s/he cannot be expected to be the sole conveyor of information to the Band Council. Supervisory staff, in cooperation with the portfolio councillor ought to take responsibility to provide an orientation to all newly elected officials in each community as soon as possible after this has happened.

Orientation should not, however, be confined to a one shot endeavour. The content of a one day meeting is soon forgotten, especially since it is usually separated from the context of the real day to day operation of the agency. The same people should take responsibility for two other activities. One is routine general reporting on the numbers and kinds of situations which have been dealt with since the last reporting period, the policy implications and rationales for actions or plans. This could occur 3 or four times a year with one of the meetings being reserved as part of the agenda for a general band meeting. Secondly, the portfolio chief and supervisory staff should inform and brief at least the chief, if not the whole council, on any controversial

action just taken, or about to be taken. This would usually involve the removal of a child from its parents, but it might also involve other sorts of actions. There is of course an issue of confidentiality here which would require further discussion beyond the scope of this paper. However, it would appear from the data, that such decisions become matters of public record very quickly in such small communities, and that the issue of confidentiality, even though the agency upholds the principle, is something of a fiction. The provision of facts and informed opinion to the formal leadership in the community is not the same as a breach of confidentiality arising out of idle or malicious gossip.

In any event, the data does indicate the need for ongoing orientation of locally elected officials, and that one of the more effective ways for this to occur beyond the one shot orientation for new people, is orientation which is both routine as well as opportunistic and tied to the specific realities of the agency's functions. The interviews in particular suggested that cooperation at the local level would be enhanced and the potential for "political interference" would be diminished if the combination of communication links already in place (including information received by the chiefs as members of the SERDC Board) and orientation as suggested here were to occur.

Accountability and Authority

This issue stems from the attempt to uphold the ideal of communal and collective decision making. This practice bewilders the non-aboriginal observer. The latter seeks to locate the person or body which has responsibility for decisions. Regrettably and most frequently this need is invoked when poor judgement is seen to have been exercised. But the contradiction of the governance system reviewed here is that everybody and nobody is responsible, despite the legalities which would suggest otherwise. For the agency, the issue is not so much who is in charge, but finding ways to avoid disagreements, and ways to manage them when they do.

Measures being taken by the agency around the issues of communication and orientation and training, have already minimised the incidence of disagreement. The implementation of recommendations in this report on those same two issues would improve the situation further. Attention to communication, orientation and training could result in the building of a body of case precedents and the understanding of key actors in the system about those precedents. Indeed, it is recommended that such precedents be built into the development of any agency standards and would include such things as:

- * the circumstances under which a child might be removed from its family,
- * the processes for removal,
- * conditions for continuing involvement from the family,
- * procedures for long term planning for the child,
- * a hierarchy of priorities for long term plans.

At the very least these measures should lead to more informed case discussions and focus disagreements, making their resolution easier. At best the likelihood of agreement is generally improved. The matter of responsibility and accountability become built into the specific case decisions, as for example when a particular worker is assigned to arrange specialised treatment for a child.

When disagreements do occur notwithstanding the foregoing measures, the agency needs to continue and build on the very strengths which it currently upholds - the strength of a consensus style of decision making. Decisions which emerge from this process serve further to add to the body of case law earlier referred to. The one missing element in the resolution of disputes is some independent body established to assist with the process. These could probably be established at the local level, and be composed of respected people in the community who are not part of the system in any way. The role at the outset would be to facilitate and mediate, but in the last resort, act as an appeal body. Any further and last appeal would be to the Regional Committee, which under existing arrangements is the ultimate authority in the agency. Even with further decentralisation of powers, an ongoing role for a Regional Committee, including the one suggested here, is still envisaged.

Centralisation/Decentralisation

All respondents expressed full support in principle for some further degree of decentralisation. All respondents stated the need for phasing in at an appropriate pace. None were prepared to unreservedly support the total decentralisation and dismantling of the regional structure as recommended by the Task Force. Reservations expressed included:

- * The probable loss of resources, especially some staff expertise, which is only available through a regional operation, and not affordable for each community. Currently, despite efforts to decentralise, requests for assistance and advice are most frequently directed upwards from the community to the Regional Committee. This tendency belies to some extent the notion of local control and underscores its limitations.

- * concerns about accountability. The Task Force recommended a First Nations Child and Family Services Directorate, but only as an interim measure until each community assumed full control. There is some concern that without some external check or balance on full local control that victims of such things as family violence trapped in a cycle of community denial will be helpless. One respondent described this as a woman's issue, and stated that full local control would leave women and children even more vulnerable than now, because of the almost total male dominated local leadership, generally unsympathetic to family violence issues. A regional structure ensures at least some additional level of checks and balances.

- * Concerns about community readiness. Specific reference was made to the levels of skill of local workers and the need for further education and training. It was not presumed that this was only a matter of time. Some of the communities suffer from severe "brain drain" so development efforts are hampered.

The last comment from workers on the subject was that they did not experience in this agency compelling centrifugal forces or pressures in the agency. The issue does surface from time to time

in one or two communities, but the Task Force recommendations on total local autonomy were seen to be somewhat ahead of the aspirations or sentiments of most of the communities.

Not mentioned in the interviews by any of the respondents, nor appearing in any of the documents reviewed, was the possibility that self-government aspirations, which was the context within which the Task Force recommendations were set, could conceivably be realised through regional structures. David Hawkes has identified six major models of self government, ranging from the local to the regional (Hawkes, 1986). These models would apply as much to a particular service structure as they would to an overarching political structure. While the basic unit of Indian government and service delivery might be the community, this does not preclude the evolution of regional structures of government particularly for the purposes of cooperating on service delivery.

The Centrality of the Role of the LCCC's

The centrally important role carried by an essentially volunteer body remains of some concern. The operationalisation of the whole philosophy of the agency, not to mention the welfare of particular children and families, depends upon the ability of these committees to carry the role. Agency efforts in the form of member selection, provision of orientation and training, and some concrete supports such as honoraria, have been insufficient. In a situation where expectations of the role are not being met, one solution is to

reduce the expectations. This would run completely counter to the whole philosophy of the agency, and all its efforts directed at community autonomy and empowerment.

There are two alternative approaches, not mutually exclusive, to dealing with this issue. The first is to increase the level of supports given to the committees. Specifically, there is a need to assign some portion of a staff person's time to committee development and maintenance in each community. No volunteer body can function well without it, certainly not one dealing with such complex and often contraversial issues as these committees. The shortcomings of the LCCC's were identified readily enough by the respondents. Awareness that these shortcomings are inherent in volunteer bodies, and the need for a strong facilitative role from staff was not evident however, pehaps because the question was not asked directly. This role should probably be assigned to one person, with the appropriate community development skills to carry it out.

The role would have two related parts. One would be attending to all that is required to ensure informed decision making - working with a chairperson around agenda setting, ensuring preparation of briefing materials and other documentation, preparation of options, facilitating consensus, monitering follow up from decisions, and generally assisting with and transferring skills for a culturally appropriate problem solving process. The other would be to provide

training and education to members of the committee on an "as needed" basis in order to reduce the time consuming demand for workshops for the whole committee; time which is difficult for all to give, and which has to be repeated any time there is turnover. A small example might be when there is a pending meeting about a child which involves people knowing about requirements of the legislation. Half of the committee might already have that knowledge. The staff resource could have a small house meeting with the newer members to brief them on this material. This ensures knowledge for immediate use, learned in relation to specific decisions which the members have to make. This does not occur now because no staff member has such a role written into the job description.

The other approach to ensuring the continuing functioning of the committees is to change the manner in which their role is carried out. Some time needs to be invested, with the assistance of the staff resource to the committee, in deciding which kinds of matters must come before the committee at all, which kinds should come merely as reported information, and which kinds must come for decision by the committee. Guidelines need to be laid out for staff with regard to their powers of decision making in dealing with situations which emerge in between meetings and which require action. Each community and committee will make its own accommodations, a major purpose of which will be to protect the

committee from excessive burdens on the members, while at the same time upholding its rights and obligations.

These approaches are recommended as a way for expectations to be met without placing unrealistic burdens on volunteer members. Particularly important is the recommendation that training be carried out by one staff person on "as needed" or "on the job" basis, so that needed training is integrated efficiently with the decision making function, rather than separated. The role and skill of the staff support is key to both of these approaches. and some training for personnel to help them do this job may be a prerequisite to implementing the recommendation.

SECTION III: RELATIONSHIPS WITH THE PROVINCE OF MANITOBA

Description of the Relationship

The original Master Agreement to which SERDC was one of the First Nations signatories, and the subsequent Subsidiary Agreements specific to SERDC, has defined the relationship of the Province of Manitoba to Southeast CFS from the outset. The agreements specify that the Province is recognised as having the constitutional authority for the delivery of child and family services. The Province agreed to delegate this authority to the agency (Southeast CFS). Specifically, the authority delegated by the Province flows through the Regional Committee. Thus the strict interpretation of the wording of the agreements would place the province in a

relationship to Southeast CFS almost identical to its relationship to other private non-profit child and family service agencies in the province.

This relationship is a superordinate-subordinate one. The authority in question is the Child and Family Services Act (1985) which replaced the Child Welfare Act (1974). The private, non-profit agencies are permitted under Section 6 of the Child and Family Services Act (Manitoba, 1985). Under the provisions of this section, the province chooses (my emphasis) to delegate its constitutional authority to the agency. This grants executive powers only; leaving the other two major functions - legislative and judicial - in the hands of the Province. Moreover, even the executive power is limited. The Province can choose to remove the mandate at any time and in subsection (15) Indian agencies are specifically named in this regard. Moreover, it can also choose to change the circumstances and conditions under which the agency may continue to operate. In the past 8 years, two different governments have suspended directors, and drastically altered the governance structures of the largest agency in the province. While the agency in question was not a First Nations agency, the Province has been quite clear that such powers extend to these agencies as well. It is true that the Province of Manitoba has been reluctant to use these powers in regard to any First Nations CFS even when there has been pressure to do so. Moreover, its relationship to SECFS, and its opinion of its performance, has been good enough

that such drastic action has never even been contemplated. Nevertheless, the Province routinely acts to monitor, evaluate, pass regulations pursuant to the Act, issue binding directives, regulate auxiliary institutions (eg. group homes), conduct program audits and reviews, and carry out a host of other activities to ensure compliance with the Act and the maintenance of standards.

There are two sets of issues contained in this relationship. One is service; the other political. The service issue revolves around the question of the degree to which the provincial system; its legislation, family courts, regulations and standards are appropriate to the First Nations communities, especially in regard to their culture and socio-economic circumstances. The political issue is the contradiction between the superordinate role of the Province and aspirations for self government.

A starting point to examining the service issues is a section of the Subsidiary Agreement which states:

Services to be provided under this agreement will include those services normally provided under the Child Welfare Act of Manitoba and will incorporate traditional beliefs, values, customs and community standards.

This section captures the tension within the agreement. On the one hand mainstream services are mandated, while on the other hand traditional beliefs etc. are to be incorporated. Reconciling and balancing these has not been easy for either party.

The Province for its part, has shown some willingness to enable Southeast CFS, and other First Nations agencies, to develop services in its own unique ways. The statement of principles which formed the first section of the 1985 Act referred to the entitlement of families to services which "respect their cultural and linguistic heritage." An eleventh principle states: "Indian Bands are entitled to the provision of child and family services in a manner which respects their unique status as aboriginal peoples." One very significant change was that the definition of the "best interests" of the child - the acid test which agencies and courts were always to apply in decision making - was amended to include the "cultural and linguistic heritage" of the child (Manitoba, 1985). Prior to this change, argument which claimed that at least an important part of the wellbeing of the child was continued attachment and identification with his/her aboriginality had been largely discounted. Arguments based on enhanced life chances for the child and bonding if the child was already in a non-aboriginal setting, tended to win the day.³ Now at least the issue of retention of culture must be weighed along with other factors.

The Province has attempted to be helpful in other ways. Fiscally it has accepted responsibility for some agency initiatives. These have included defraying some of the costs and delivering through the Province's New Careers Program, training for 10 local CFS workers, as well as 4 agency staff currently enrolled in the New Careers Training for Trainers program. The Province has also

accepted some fiscal and administrative responsibility for a limited repatriation program for children previously placed outside of the community and in cases where an adoption has broken down and the child returns to the guardianship of the Province. In addition, the Province accepts responsibility for reimbursement of the agency for services which it renders on behalf of the Province. This ususally involves children who are non-status, or who are status but both parents reside off reserve. Finally, the Province has responded to occasional requests from the agency for consultative assistance, the most recent being a request for an agency review and which the agency reported as being helpful.

Despite this, on the issue of service, the relationship with the Province remains problematic. The need to hire, or develop and retain skilled staff has always been an issue for the agency. It is also an issue for the Province, which as long as it claims ultimate authority for the wellbeing of children, must be concerned with the quality of staff delivering the services. Yet it reneged on an earlier promise to provide training for some of the supervisory staff. The Province has agreed to reimburse the maintenance cost for non-status Indian children living in substitute care on reserve, but refuses to assist with important preventive services to the families. Most significantly, a major initiative from the agency to develop its own standards, codes and procedures, was not supported by the Province. This was the first serious attempt to give expression to that part of the subsidiary

agreement which refers to incorporating traditional beliefs. The project is only partially completed and is currently on hold.

Perhaps more importantly, the application of the legislation itself continues to hamper to some extent the development of the incorporation of "traditional beliefs, values, customs and community standards." Ten of the eleven respondents in the supervisory group on down identified statutory and other provincial requirements as problematic, and the issue is reflected frequently in agency documentation. As one respondent put it:

"We get caught between two different value systems. As a worker I feel I have to follow the mandate, but I know it won't work. I feel torn. I try to work as best I can within the system, while at the same time respecting community values."

Specific examples of this general comment included:

- * The ultimate requirement that the parental tie be cut, as for example when a parent signs a Voluntary Surrender of Guardianship, he or she signs away for ever all rights and obligations over the child. Respondents state that this practice is not recognized or accepted in the communities. It is not consistent with a tradition of family ties which is still strongly held and believed to be sound.

- * Related to the foregoing is the failure of the legislation to allow time for healing on the part of First Nations parents. The brevity of time frames for the life of a Temporary Contract Placement is a prime example. Another example, very frequently mentioned, is the reluctance of the Province to accept permanency plans for children which entail long term foster care. The latter arrangement leaves open the possibility of a future reuniting parents with child; an option which is much more highly valued in the aboriginal community than in the non-aboriginal. In addition, it recognizes the severity of the difficulties faced by many aboriginal people in their lives and in parenting; ones which may take many years to overcome.

- * The requirements of the regulations, directives and protocols in relation to investigations of child abuse inhibit

the development of culturally appropriate ways of handling such situations. For example, Hollow Water First Nation is experimenting with healing circles in which past and ongoing abuse has been disclosed. Often this has involved children as the victims. This requires investigative and possible court action under provincial rules. However, the community is reasserting the primary value of restitution and reconciliation here - the need to restore and maintain balance and harmony in the community. This process requires the avoidance of the courts. This was only possible after lengthy negotiations and complicated agreements had been struck (Taylor-Henley & Hill, 1990)

- * Court processes and procedures are seen to be inappropriate also when children are removed from their parents. The courts are geographically and culturally remote from the communities. Culturally, they are remote because of the heavy emphasis on an adversarial mode of decision making. Most communities are far more at ease with a consensus style of decision making. The latter entails everyone having a say until a plan is laid; the former involves each side arguing a partisan and exaggerated case. It polarises rather than harmonises. "I have to provide all the dirt on people. This reinforces the negative image they have for themselves as parents."

- * Unrealistic standards for substitute care homes. This is especially true of group home and day care licensing regulations.

- * Miscellaneous and occasional responses included reference to unnecessary and excessive reporting requirements, and reference to the feeling that the First Nations agencies are more closely monitored than the non-aboriginal agencies.

The political aspect of the relationship has also been problematic. Essentially First Nations argue that in matters of jurisdiction over their children, no rights were ever acceded to another government. The Province may choose to recognize the inherent right of First Nations government in this, as in any other matter, but it cannot grant an authority which First Nations claim it never had. This issue has been at the heart of the evolving relationship between the Province and all of the First Nations Child and Family Services, including the Southeast CFS. One respondent who has been

centrally involved with the agency from its inception, stated without hesitation that the First Nations signatories to the original agreements did not understand them in the same way as the Province. They saw the relationship between the Province and the agency as an interim measure. Certainly the language used in some of the documentation would express this. The 1990 and the 1992 Annual Reports of the agency contain language which is in effect a declaration of self government:

The Southeast Ojibway Nations are distinct societies with inherent rights including the right to self government.....SECFS is an institution of Southeast Indian government. Its powers and mandate emanate from the Bands and SE Chiefs authorized to oversee implementation of its operations. The SERDC Board has delegated responsibility for policy and management of the Agency to the Regional Committee of the Southeast Child and Family Services.

There is no reference here to the delegation of authority from the Province.

One major concession made by the Province was to establish a policy in 1984 which obliges all non-aboriginal agencies to consult with the relevant First Nations agency in instances where a child has been apprehended off reserve (Manitoba, 1984). There have been complaints that it has not been properly followed, and also a disappointment that it was not integrated into the legislation itself.

Apart from this one initiative, the language used by the First Nations leadership to describe the relationship is clearly

contradicted in the language of Provincial officials obtained from interviews and the document search (miscellaneous memoranda). "The agency is accountable to the province under legislation. The Provincial Directorate has authority to provide legislative direction." Some service planning, such as extra payments above a certain amount to a foster home for a special needs child must be approved by the Province, even though it is the Federal government which reimburses. Generally the agency is regarded as autonomous by the Province, having the right to "develop their own governance structure and policies" but always "providing they are consistent with provincial policies and legislation." Referring to permanency planning for children in care, "the agency is expected to adhere to and follow the standards as stated in the standards manual."

An additional major jurisdictional issue concerns off-reserve services. The SERDC and the agency claims that a member is a member regardless of residence, and that jurisdiction for services and case planning for children and families who reside off-reserve ought to belong with the First Nations agency. The original agreements assert that services to Southeast and other First Nations community members who are residing off-reserve, even if only temporarily, are the jurisdiction of the Province. A 1988 agency document indicated that 27% of the population are transient between the reserve and the city (of Winnipeg). Thus this issue involves significant proportions of the First Nations population.

SERDC agreed to this contentious clause because it was anxious to begin providing a full range of services to its on-reserve population. The Province agreed on condition that negotiations in regard to maintenance payments for off-reserve children in care resume. This never happened. At present the Province is reimbursed by the Federal government for the cost of services to off-reserve Status Indians, only on the 50% basis provided for under the Canada Assistance Plan. The degree to which the Federal negotiators were responsible for insisting on the off-reserve clause is not known, but the cost savings to the Federal Treasury are obvious. The clause is also consistent with long standing Federal policy towards off-reserve Status Indian people, which has tended towards a reluctance to recognise any responsibility (for example see Boldt & Long 1988). Such a policy reduces Federal fiscal responsibility to Indian people upheld in the Constitution Act, and is very tempting.

A distinction between service issues and political issues has been identified for discussion purposes; in reality they are interconnected. In political terms, Southeast CFS has only executive authority over service delivery on-reserve. It does not have judicial (no community or tribal courts) or legislative authority. The political limitation to its powers constrains, as we have seen, the quality and appropriateness of services and programs. The limitations placed on service delivery and the reporting and accountability requirements in turn, are a constant

reminder that Indian self government is not recognized either as a concept or in its practice by the non-aboriginal governments.

In general terms the position of provincial staff towards the agency has tended towards managing the status quo. Staff assistance has been rendered when requested, except when requests have involved funds (involving Treasury Board approval), such as for the standards project. The ever present reality of Provincial jurisdiction surfaces in high profile cases such as the death of a child, but otherwise provincial staff, sensitive to the political issues, have attempted to be as flexible and least intrusive as possible around the inspection, monitoring, regulatory and reporting requirements of the system. Most of the respondents mentioned an improvement in agency - Provincial relationships at the staff to staff level through the cultivation of personal working relationships.

On the other hand, despite several initiatives from the Southeast CFS, the Province at the Cabinet level have simply not responded at all to the political limitations placed on both on and off-reserve service delivery. Neither has the Provincial government responded to the recommendation of the Task Force which it co-sponsored, to the effect that the Provincial authority be replaced by an Indian authority equivalent to the Child and Family Services Directorate. In the absence of policy initiatives supported by the government of the day, staff on both sides can only try to continuously balance

the tensions between the desire of the agency to move forward to a more autonomous model and current Provincial statutory requirements. At a staff to staff level, there has been a genuine attempt to manage the relationship in a cooperative manner. The superordinate-subordinate political relationship severely limits the full promise of this goodwill.

The Geisbrecht Report (Manitoba 1992) criticised the Province for its "hands off" position towards all of the Indian agencies, and urged it to take the exercise of its authority more seriously. We believe that Judge Geisbrecht and the Province are missing the point here. Fluctuating between a "hands off" and a "hands on" position is for the most part unhelpful. The former position maintains the current political relationship, while at the same time leaving the agency to deal alone with some desperate realities in the communities - the worst of both worlds. The latter position tends towards emphasising the regulatory and monitoring functions, which sharpens the affront to self government aspirations, and makes co-operation on service issues more difficult.

In short, the relationship has been characterised by the need to manage on a daily basis, tensions created by compromises made in the original agreements. The agreements have not changed despite the opportunity to renegotiate when the original ones expired in 1987. They have simply been implicitly renewed on an annual basis in order to continue the flow of funds and the operation of the

agency. No serious negotiations to move the relationship forward have occurred.

For this to happen the Province needs to take a more proactive and dynamic stance and respond at a political level to these tensions and the invitations already extended by Southeast CFS. The major issue is the issue of jurisdiction. A secondary issue is the degree to which the Province, notwithstanding self government or Federal responsibilities, has some responsibility for funding certain functions and programs.

The Issue of Jurisdiction

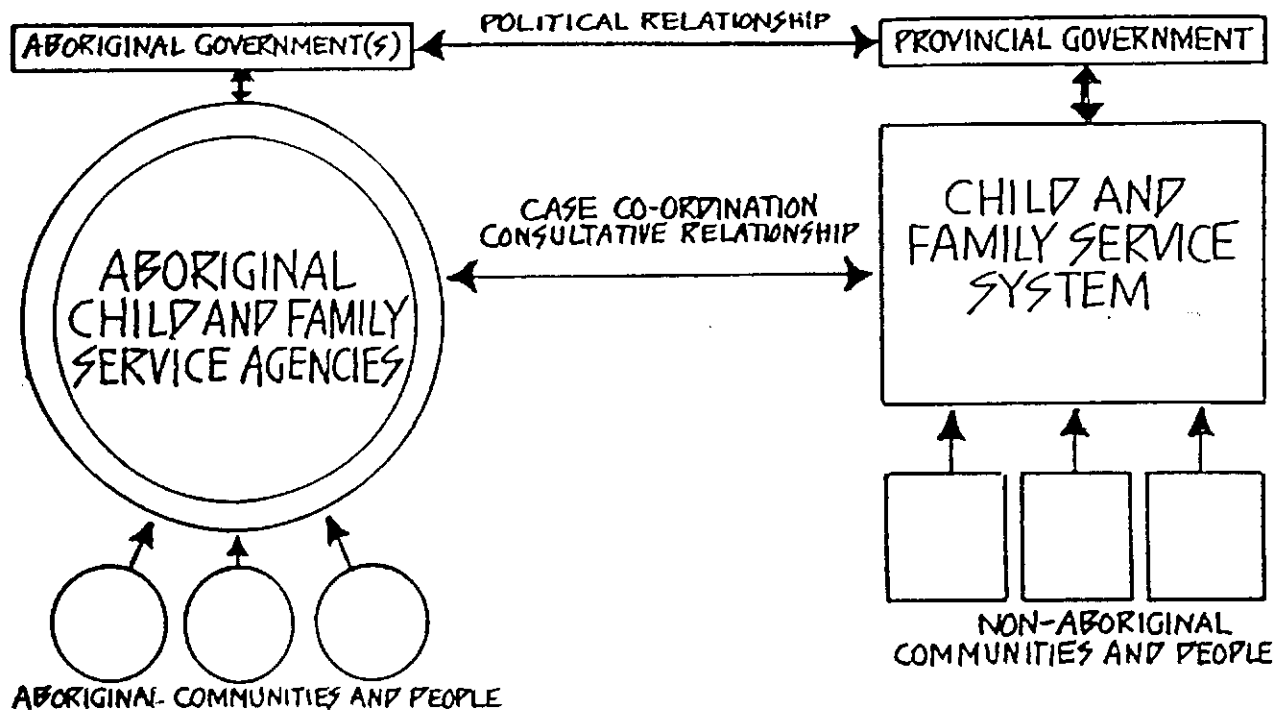
In regard to the jurisdiction issue, the key is a reconceptualisation of the relationship. This is illustrated in Figure 2.

The delegated authority model is the one now in effect. If the autonomous model were applied to Southeast CFS only, the mandate for the agency would come from SERDC as now claimed, and accountability would be to the Regional Committee through the regionally based staff, who would assume most of the roles now played by the Provincial Directorate. If the model were to be applied to all First Nations agencies province wide, the First Nations Directorate would be lodged within some larger institution of Indian government. This is the model proposed by the Task

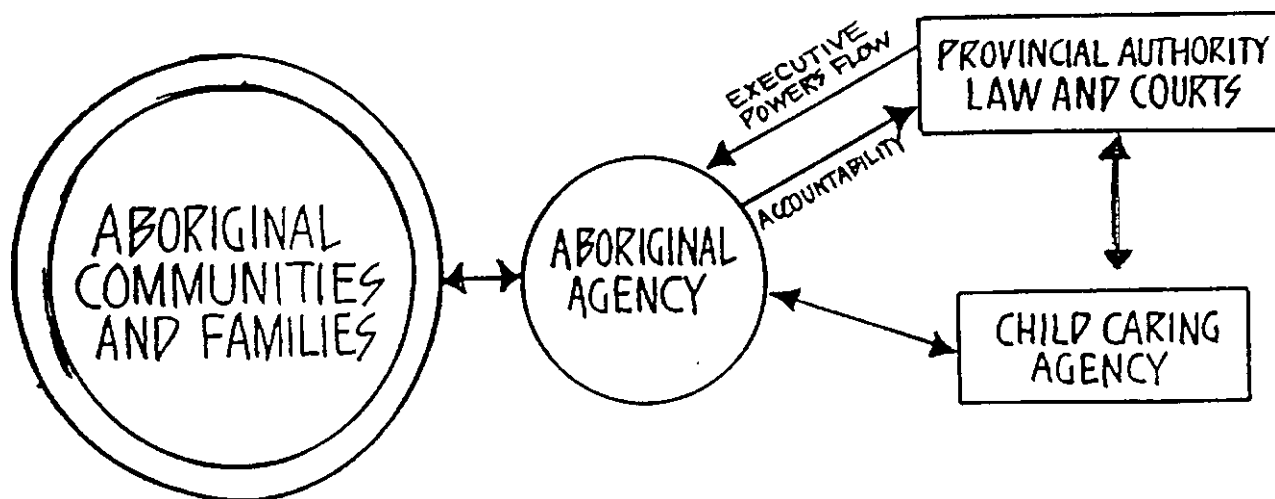
FIGURE 2

THE DELEGATED AUTHORITY MODEL VERSUS THE AUTONOMOUS MODEL

THE "AUTONOMOUS" MODEL



THE "DELEGATED AUTHORITY" MODEL



Force. This reconceptualisation has already been achieved by SERDC and Southeast CFS. It remains for the Province to do the same.

Essentially the relationship evolves into a partnership between equals. The Province could extend a variety of consultative and training services to the agency on an as needed basis. The agency in turn would be undertaking full responsibility for service to a population which is extremely difficult to serve (see also Taylor-Henley & Hudson 1992). This partnership would be in contrast to the superordinate-subordinate relationship which now pertains. As one agency respondent put it:

"We need the Province to be an active partner, but we need the role to be supportive and consultative. We need funds for staff and foster parent training for example. What we don't need is provincial involvement in terms of continually exerting and proclaiming its authority."

Such a state can only be achieved by dialogue and negotiation at the political level - discussions which have been noticeably absent during most of the life of the agreements.

Off-reserve services are more complicated in that the recognition of SECFS jurisdiction may still require negotiated agreements on implementation. The off-reserve population is concentrated in Winnipeg, but is also scattered in other centres in the Province. It may not be feasible to fully serve even the urban population, and even less feasible to establish a service presence elsewhere. In such instances a range of options for contracting are available: with the Province, the non-aboriginal child and family service, the

status blind urban a original agency in Winnipeg, and a host of others.

The Issue of Funding

On the secondary issue of funding from the Province, the extreme position might be that the Province has no responsibility. While historically the Province has delivered some services to Status Indian people, it has argued that the Federal government should assume total fiscal responsibility. For the most part the Federal government has agreed with this position, with one important exception already noted, which is its failure to accept billings for services to Status Indian people while resident off-reserve (except cost sharing under the provisions of the Canada Assistance Plan available for any person).

However, argument can be made for some limited Provincial funding responsibility, and precedents have already been set. In reviewing these precedents, it seems that there are three justifications for Provincial funding. The first is that the Province should agree to reimburse the First Nations agency for those services rendered by it on behalf of the Province. The obvious case in point is service to non-Status Indian people living within or around the First Nations community. These are people who live as an integral part of the community. Moreover, the Province should be willing to reimburse for all services rendered; not just a portion of them. Reimbursement formulas need to be negotiated which reflect the cost

of the necessary full range of services to these families; not just reimbursement for the maintenance of the non-status children in the care of the agency.

The second is financial support for those functions for which the Province normally assumes responsibility in regard to the total population including Status Indian people. The obvious example is post secondary education. While it is true that The Federal government assists Status Indian students with subsistence and tuition while studying at a post secondary institution, this does not defray a significant proportion of the costs of delivery. The unique situation of the Southeast CFS and other First Nations agencies, calls not just for education at recognised post secondary institutions, but also special and custom designed training programs (especially for the local workers). These programs have objectives and benefits identical to any other post secondary education, and some portion of the costs should properly be assumed by the Province.

Finally, argument can be made for the Province to assist with the funding of programs and services which arise out of the need for the agency to make extraordinary efforts to repair past mistakes for which the Province is in part culpable. This category could be wide open given the history of colonisation and dispossession, but it can be narrowed to those programs which are not normally provided by the mainstream child and family service agencies. The

obvious example is a repatriation program. Significant numbers of Status Indian children were placed in the recent past under Provincial authority in substitute care arrangements far from their communities, including adoption placements in the USA. The anecdotal evidence available suggests that a high proportion of these children did not fare well in their non-aboriginal environment. A repatriation program which would include young adults, carefully planned on a case by case basis, and with the full range of appropriate community supports, provides an opportunity for the individual to heal, as well as restoration to the community of lost members. The compensatory argument advanced in human rights theory would apply here to justifying Provincial funding for such programs.

SECTION IV: RELATIONS WITH THE FEDERAL GOVERNMENT.

Funding Arrangements

In the mainstream child and family services system, the funders are the provinces, which choose in some catchment areas of some provinces (mostly Manitoba and Ontario) to fund private non-profit agencies to deliver the service on their behalf. In most other provinces and in northern Manitoba, the province also takes responsibility for the delivery of service. Thus the system is for the most part a unitary system involving only one level of government.

By virtue of the Tripartite Agreements signed with Southeast CFS and other First Nations agencies, the Federal agency, Indian and Northern Affairs Canada, agreed to be the primary and direct funder for operating and child maintenance costs. This has resulted in one of the unique features of the First Nations system: the legislative and regulatory body, namely the province, is not the primary funder. As we have seen from the discussion of agency-Provincial relationships, the Province asserts jurisdiction and authority. This includes setting and maintaining standards. The ability of the agency to conform to these is dependent in large measure on the quantity of funding. These are controlled by a level of government other than the regulatory body, which has little influence and/or has chosen not to attempt to exercise influence on the funding formula provided by INAC.

The most critical issues for the agency, however, are the level at which funding is struck each year, and the ability of the agency to roughly predict the outcome so that it can engage in long term planning. The ways in which agreements on levels have been struck and the annual outcome has evolved over the years. In 1986, INAC became concerned at what it regarded as rapidly expanding costs of First Nations CFS across the country. It called a moratorium on any new agreements until the report of The Child and Family Services Task Force (not to be confused with the Manitoba Task Force of 1993) commissioned by it was available. This Task Force was "to conduct a review of the agreements and the services and the

costs associated with them." (my emphasis). The Task Force (INAC 1987) reported the following year.

While the implications of the Task Force were being digested, annual funding agreements, with some allowance for inflation and expansion, continued to be struck on an ad hoc basis. Finally in 1991, a formula was developed by INAC to be the basis for annual allocations to First Nations child and family service agencies across the country (INAC, 1991). INAC'S two most important objectives were to gain some measure of predictability in allocations and to treat all of the agencies in similar fashion. Previously allocations were sometimes a function of the skill of the First Nations agency negotiators rather than a function of any measure of service demand or need.

The formula has two parts. The first remains unchanged, which is an open ended commitment to advance payment or reimbursement of the agency for the cost of maintaining and providing supervisory services for children in care. The maintenance rates are authorised at the same levels authorised by the Province for children in its care and custody.

The second part is the one which is formula driven and has six components which are applied to striking the Operations Budget:

- 1) Population statistics provided by the bands. Funds based on a per capita amount (for Southeast CFS \$655 in 1991) times the number of children 18 and under living on the reserves are allocated to this part of the formula. This population

formula is one crude, but reasonable indicator of the extent of potential need and service demand.

2) A fixed amount per band served by each agency to cover such costs as travel and extra administrative costs. In 1991 this was \$9,651 times 9 (the number of Bands in Southeast CFS)

3) A fixed amount (\$128,960 in 1991) to the agency for all other administrative costs. This does not vary with population size or any other indicator.

4) A remoteness factor. Southeast CFS serves 5 "fly in" communities, and was a beneficiary of the application of this component of the formula.

5) Socio-economic factors. This represents the degree of difficulty of the task assigned to the agency in any one, several, or all of the communities served. It is another attempt to identify indicators of the level of need.

6) Annual adjustments for inflation.

Devising ways of funding child and family services has never been achieved in a satisfactorily rational manner which reflects any objective measurement of need. Funding levels have tended to be set on a somewhat arbitrary basis, usually using an incremental methodology based on whatever the allocation was for the previous year. The current Federal formula is as reasonable a device as any other in use. Its implementation did not disadvantage the Southeast CFS, nor others in relation to allocations of previous years. The total operating budget from the year in which it was implemented (1992/3) actually increased relative to the previous year.

Nevertheless, there remain problems with it and further work is required. Firstly, the total budget is the product of the first four components of the operating budget plus the maintenance

portion. No closure has yet been effected on the fifth and sixth components. Both of these components are critical. The socio economic conditions in each community are a major indicator of service need - much more so than the child population which is the only other indicator used in the components. Such an indicator ought not to rely only on such things as employment or income levels, but also contain some measures of social morbidity. The latter is associated with the former, but there is not a direct one to one relationship. Measures of social morbidity would include the numbers of families served, some indications of intensity of service, suicide rates, involvement with justice systems, disclosures and estimates of the levels of the incidence of family violence. Such measures are not precise, and they would have to be self reported, but they do attempt to get closer to an indication of the service need on which budget allocations ought to be based. For the agency's part, it would be required to demonstrate that programs are in place or planned to respond to these needs.

The inflation factor remains problematic. There is apparently a verbal commitment from INAC to consider the inflation factor, but no figure has been attached to it. It is therefore subject to change, and one element of the predictability desirable for planning purposes is lost.

The major difficulty, however, lies not so much with the formula itself, but in the philosophy which underlies it. The text of the

formula refers to the need to direct funding solely towards "child centred activities" such as child abuse and neglect prevention. Commenting on this provision a consultant's report states:

It is beyond the ability of these organisations to eliminate the causes of child abuse and neglect....Given the critical nature of the role of these organisations in the current communities, it is vital that the services be comprehensive and delivered in a highly competent manner. They will necessarily cover a wider scope of activity than their urban counterparts who have available to them, a range of alternative services. (BDO Ward Mallette, 1991:10)

Another position paper elaborates on this general comment. It argues that funding formulas, the methodology for which, or the outcome of which fail to recognise the degree of difficulty of the task assumed by the First Nations - the upset in the balance in many of the communities between those able to give help and those in need of it - severely limit the ability of the agencies to move forward. The paper further argues that narrowly targetted funding arrangements assumes that social problems are exceptionalistic, as opposed to widespread and even epidemic in some instances. Secondly, and as a consequence, it assumes that exceptionalistic "treatment" responses are appropriate as opposed to community wide healing efforts which are still very much in the developmental stages. Whole communities have been abused by external forces and intra-community abuse has resulted. Such an epidemiology requires different responses than the narrowly targetted ones called for in the formula (Hudson & Taylor-Henley, 1993).

Eight of 13 of the agency respondents referred to the need for a greater emphasis on prevention and/or a healing approach. Six of these referred to these terms specifically in relation to what they considered to be an imbalance between resources allocated to children in care, and resources which they thought should be allocated to preventing children from coming into care, such as family violence programs, more sustained programming to combat alcohol and drug abuse, and community development.

Both the content and the application of the formula reflect the exceptionalistic as opposed to a community healing approach. In terms of content, there is an item currently as a sub category of the Maintenance Budget called Services to Families. These services include staff time, and payment for concrete support services to families such as homemaker or day care. These funds were capped in 1992, when already these vital preventive services offered to many families represented a very small percentage of the total budget (In 1992 this amount was \$278,000 representing about 6% of the total). The failure to implement that portion of the formula under the heading of socio-economic conditions is another example of the content of the formula falling short of responding to community realities.

Neither does the application of the formula yield a final amount which fully allows for a host of items, either already available to, or not as desperately needed in the non-aboriginal system.

These include a long term plan for effective training for staff, community development and other supports for the volunteers in the system, adequate salaries for staff (in Southeast CFS starting salaries for local workers are lower than those for the office janitor), and adequate rates for foster care which are currently set at Provincial rates (Northern food alone can cost four times that of the Southern urban areas), or the high costs of obtaining specialised treatment services for children who are seriously damaged. In addition the formula does not yield funds for developmental costs which are so essential in the First Nations communities; development costs for the agency to move ahead with such projects as the standards project, and related developmental activities such as the creation of community wide healing programs such as that attempted in Hollow Water.

In short the formula needs to be changed in a number of ways:

- * The maintenance budget requires upward adjustment to reflect the true costs of substitute care in these remote communities.⁴

- * The Services to Families portion of what is now the maintenance budget needs to be uncapped and calculated in more generous amounts than now.

- * The socio economic conditions component of the formula should be implemented. The actual figures used in the calculation of the formula need to be reviewed in order to accomodate the shortfalls already pointed out.

- * A third portion of the formula needs to be added for developmental tasks. The formula now is a status quo formula and this is its greatest shortcoming. It assumes that the agency is fully formed and fully developed with only the daily business of protecting children to preoccupy it, whereas the reality is that a number of major political and service

delivery issues still face it. These have very little in the way of forward momentum at present.

Federal Policy on Jurisdiction

The Federal partner to the arrangements for Southeast CFS is primarily in the role of funder. But it has also taken an active stand on a major policy issue other than financial. This stand is important to review as part of examining the Southeast CFS and its relationship to the Federal partner.

The Federal government has insisted during the negotiations leading up to the signing of the first Agreements and in subsequent policy papers on two items. One is that all Agreements be Tripartite. The other is that the First Nations agencies be subject to the Provincial authority. The first is positive. While the First Nations agencies have often been reluctant to enter into a relationship with the Provinces, fearing for its implications for their special relationship to the Federal government, some kind of relationship has found to be necessary. The provinces are legitimately an interested party to First Nations affairs, and are an effected party to the results of any movement towards self government, including service delivery control such as in child and family services. As we have seen, the Province may chose to facilitate or impede, but they are nevertheless a legitimate stakeholder.

The problematic part in Federal policy has been its insistence on tying the policy of tripartitism to subjecting the First Nations child and family service agencies to Provincial authority. This has not wavered since the first circular on the subject (INAC, 1982). The most recent statement on this subject was contained in a policy document which clearly stated that "principles for agreements affecting child and family services....will be in accordance with provincial legislation." (INAC(c), 1989). It can only be said that there is no logic to connecting the two policy items. There is some rationality to including the Province as an interested party, and calling for tripartite agreements. There is no logic to prejudging one major outcome of tripartite negotiations; namely the nature of the relationship which will evolve and pertain between Indian government and its agencies, and the Provincial government and its agencies.

As we have seen, the relationship which currently pertains between the Province of Manitoba and Southeast CFS is problematic. It is problematic both in political terms but also in terms of service delivery; a matter about which all parties ought to be equally concerned. The current relationship inhibits the development, articulation, implementation and evaluation of healing approaches which more appropriately reflect the cultural and socio-economic circumstances of the communities. When the relationship between the Federal government and Southeast CFS is examined, it is clear that the Federal party, is using its fiscal leverage to support the

existing arrangements. It is oddly championing provincial rights, rather than facilitating movement towards reconceptualising the relationship.

Interviews and document searches in connection with this specific project only reveal that the issue of the agency-provincial relationship and Federal support for it, is one of the more important governance and structural issues facing the agency. They do not reveal the motivation behind the Federal policy stand, and this remains a matter of speculation. It does appear though that historically, one level of government will assert jurisdiction when it stands to gain resources, and disavow jurisdiction when claiming it might result in a drain on resources. In child and family services the Province, while not wishing to say or do anything which challenges its constitutional right over social services, has been ambivalent about claiming the right in regard to First Nations people, because it involves a significant resource commitment. It has been a party to existing agreements, because the fiscal responsibilities are minimal, without setting any precedents with regard to its constitutional rights. In contrast, the Province of Manitoba was not at all reluctant to claim jurisdiction over gaming rights when some First Nations communities attempted to use gaming as a generator of revenues. In fact police action was used to close down the operation in one community. This case is harder to make in regard to the Federal government since it has for the most part accepted its financial obligations for service delivery. The

one major area in which this has not been the case, and for which the case can be made, is in the area of off-reserve services. Here Federal "offloading" to the Province in the name of provincial constitutional rights can clearly be seen.

Regardless of motive, the Federal government has maintained that its relationship to Southeast CFS is purely a fiscal relationship. It has no involvement in program issues. Yet in insisting that program issues are ultimately a Provincial responsibility, it has indeed influenced program and service delivery.

One possible response to this problem is the passage of legislation which would clarify the jurisdictional issue. There are two options here. Southeast CFS could take the initiative and develop its own legislation. This would articulate the principles for child and family service, outline who should receive service, under what circumstances and in what ways, and mandate an implementive structure including establishing local committees and some kind of accountability provisions. SERDC would need to endorse it, as would each community. Given current Federal policy, it is reasonably assumed, that such lengthy effort would be to no avail.

The second option would be the passage of special child and family service legislation at the Federal level. This was recommended by the 1993 Task Force Report (Manitoba, 1993). Unfortunately, the Report was totally silent on the nature and content of such

legislation. One presumes that the Task Force was suggesting some kind of brief enabling legislation at the Federal level simply recognising First Nations jurisdiction, which would then permit Southeast CFS to develop its own legislation without risk of litigation or other challenge.

As early as 1986, reference to the need to develop its own legislation and discussion of plans to do so, appear in the documents searched specific to SECFS. Reference is also made to possible cooperation with other First Nations CFS. This appears to be linked in people's minds with the project to develop standards. Interviews with staff revealed support for First Nations legislation with two staff having no opinion. Their reservations as well as that of others involved the need for suitable checks and balances; functions now performed by the Province.

Both of these ways to resolve the jurisdictional question are workable. The option involving Federal legislation is slower but surer. Neither way could be unilateral, and would require some policy decision from the other two levels of government. Interview data suggested that the Province of Manitoba might at least not actively oppose such legislation, although it has maintained official silence on the subject. For the Federal government, a reversal of a policy to which it has so far firmly held would be required. Interviews and documents did reveal that the Federal rationale has been contained in terse statements concerning the

constitutional rights of the Provinces. But such rights in regard to First Nations are by no means clear. The interpretation of the opposing Section 91(24) of the Constitution Act (1867) which refers to the Federal responsibility for "Indians and lands reserved for Indians" and Section 88 of the Indian Act which states that provincial responsibility holds unless specifically mentioned in the Act (social services are not mentioned), as well as additional arguments about treaty rights and inherent aboriginal rights is a continuing debate. There has been no closure or absolute certainty on this issue. The constitutional argument used by the Federal government as justification for its policy on Provincial authority is a weak one. Resolving the issue is more a matter of political will.

Medical Services Branch

In addressing the question of the current relationship between the agency and the Federal government and what could be improved in it, the role of Medical Services Branch was seen as problematic. Medical Services Branch has been assigned the role of providing health services to Status Indian people. Two ongoing issues were identified in agency documents and in staff interviews.

One is administrative. One minute expresses alarm "at the prospect of having to waste scarce resources to comply with cumbersome MSB

policies formulated for individuals and not ICFS agencies." Staff spoke of the frequent disputes between INAC and MSB over which of them is responsible for billings on behalf of Status Indian children in care. A Regional Committee minute from 1992 referred to financial losses incurred by the agency caught in the middle of the dispute. One agency should be responsible here and that is logically INAC, which could recover costs from MSB if it must. Failing this there appears to be a need for much clearer criteria establishing which arm of government is responsible for what.

The second issue is around control over decisions. Ultimately MSB decides who will get service, and approvals have to be sought from them. The approval is contingent upon a referral from a licensed physician. No matter how streamlined the approval process is, this removes from staff the ability to control treatment decisions in the best interests of the children assigned to their care. More seriously, MSB controls who will provide service. For example, it will not approve billings for service provided by a social worker, but it will approve the services of a psychologist. Most of the First Nations professionals are social workers. Thus the policy virtually excludes billings for services obtained from a First Nations helper.

No progress appears to have been made on these issues, nor does there appear to be a commitment on the part of MSB or INAC to participate in discussions to resolve them.

SECTION V: ONE OUTSTANDING ISSUE - STAFF TRAINING.

The issue of training of staff was not intended to be a part of this research. Yet it was referenced so frequently in the documents and in the interviews that the report would be incomplete if it omitted to make some comment. It is placed near the end of the report because it cuts across, more than any of the other issues discussed, the three aspects of government addressed in the report. It involves Federal funding responsibilities, and Provincial funding and constitutional responsibilities. Above all much of the future direction of the agency, especially its self governing as well as its decentralisation efforts depend upon the satisfactory resolution of this issue. It is difficult, if not impossible, to transfer technology to the communities without the skilled staff at the community level to implement. Just one small example is the skill required of staff to properly support the functioning of the LCCC's.

Human service agencies, as well as other employers, customarily obtain their staff "ready made" as graduates of post secondary education programs offered outside the workplace, and paid for mostly from general revenues. Such is not the case with First Nations and other aboriginal employers. This is true, firstly because they rightly desire to employ First Nations people as far as possible. Secondly, in the local communities, even without any positively discriminating hiring policy, the only staff available

are First Nations people. Non-abor g nal people do not have a good record of long term commitment to the community. Given these first two considerations, it only remains to be said that First Nations graduates of the same programs from which non-aboriginal employers draw their staff are in seriously short supply. This fact has been well documented elsewhere and requires no further justification here. (See for example INACa&b 1989 and Hull, 1987.)

A full range of responses, sustained over a considerable number of years, is required to attend to this shortcoming. These should include everything from in-service training to community college certificates, to degree programs as well as specially designed training programs. Some may require periods of study away from the community; others may be designed in more decentralised fashion enabling community based and part time study. Content and duration will vary depending upon the needs of the individual and the agency.

There is no space to expand on these options. The intention of this section is to point out some considerations in planning for training which have been somewhat underplayed in past efforts. These comments are not based on the data collected for this report, which only revealed the importance attached to the issue of staff training; nothing more. Rather the author is drawing on experience gained in personal involvement with two affirmative action degree programs, the delivery of a certificate program to staff of some of

the First Nations Child and Family Service agencies, and involvement in a distance education program.

Firstly, it is observed that quite unrealistic expectations are placed upon post secondary institutions and training programs in terms of what they can deliver in what time frame. For example, a typical middle-class non-aboriginal student, entering a Bachelor of Social Work program with all the academic pre-requisites takes four years of full time study to complete. This assumes no major economic or other interruptions to the student's program. The First Nations agencies on the other hand are dependent, at least for most of their local staff, on a program (degree or otherwise), into which existing staff can enroll. In other words, assuming working half time and studying half time, it would take each worker/student eight years to complete. It is true that a degree program is at the high end of the training continuum, and it is true that there are short cuts and accomodations which can be made even in a degree program (practica in the workplace for example), but the kind of time frames and sustained commitment from the agency, the employee and the funders outlined here, far exceed any discussions on the subject of training this author has seen or heard.

Furthermore, the typical student referred to here, hardly exists in the First Nations communities. A number of other unique factors compound the difficulties of completing a training program. Firstly, and taking again degree programing as the baseline

example, very few local staff possess the usual pre-requisites. Completing the necessary remedial work may add yet more to the length of the study period.

Secondly, many aboriginal students enrolled in programs offered by mainstream institutions, speak of the difficulties they experience with cultural dissonance. This is experienced in both the content and the process of instruction. It leads often to withdrawal, and at best frequent time outs to deal with their doubts.

All of the foregoing may be dismissed as the problems of the mainstream institutions, not the problems of the student. There is indeed some truth to this despite some small signs of change and accomodation on the part of these institutions. But in the foreseeable future, heavy reliance on the mainstream institutions for trained staff will continue. Planning for the necessary time frames, staffing patterns and funding will need to be predicated on this fact.

Moreover, not all of the difficulties in planning and funding training programs are attributable to the inflexibility of current post secondary institutions. Even if a period of apprenticeship with elders, and/or a more culturally relevant program at an aboriginal controlled post secondary institution (of which there are few at present) were seen to be appropriate, other sorts of crises conspire to disrupt the continuity of the period of study.

The content of the journey of inquiry in human services training, is more likely than for other students, to trigger in the aboriginal student memories of past abuse or other damaging experiences. Education and training at different points can and should be for some students as much therapy as it is intellectual inquiry.

When the individual themselves feel whole and free of crisis in their own identity, they are rarely free of the crises experienced by family members and others close to them. Deaths, births, family violence, suicide, ill health, job loss, economic hardships of other kinds, are life events, most of a stressful kind, which are experienced more by aboriginal people than the typical middle class student used in the earlier example. The individual is expected, and accepts the expectation, to discharge their obligation to assist family in such times.

Add to the elements listed above, the usual staff profile of a mature person (usually female), with extensive family responsibilities now combined with those of worker and student, and one begins to more fully appreciate the challenge to the individual, the employer, and the training institution.

All this is verified by past experience. In the original Tripartite Agreement, INAC agreed to fund a two year in-service training program for all the First Nations CFS's. Astonishingly,

it was assumed, apparently by all parties, that this would meet the need for trained workers, and that this portion of the funding would be a one time contribution. In the Southeast CFS, which was no exception, nearly 100% turnover of the trainees occurred within the first two years of the training program giving the lie to such optimism.

Accommodations were made. The program was extended. Courses were modified and repeated for newly hired staff. Some did graduate, and a few continued their employment. Other accommodations have been made beyond the first round of training, and other similar training programs have been implemented from time to time.

This section of the report concludes with two thoughts. The first is, that despite the evidence of flexibility and accommodation mentioned in the preceding paragraph, none of the three parties have developed a serious, long term training plan which would be commensurate with the degree of importance attached to the issue indicated in the data from this study. Secondly, none of the training programs provided to date, have planned for very many of the barriers to success which have been listed here. Time frames need to be planned in more realistic fashion, staffing patterns need to be changed to allow for educational leave at the same time as the agency is obliged to deliver service, and a high level of supports of varied kinds need to be provided to the students. Where even some of these elements have been present, completion

rates have markedly improved. (See for example Hull, 1987 and McKenzie & Mitchinson, 1989.)

SECTION VI: CONCLUSION.

The Application of this Study.

This report has been based on a case study of Southeast CFS. It suffers from the limitations always inherent in a case study approach in that for the purposes of policy formulation, the question of its applicability to other similar First Nations agencies and other parts of the country is always in doubt. On this subject the following comments are offered:

* Most of the First Nations Child and Family Service agencies have been founded on similar principles, and assert a similar philosophy to SEFCS. Central to this philosophy is respect for community autonomy and community based programming. All, for example, work through some local committee such as the LCCC's, with a major decision-making role. A few agencies are organised around only one community, such as the Spalumcheen Band in British Columbia, and Sageeng in Manitoba. Issues which are inherent in a Federated structure would not apply to these agencies, but those issues which involve relationships within the community, such as the relationship between the Band political structure and the service agency would still apply. Most of the agencies across the country are organised along tribal council lines in very similar fashion to SECFS.

* Some agencies in other parts of Canada are organised very similar to SECFS, except in one important respect, which is they have not been "granted" full powers under the Provincial legislation. They are not empowered to apprehend children, or effect adoptions or carry out any of the functions normally called statutory functions. Instead they provide family counselling, supervisory functions for children in care, and develop local resources to provide general support to families and children. Although these agencies may have avoided some of the issues faced by those agencies with the mandate, in some senses they have even less flexibility and ability to develop culturally appropriate ways of caring for their own children.

For example, they cannot exercise the discretionary powers when faced with a judgement about whether or not to remove a child from its parents. These remain with the provincial authority and provincial staff.

* In all other respects, issues of Federal and Provincial relationships are very similar across Manitoba and indeed across the country. In this regard, it should be noted that some of the documentation reviewed for the sections on Provincial and Federal relationships were applicable beyond SECFS, and some beyond Manitoba. Any uniqueness arises from the quality of the relationship, more than the way in which it is structured. In this regard, Southeast CFS and its parent body, SERDC, has chosen a cooperative mode in the relationships as opposed to a confrontational one. Non-aboriginal government staff have responded in kind, allowing the daily business of operating existing program and provisions for child and family service to carry on. Nevertheless the structural issues have remained never very far under the surface and we are confident that they are generalizable.

The Jurisdictional Issue in Perspective.

Threaded throughout the sections of this report which address intra and inter-governmental relationships, is the issue of jurisdiction. This includes the maintenance of provincial authority in general, and specifically in the delivery of off-reserve services. The study confined itself to issues of governance, rather than program issues, and it is in this context only that the issue of jurisdiction assumes great importance. This is not to say that resolution of this issue provides a panacea for all of the service and program difficulties and challenges facing SECFS or others. Addressing all of these issues would have required a much more comprehensive study.

Nevertheless we do conclude that the jurisdictional issues addressed here are not just a matter of political principle, important though this is in its own right. There is an intimate connection with program delivery and the evolution of agency program and governance. For example, the difficulties in managing the natural tensions occurring within the agency structure are compounded by the flow of Provincial authority through the Regional Committee with no formal recognition of the autonomy of the member communities. Moreover, this fact has influenced in major ways, the development of program initiatives. Provincial acceptance of its authority has been reinforced by Federal policy, and both have contributed equally to the holding pattern in which Southeast CFS finds itself.

Funding

Federal funding formulas have been successful in achieving some equity between agencies. Compared to Provincial funding for the non-aboriginal agencies, it could even be called generous. The formulas and the outcomes of its application still fall short of a recognition of the cultural, political and socio-economic realities of the communities. Again, the impact of these shortcomings are ultimately on programs at the community level, or perhaps more accurately, on the development of programs. Provincial funding has remained a very small component of agency budgets, negotiated in an ad hoc manner. Criteria such as those suggested in section III of this report are required to clarify and routinise a provincial role.

The Tripartite Structure

There is room and flexibility within the existing system for Southeast CFS to initiate change. Commentary has been made in this report (especially in Section II) on these possibilities. An example from another Section might be the need for SECFS to vigorously pursue its standards project. Successful completion would place itself in a better position to review options for change within the existing system as well as establish points for negotiation for change with the other governments. In fact one of the government officials stated in the interview that it was not always clear what the agency wanted of them. The implication being that if positions were to be more clearly articulated, there would be an openness to change existing arrangements.

However, in past and current attempts to take its own initiatives, with the exception of some goodwill from the staff level within the Provincial system, the agency has been largely on its own. More significantly, despite the degree of flexibility within the existing system, there are difficulties and limits to the ability of the agency to take major initiatives, and move from where it is now into a different future. These difficulties are partly related to funds, but they are also related to other external controls - subject to provincial regulation, accountable to the non-aboriginal courts, and so forth. This of course has been the characterising feature of post contact relationships between aboriginal people and non-aboriginal governments. The recent constitutional talks gave

promise of a different future. Although they faded, there are no barriers to changing this relationship at the service delivery level: in non-constitutional arenas. Serious movement forward is dependent upon the willingness of the Federal and Provincial governments, but especially the former because of its trust relationship, to develop more facilitative policies than those now in place. Such movement can only occur as a result of dialogue and negotiations between all three parties to the original agreements. Although the federal government especially has insisted on Tripartite agreements, no ongoing mechanism which would implement the policy, either the political level or the staff level, has ever been in operation. All discussions are held on a bipartite basis, usually between the agency and one of the other levels of government. Federal and Provincial officials are rarely together. A tripartite mechanism at both the political and staff levels is needed to bring the issues discussed in this report to the negotiating table. Another opportunity to do this now presents itself with the proposed dismantling of INAC in Manitoba. The opportunity should not be missed. The pressing needs of the families and communities served by Southeast CFS and other similar First Nations agencies demands nothing less.

Endnotes

1. The First Nation's Child and Family Task Force in Manitoba was commissioned in November 1992, as a response to various contentious issues in regard to Native child and family services in Manitoba. The Task Force itself was comprised of appointees from the Assembly of Manitoba Chiefs, and both Federal and Provincial Governments. The Task Force was established to strengthen the quality, management and governance of child and family services to First Nations children.

2. These budget figures were all estimates prepared at year beginning. Year end actuals, which may have differed from estimates as a result of interim amendments, were not available. Any variance would have especially applied to the child maintenance portion of the budget.

3. There were several court cases through the '80's in which re-attachment to the culture of the child versus bonding with an existing non-aboriginal substitute care giver was the central issue. In all of these the issue of bonding won the day. One of the more public cases was Woods versus Racine; County Court of Killarney, Province of Manitoba, May 1982. This case went all the way to the Manitoba Court of Appeal, where it was again dismissed in December of 1982.

4. As this report was nearing completion, Manitoba's Minister of Family Services announced an 83% reduction in foster care rates, where the child is placed with extended family. It remains to be seen how the Federal government will respond to this measure, but if it stays with its existing policy of using Provincial maintenance rates as its guide to allocations to First Nations agencies, it will follow suit. SECFS and other First Nations agencies rely heavily on extended family to provide substitute care both out of necessity and from a strong belief in its cultural appropriateness.

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August 9, 1994

Mr. Peter Hudson
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Dear Mr. Hudson,

The Commission has now received all of the peer reviews for the paper, *Politics and Progress: A Case Study of a First Nations Child and Family Service Agency*. Copies of the reviews have been included with this letter, and a brief synopsis is provided below. We would ask that you review the comments carefully and make the appropriate revisions as soon as possible. Please enclose with the revised report a diskette copy in Wordperfect 5.1 format, along with a hard copy of the **original draft** indicating where changes have been made. Attached to the revised paper should be an executive summary of approximately three to five pages (600-1000 words), including a listing of recommendations arising from the research and a complete table of contents.

Decisions on publication will be made at a later date by the Commission's publication committee.

1. Originality

Although Reviewers A and B felt that the paper does not make an entirely original contribution to the field, Reviewer B notes that important information gaps have been addressed. Reviewer C noted that a description of the particular uniqueness of Southeast Child and Family Services may strengthen the originality of the work.

2. Utility/Audience

While Reviewer B notes the utility of this work for a policy or administrative audience, Reviewers A and C suggest that greater practicality in analysis and language use would enhance the utility of the document.

3. Approach

All reviewers expressed comfort with the approach used in the preparation of this document; however, Reviewer C felt that more detailed explanation of the nature and validity of information sources was necessary.

4. Ethical Guidelines

Sensitivity to ethical considerations is reflected in the report.

5. Balance

Reviewer B felt that the paper offered a balanced perspective but Reviewer A cautioned that the resolution of jurisdictional issues should not be presented as a panacea for Aboriginal Child and Family Service agencies. Reviewer C felt that more detail on the key informants and the universe of information from which documentation was drawn and used in the preparation of this report would offer the reader a means by which to assess the balance of the report.

6. Age and Gender

Although not an item of concern for Reviewers A and B, Reviewer C's recommendations about socio-demographic profiles of the key informants would address this issue.

7. Writing and Organization

Generally, reviewers felt that the report was well written. Reviewer A offers very specific editorial suggestions for your consideration. Reviewer B offers more general comments which should be addressed in the final draft and Reviewer C felt that the paper could be simplified and reorganized. While Reviewer C's comments are worthy of consideration, revisions can be restricted to the inclusion of important content as noted by Reviewer B and not major reorganization of the report.

8. Conclusion

Reviewer C notes that the conclusion could be strengthened by discussing whether or not the model examined is one to be duplicated or avoided in other communities. As well, Reviewer A suggests that the key elements of sound programming be explicitly drawn out in the conclusion or policy recommendations section. It is important to clearly identify the strengths upon which others should build in the concluding sections of this report.

9. Recommendation to Publish

All reviewers felt that with minor revisions, the paper should be published.

I trust that this information will be useful in your revisions. Thank you for your continued interest in the work of the Royal Commission on Aboriginal Peoples. Your report is expected to contribute substantially to our discussion of child welfare issues in the final report.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. A. Scott', written in a cursive style.

K. A. Scott
Social Cultural Research
RCAP

encl.

Royal Commission on
Aboriginal Peoples



Commission royale sur
les peuples autochtones

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4.2.2.25
7382-26.1

June 7, 1994

Mr. Peter Hudson
Associate Professor
Faculty of Social Work
University of Manitoba
Winnipeg, Manitoba
R3T 2N2

Dear Mr. Hudson:

I am writing to advise you that your report *Politics and Program: A Case Study of a First Nations Child and Family Service Agency* has been received. The paper will begin its journey through internal review as well as external peer review which includes scrutiny by a committee of academic and Indigenous community experts. When the paper has completed this process, I will forward a summary of the comments to you for your consideration. Should you wish to incorporate suggested revisions you may do so at that time. Finally, an internal committee at the Royal Commission will decide on whether to publish the paper after suggested peer revisions have been made.

Although no conclusive statements can be made regarding print publication of this work, it is anticipated that all research products will be available electronically on CD-ROM at the end of the Commission's mandate. Therefore, upon completing suggested revisions, a diskette copy in Wordperfect 5.1 format is required. In addition, an executive summary of approximately three to five pages (600-1000 words), including a listing of recommendations arising from the research should be attached.

Attached is a copy of our draft publication policy, which is currently under review. If you have any questions, please contact Dawn Lavergne-Brady at (613) 943-0124 or me at (613) 947-3472 or (613) 828-9315 before June 30th. After June 30th, I can be reached at (819) 449-6316.

In any case, your report is expected to inform a substantive part of our health and healing policy work. Thank you for your interest in the work of the Royal Commission on Aboriginal Peoples.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. A. Scott".

K. A. Scott
RCAP
Social and Cultural Research
P.O. Box 1993, Station "B"
Ottawa, Canada K1P 1B2

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27 May, 1994

The Royal Commission on Aboriginal Peoples,
427 Laurier Avenue West, 6th Floor,
P.O. Box 1993, Station B,
Ottawa, Ontario,
K1P 1B2

Attn: Monique Godin-Beers

Dear Monique,

Enclosed with this covering letter is the final report in regard to contract file # 263-2H22: Southeast Child and Family Services, Winnipeg, Manitoba, Project No. 4.2.2.25.

I have simultaneously transmitted the report to Southeast CFS, so that they can review it at the same time that the RCAP is undertaking its review process. I will be out of the country for the next two weeks (returning to office on June 13). Any revisions required as a result of the review process will be completed by me at that time or as soon as I hear from you.

In the meantime, I am submitting an invoice against this milestone, a copy of which is attached for your information.

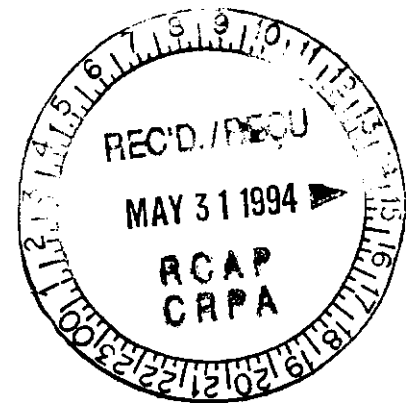
I regret that this is late in submission. The data collection phase took longer than anticipated, leaving me to write the report during the busiest time of the academic year. I trust that this does not pose too serious a problem for you, and I trust that the result is satisfactory to the Commission.

I look forward to hearing from you.

Sincerely,

Pete Hudson, Assoc. Prof.





POLITICS AND PROGRAM: A CASE STUDY OF A FIRST NATIONS CHILD AND
FAMILY SERVICE AGENCY

PREPARED FOR THE ROYAL COMMISSION ON ABORIGINAL PEOPLES

by

Pete Hudson
Associate Professor
University of Manitoba

May 27, 1994

POLITICS AND PROGRAM: A CASE STUDY OF A FIRST NATIONS CHILD AND
FAMILY SERVICE AGENCY

PREPARED FOR THE ROYAL COMMISSION ON ABORIGINAL PEOPLES

SECTION I: BACKGROUND TO THE STUDY

Introduction

The Royal Commission on Aboriginal Peoples (RCAP) has chosen to undertake research on aboriginal child and family services in Canada. It has tried to select agencies where innovative approaches have been developed that might serve as useful models for other Aboriginal communities. Three First Nations child and family service agencies across Canada were selected. The Southeast Child and Family Service (SECFS), the subject of this case study was one.

The case studies were to be used in two ways:

- 1) To assist the RCAP to present recommendations regarding First Nations child and family services to government.
- 2) To share the results of the review, either in its original form or in a policy paper, with other Aboriginal communities, service and political organizations.

From the point of view of SECFS, it was hoped that such a review and its process would be a chance for it to assess its opportunities and constraints and plan for change where appropriate in the areas discussed in this report. This is especially timely

given the agency's need to digest the implications of a recent Task Force Report and respond to it (Manitoba, 1993).¹

Manitoba has seven mandated First Nations child and family service agencies, covering all but one of 61 First Nations communities. The remaining one is served by a non-mandated First Nations agency. Winnipeg is served by a "status blind" non-mandated agency. SECFS was selected for the research project because of its perceived good track record, its positive reputation in both aboriginal and non-aboriginal communities and some innovative services provided by it to children and families.

Focus and Method

Initially the study was to be much more ambitious than that which was subsequently undertaken. It was to involve all of the member communities in a fully participatory process, covering the complete range of service and governance issues. Neither time nor funds permitted this. The focus of the study was narrowed to 3 areas: internal relationships, relationships of the agency to the Provincial government and relations of the agency with the Federal government. An attempt was to be made to discuss how these relationships have evolved over time, outstanding issues, how these are currently being managed and any implications for change.

The method also was more modest and traditional (in the non-aboriginal sense of traditional). Consultations on the project

occurred at the Board and senior administration level, from whom approvals and a commitment to participate was achieved. It was agreed that the agency's busy daily operations and service delivery functions, as well as a sense of being over studied, dictated a methodology which was the least intrusive possible. Thus a two stage data collection process was designed.

The first stage of data collection consisted of a document review.

These documents included:

- * Regional Committee Minutes 1985-93 (61 documents)
- * Management Meeting Minutes 1988-1994 (69 documents)
- * Staff Meeting Minutes 1986-1993 (15 documents)
- * Southeast Community Services Review, 1990
- * Agency Planning Documents 1987-1991 (2 documents)
- * Miscellaneous Correspondence, Child and Family Services Directorate 1986-1990 (15 documents)
- * Agency Annual Reports 1985/6-1991/92
- * Southeast Community Services Review, 1990
- * Provincial Review, 1993
- * Manitoba Indian Child Welfare Subsidiary Agreement, 1983
- * Canada-Manitoba-Indian Child Welfare Agreement (Master Agreement), 1982.
- * First Nations' Child & Family Task Force Report, 1993
- * Comprehensive Funding Arrangements (Federal), 1992

All documents were searched for information which would aid in understanding the three subject areas of the study. All data deemed relevant was recorded and sorted into the 3 subject areas, as well as into sub categories for ease of later qualitative analysis.

In addition, a total of sixteen interviews were conducted seeking information from key informants on the same 3 sets of questions. Most of these were associated with the agency. These included

members of the Regional Committee, senior managers and supervisory staff. Regional workers were included as representing community level staff. The others were officials in the Provincial Child and Family Support Directorate, and the Regional office of Indian and Northern Affairs, Canada (INAC).

Background to SECFS

Prior to 1983 the Southeast communities were receiving very limited itinerant services from the Children's Aid Society of Eastern Manitoba and the Eastman office of the Province. Throughout 1981, resource development workers established the infrastructure for the current SECFS agency. The Canada Manitoba Indian Child Welfare Agreement was signed in February 1982. The necessary Subsidiary Agreement was signed by Southeast Resource Development Council (SERDC), the Province and the Department of Indian Affairs in April 1982. A year later in April 1983, Southeast Child and Family Services received its mandate under the 1974 Child Welfare Act of Manitoba. Under the provisions of these agreements the Province agreed to "grant" executive authority to an agency to be established by SERDC, and the Federal party agreed to fund the new agency.

The latter was the agency studied in this report, SECFS, in operation since 1982, and mandated since 1983 to provide child protection and family support services to people living in nine First Nations communities in Southeastern Manitoba which are

members of the SERDC. These are scattered over a huge area of southeastern Manitoba, several located on or near the Eastern shore of Lake Winnipeg. The communities are Berens River First Nation, Bloodvein First Nation, Buffalo Point First Nation, Poplar River First Nation, Brokenhead Ojibway Nation, Hollow Water Nation, Black River First Nation, Little Grand Rapids First Nation and Pauingassi First Nation. Five of the communities can be reached only by air most of the year. The furthest is Poplar River approximately 300 air kilometres from Winnipeg. The closest is Brokenhead, only one hour by road.

According to INAC's Band Membership Program, population counts have increased from 1983 to the present. In 1983, the total band population of the SERDC was 4,781 with 3,307 (70%) on-reserve and 1,213 (25%) off-reserve. (Crown Land figures excluded). The child population (0 to 18) was 2,520 or 53% of the total band population. Of that figure, 1,730 (69%) lived on-reserve and 656 (26%) lived off the reserve. (Crown Land figures excluded). Comparative data for 1992 (later figures unavailable) gives a total band population of 7,498 with 4,644 (62%) persons residing on reserve (excluding Crown Land) and 2,761 persons off-reserve (37%). The child population in 1992 was 3,452 or 46% of the total band population. Of that figure, 2,238 (65%) reside on reserve and 1,175 (34%) are off-reserve.

Department figures have not always coincided with the Bands' population counts. The figures are intended only to orient the reader and should be considered as approximations. Of particular significance to this report, however, is the high proportions of children in the totals and the relatively large numbers of members resident off-reserve.

Paralleling growth in the population, as well as a phased in transfer of responsibilities and caseloads from the Province, the SECFS has experienced rapid growth in its first 10 years of operation. In 1983, the annual budget included only an operating grant, and totalled \$702,018. By 1987 budgets included funds for the maintenance of children in care as well as an operating grant. In this year the budget was set at \$2,372,248. By 1993, the last year for which these figures were available, the total annual budget was set at \$5,916,494.²

Growth in the staff complement has not been as rapid as budget growth. In 1983 the staff complement was 28. This had grown to 38 by 1993. This indicates that a large proportion of the budget growth has been driven by the maintenance portion of the budget. This is verified upon examination of the child in care statistics - the only indicator of case load growth available. On December 31, 1984 the agency had 43 children in its care. By 1987 these numbers had reached 160, and on March 31, there were 257 children in care.

SECFS is still a relatively small non profit agency which has nevertheless experienced the stresses of rapid expansion. It serves a widely scattered rural and Northern population, as well as providing some limited services to its members resident in Winnipeg: also the location of its Regional office. Socio-economic indicators specific to the catchment area were not readily available, but this population is representative of the Canadian aboriginal population characterised by high rates of unemployment, low family incomes, some reliance on subsistence activities such as fishing and trapping, educational achievement lower than the Canadian average, as well as high rates of family violence, and other manifestations of social malaise. The population under the age of 18 years - the sub group with which the agency is most concerned is a particularly high percentage of the total.

SECTION II: INTERNAL ORGANISATION.

Description

The internal organisation of SECFS is complex for a relatively small social agency. This is not a result of inefficiencies or poor planning. It arises partly from external forces and relationships. Briefly put these include the current arrangements for First Nations government under the Indian Act, and the nature of the relationship with the Province of Manitoba inherited from the first Tripartite Master Agreement for First Nations delivery of Child and Family Services. These external factors will be

addressed fully in later sections of the report. In addition complexity arises out of a deliberate implementation of the philosophy and objectives of the agency.

The ultimate governing body of the agency is the Southeast Resource Development Council (SERDC). This is a body consisting of the chiefs of each of the nine communities affiliated with the Council. This is the political body for which SECFS is the service arm for the purposes of delivering protective services to children and supportive services to their families in the communities. For practical purposes the responsibility for governance of the agency lies with a Regional Committee. (R.C.). The R.C. is made up of representatives from each of the nine communities. The executive director of the agency and the portfolio chief from SERDC sit ex officio without voting powers. Usually a few senior staff are in attendance as resource people without voting powers. The R.C acts in a capacity which is similar to that of a Board of Directors of a non-profit social agency; discussing both policy and administrative matters, with decision making powers in respect of both. Reports are made periodically to the SERDC through the portfolio chief. Generally these reports are accepted as information. The exception is any matter of major financial importance including approval of the annual budget estimates.

A second part of the organisational structure involves the establishment of Local Child Care Committees (LCCC's). These

committees operate at the level of the community and are an integral and central part of the system. The members are primarily volunteers, although some members may be paid care givers in the community. The committees are variously appointed. In one community for example, the members are appointed by the Chief in Council, but not confirmed until a Band meeting formerly does so. In others the CFS staff may recruit interested and contributing people. In some communities members may have a set term of service; in others the term may be indefinite. The mandate is to consider all matters of child protection and family support in the community. Much of their deliberations involve case planning, approval of foster homes etc., but they will occasionally debate matters of procedure, policy and community needs.

The LCCC's are linked into the governance structure in two directions. Firstly it is always a member of the LCCC who represents the community on the Regional Committee. Thus there is a direct link between the local structure and the regional structure. Secondly, they usually include the portfolio councillor ex officio.

The Southeast Resource Development Council, the Regional Committee of the Child and Family Service, the Local Child Care Committees and the Chief and Council of each community are the four components of the political or voluntary governance structure of the agency. At the executive (staff) level of the structure, there is an

executive director plus two sorts of senior staff who operate out of the regional office. One is supervisory staff, responsible for overseeing the work of staff at the community level. The other are regional staff with specialised roles such as the Placement Resource Coordinators and Child Abuse Coordinators. Regional workers hired for most, but not all of the communities, act as the link between the local workers and the regional structure. These workers spend 3-4 days of the week in the community to which they are assigned, but are not permanent residents as are the two or three local workers hired to carry the primary responsibility for the front line work in their community.

Evolution and Rationale of the Structure

Most parts of the current structure have been in place for most of the 12 year life of the agency. At the outset the R.C. was the sole decision making body. The link to SERDC was informal and periodic. A formal link in the person of the portfolio chief, was established later (year uncertain). The other change which has occurred as the agency has evolved is not in the structure itself, but in the language used to describe and affirm that structure. The document search indicates that it was not until the late '80's that SERDC began to assert its ultimate authority. By 1990, SECFS was being regarded as "first and foremost an institution of Southeast Indian Government". By 1992 the "policy and management powers" of the R.C of SECFS was described as "delegated" by the SERDC.

A part of the rationale for the creation of these two bodies is already implied. At the very least, the political body requires to be informed, and at the most it retains ultimate authority over all matters within its purview. This legitimately includes child and family services. The use of the term "delegated responsibility" is probably the best compromise which can be achieved between the rights of Indian government and the prudence of an arms length relationship with a service delivery agency. The arms length relationship between the R.C. and SERDC is further maintained through the general respect accorded by the SERDC to the decisions made by the R.C., and an avoidance of what could be its veto powers. In addition, as a matter of policy, the members of the R.C. cannot be chief or members of the Band Council in their communities. This policy has been overridden on occasion, but always for good reason, and when the statesmanlike qualities of the person involved were sufficient guarantee of avoidance of conflict of interest.

The rationale for the composition of the R.C. is found in the paradox of Indian government. The SERDC is a federation of autonomous First Nations communities brought together out of a common geography, history and culture. Similarly with the CFS. Although organised along Tribal Council lines, the attempt is made to uphold the autonomy of each community. Thus the R.C. is not regarded so much as the overarching ultimate authority as would be the case with a non-aboriginal non-profit Board, but rather a

coalition of the communities. The prevailing philosophy is governance from the bottom (community) up; not from the top down. Hence the strict adherence to a Committee composed of representatives from each community, with no community having a greater voice than another.

In regard to the LCCC's, the philosophy underlying this aspect of the structure again involves the maximising of community autonomy. The assumptions are twofold. One is based in quality service: the belief that local decision making in these matters is generally superior to more remote decision making. These are the people who know the community, the families and children at risk and the local resources. The other is political: that each community is self-governing. Local interests and self governance have been partially subsumed in the regional structure, but the rights to local self-governance have not been relinquished. Over half of the key informants interviewed made reference to both of these rationales for the role of the LCCC's in the system, and all made reference to at least one. Many references in the documents surveyed repeat the theme, using such phrases as "community based service" and "local control".

The central place of the LCCC's in the structure has not changed since the agency was formed. Both the document search and the key informant interviews attest to the fact that in each community the committees have gone in cycles from periods of full functioning to

periods of inactivity and partial or even non functioning, but the upholding of their importance has been consistent.

The relationship between the political structure and the service delivery structure at the local level is an almost exact mirror of the relationship between the federation of chiefs and the SECFS operating at the regional level. The portfolio councillor acts as the link between the volunteer committee concerned with child and family service delivery, and the elected politicians at the community level. The language used to describe the relationship has also evolved in similar ways. For example, one documentary reference as early as 1984 used the term "delegated responsibility" to describe the relationship between the Chief and Council and the LCCC. This was apparently effected through a formal Band Council Resolution in each community.

Staffing arrangements have changed over time in two respects. One is the normal adjustments made to the growth in responsibilities assumed by the agency transferred from the province as well as other growth in service demand. This has resulted in the appointment for example of some specialist staff operating out of the central office. The other change has been in using staffing patterns to strengthen the ability of the communities to deliver service. The main change here is the hiring of the Regional Workers for 5 of the communities.

An attempt to capture the structure and its philosophy is contained in Figure 1.

Figure 1. REPRESENTATION OF SECFS GOVERNANCE STRUCTURE



Communication

There are several clusters of related issues which emerge out of this complex structure. The first is the issue of communication. As can be seen from Figure 1, the LCCC's, alone, give and receive communications from a total of at least 5 sources; the Regional Committee, at least 4. The documents searched are replete with concerns about communication breakdown, between all parties. The majority, as might be expected, involved the governance or what might be termed the "voluntary" section of the agency. There is a great range of complaint, all the way from the specific event such as failure to inform of a meeting, to failure to inform about the results of a meeting (or meetings - for example " we never hear what goes on at the Regional Committee."), through to the more general such as the chiefs' concern about their lack of knowledge about the CFS, which parallels the concern of staff who decry that same lack of knowledge on the part of the Chiefs. Some of this is idiosyncratic such as a period of time during which a community has an uncommitted or not confident representative on the Regional Committee; some is more systemic such as the difficulty in maintaining a flow of information routinely to all concerned parties in such a complex system. Reference was frequently made to turnover in personnel which compounds the difficulties. Turnover in staff has slowed somewhat in the past few years. To a lesser extent this has also been true of the LCCC's membership. Elections held every two years for Chief and Councillors guarantee some turnover amongst the politicians, and turnover occurs amongst the

representatives to the Regional Committee, even if the member remains on the LCCC.

Training

An overlapping issue is the issue of training. The plea for more training is another recurring theme in the life of the agency. Again this includes a wide range of concerns. It overlaps with the issue of communication in that some of the concerns indicate the need for something more akin to orientation than actual training. This concern has most frequently been applied to the Chiefs and Councillors, and to the LCCC's (and by extension to the members of the Regional Committee). For the politicians this seems to intend a general orientation to the agency; its purposes, organisation, policies and procedures, as well as the restraints under which it operates and the opportunities it can create.

For the LCCC's, training seems to mean something broader. It at least includes one extra dimension which is knowledge of the provincial legislation which, under existing arrangements, the service operates. Briefing notes for the LCCC's prepared in 1984 make reference to the need for this knowledge. Over one half of the those interviewed identified the lack of knowledge of the statutory requirements as one of the limitations of the LCCC's. For example, a Temporary Contract Placement whereby a child may be placed in substitute care by the agency has a time limit on its use. At the end of this time the child must either be returned to

the parents or a court order must be obtained. The LCCC might believe (rightly in some cases) that the TCP should be continued. Yet this is not possible under existing legislation. Thus sometimes, what appears to be a difference of opinion between staff and committee on the best possible plan is in fact a question of what is or is not possible under existing legislation. Staff expressed their frustration at the frequent delays in decision making which arise out of the need to explain such constraints.

Beyond orientation and training in the statutory requirements of the service, the repeated requests for training for members of the LCCC's are diffuse and unspecified. Reference is made to prevention, to community development and to child abuse (beyond definitions in the Act and procedures called for in the regulations). The briefing document of 1984 in addition refers to the need for members to "provide guidance, counselling and other services to families when requested to assist workers." This seems to call for training for the development of skills and knowledge similar to that expected of the paid staff. The evidence of the documentation and interviews indicates that these expectations for training for LCCC members have not been met. The issue is compounded by turnover in the membership of the committees.

Accountability and Authority

A third issue evident in internal governance is the issue of accountability and authority. As can be seen from the description

of the structure and from the outlining of the issue of communication, the structure lends itself to some confusion around who makes what decisions. The issue appears, and is treated at some length in a recent Provincial review of the agency. Reference was made during interviews and in the document search to a few critical incidents where disagreement occurred between different components of the system with no clear way to resolve them.

This is true at all levels and between different parts of the system. Firstly, the relationship between the LCCC's and the Regional Committee has within it the normal tensions inherent in a Federal structure. The philosophy upon which the structure is based is one of upholding a community based service and maximising local control. Yet the fact remains that there does exist a Regional Committee presumedly with powers to set policy for all communities. Even though that body is composed of community representatives, each community is only one voice in nine.

The issue of the limits to the decision making authority of the LCCC is complicated by a particular aspect of the relationship of the agency to the Province of Manitoba. Current arrangements and agreements place the Regional Committee in the position of being the body through which the legal mandate to carry out the responsibilities outlined in the Provincial Child and Family Services Act passes. It is the body held accountable by the Province of Manitoba for the quality of service and case decisions.

In effect this subverts attempts to uphold community based decision making through the LCCC's. It certainly goes contrary to the rhetoric of community control. The most recent surfacing of this issue was in 1993 in the form of legal liability. If the LCCC's make a decision which is subject to litigation, to what extent are they liable? It was clear from the recorded discussion that the LCCC's, while they may be recognized internally as a vital part of the decision making process, they are not recognized as such externally. "The LCCC is not really recognized as a Board. The R.C. is responsible for whatever happens." As a consequence there is no liability insurance available for LCCC members. More significantly, the fact that responsibility, legal or otherwise, rests with the R.C. contradicts the degree of responsibility which the agency philosophy asserts for the LCCC. By the same token, to the extent that the R.C. allows effective decision making at the community level, it is placed in the position of being held responsible for decisions not of its making: a situation which has a degree of discomfort attached to it.

Secondly, disagreements can and do arise between staff and the LCCC's. These are sometimes in connection with the Provincial legislation, but not exclusively. Service decisions independent of legal constraints have also arisen. In such cases the data is mixed on where the final decision lies.

Finally, while it has been established that the relationship between the political body and the service delivery body at the regional level has evolved in a satisfactory manner, there is some evidence to suggest that such has not always been the case at the local level. The local staff have a reporting relationship to supervisory staff and also to their LCCC. Two masters are manageable, but, although not revealed in the structure, Chief and Council have also sometimes asserted a role. Structurally, the reporting relationship to Chief and Council is from the LCCC in the person of the portfolio councillor. Ten of the 11 staff interviewed indicated that most frequently the agency staff and LCCC make case decisions and these are simply reported and received as information by the Chief and Council. Moreover, these same respondents indicated that at times specific assistance has been requested and has been forthcoming. In other words a non-interfering and even actively supportive role was reported as the norm.

However, 4 respondents did refer to incidents, albeit infrequent, of interference from the political level that was considered unacceptable. These involved overturning, or attempts to overturn, case decisions, or influencing hiring of local workers. There was even reference to a turnover of local workers every time a new Chief and Council were elected. What made these actions unacceptable interference as opposed to the exercise of legitimate

authority, was that the best interests of the child appeared to be secondary to some political agenda.

In this the chiefs and other elected politicians are in a somewhat difficult position. First Nations government, as it is currently constituted places the chief especially, but also other councillors, in the role of all things to all people. This, as with so many other things in the system of government which has replaced pre-contact government, runs counter to tradition in that leadership roles were divided and diffuse depending on the function. In the current system of government anyone in the community who has a grievance or complaint about any matter will seek redress through the chief and or other councillors. The elected officials feel bound to respond to these grievances. The line between ensuring that child and family service policies are fair and clear, and fairly and clearly implemented, and actually acting as the final arbitrator, even with "pure" motives, is a very fine one. It is all too easy to cross it. In regard to hiring, unemployment levels are so high in many of the communities that jobs become a commodity. The constant temptation is for the politicians to retain control over their apportionment.

Centralisation versus Decentralisation

The fourth issue; that of centralisation versus decentralisation, as with all the others, relates and overlaps. It is separated out because it does not simply involve adjusting or maintaining the

balance between local and regional roles and responsibilities within the existing structure, but a radical restructuring in favour of total self governance at the community level. This issue in its more radical form has been placed on the agenda as a result of the recommendation of a Task Force (Manitoba, 1993) jointly sponsored by the Assembly of Manitoba Chiefs (AMC) and the Province of Manitoba. The impetus for the Task Force came from several allegations of "political interference" on the part of First Nations politicians in the affairs of the First Nations child and family service agencies. These were highlighted in a much publicised inquest into the suicide of a teenage boy in the care of one of the agencies (not Southeast CFS). Despite the original impetus for the Task Force, the political interference issue does not appear in the terms of reference. The closest reference is in an introductory section headed "Issues to be addressed" which were to include "the structure, management and governance of First Nations Agencies..." The issue of political interference is dealt with surprisingly briefly in the Report, while an Appendix contains a rather generally worded conflict of interest guidelines.

On the subject of decentralisation the Report states: "One of the primary goals of First Nations at the inception of First Nations child welfare was that child and family services would eventually be community controlled and operated. This goal has not been achieved and it is still a priority among First Nations communities." Indeed, the Subsidiary Agreement for Southeast CFS,

signed between the three levels of government in 1983 states "The mandate of the Tribal Council is to facilitate the transfer of control and responsibility of programs and services to member bands. The Tribal Council seeks to develop the administrative and management skills necessary to help each deliver local services". The same document later states "Our goal is to ensure that services will be community based and programs locally controlled."

The Report seems to translate this terminology into meaning that each community will have full control over its own child and family service: the potential for Manitoba thereby being 61 autonomous services. It is ambiguous in its reference to First Nations communities or groups of communities (emphasis added), leaving open the possibility of a continued regional structure, but it is quite clear on the subject of where ultimate authority in any self government arrangement lies - the community level. Unfortunately, the Report does not lay out a very clear blueprint for this to be achieved leaving the agencies having to chart their own blueprint if they accept the recommendation. On this issue all the Report has done is to reiterate the issue and come down on the side of local control in a way which suggests something more than just further decentralisation of the structure. If any regional structure were to survive this shift, the report is not helpful in suggesting ways to manage the difficulties inherent in a federated structure.

The Centrality of the LCCC's

Finally, there is the issue of the central role assigned to the LCCC's and their ability to perform it. The Task Force Report referred to in the earlier section, recognised that the LCCC's throughout the First Nations Child and Family Services in Manitoba were both the strength and weakness of the system. They are the strength in that they represent a genuine attempt to maintain a community base for decision making. In the Southeast briefing document to committee members for example they are referred to as part of the team; the other two parts being the local worker(s) and the regional worker(s). The weakness lies in the heavy and important role assigned to a purely voluntary body, and the question as to whether or not a voluntary body can sustain the role. The weakness is implicitly recognized in the Task Force Report which called for renewed efforts to restore LCCC's to the level of functioning originally envisioned for them.

The data for Southeast CFS indicates that this agency has not been immune from the difficulty. Three references were made in minutes of the Regional Committee to LCCC's with a very limited core membership. There were other references to poor attendance at LCCC meetings. In addition to the almost universal plea for more training, seven of those interviewed, offered turnover, personal relationships with clients, members dealing with their own issues and family difficulties, fear of community disapproval of some decisions, levels of literacy and difficulties of scheduling

meetings and gaining good attendance. Thus there have been both quantitative and qualitative concerns about the functioning of the LCCC's. This issue relates to issues of accountability, but is also separate from it. Whether the role of the LCCC's is advisory or something more, it is seen as central, and the issue of general functioning of the committees becomes one of vital concern to the agency. It is also related to the issue of decentralisation in that if, and as the agency further decentralises its decision making, the committees assume an even more central place in the system.

The agency's management of these issues

Communication Issues

The agency and the SERDC has attempted to respond to this issue by putting in place structural links between the different components of the system. These include the Portfolio Chief for the Tribal Council linking the two regional political and service bodies, people from each of the LCCC's making up the membership of the R.C. and linking those two bodies, the portfolio councillor for each community linking the LCCC and the Band Council, and supervisory staff - one group based at the community level and another based in the regional office - linking the local staff with regional staff. Staff interact with the voluntary bodies at both levels. The data indicates some degree of success in improving communication through these measures.

Training

On the issue of training this section of the paper will concentrate on the elected officials, and the LCCC's. In regard to the former, although the term training is most frequently used, orientation is the more appropriate term. Extensive training in child and family service matters is not called for here. Elected officials need a general overview of the philosophy, role and functions of the agency, its structures, especially decision making, and relationships between it as a service delivery agency and Indian government. For the most part the agency has managed this issue through attempting to clarify the reporting relationships, as mentioned in the section on communication. Nothing in the data would indicate that special efforts at orientation of elected officials goes beyond this. There does not seem to be an orientation package or guide of any kind to oral briefings. Again, the interview data indicates some improvement in the level of understanding of the agency on the part of elected officials. This can be attributed to the process and content of improved communication, rather than any formal and sustained efforts at orientation.

Orientation as well as training for the LCCC's has been managed by the agency in a somewhat ad hoc fashion. The briefing notes for the LCCC's state that committees were to identify their own training needs. For the most part these have taken the form of short one or two day workshops. These have occurred sporadically

depending on what requests were received and the availability of facilitators and funds. Most of the requests for training have been on the subject of the Manitoba Child and Family Services Act. Again, there is overlap and connectedness here with the issue of the important and time consuming role assigned to these voluntary bodies. At least monthly meetings, often lasting for the whole day, combined with special meetings in between as situations arise demanding their attention, leave little space for an ongoing or routine training program.

Accountability and Authority

Little more needs to be said about accountability and authority in regard to the relationship between the Regional Committee and the SERDC. The compromise which has evolved between the authority of Indian government and the need for some arms length distance from the operation of a major service delivery agency seems to be effective.

In regards to the relationship between the Regional Committee and the LCCC's, the agency has managed this as best it can by consistently upholding the importance of the LCCC's in their role in local case and policy decisions, and as advisors to the R.C. as it discharges its role to oversee the operation of the whole program in each and every community.

Issues of accountability and role as far as the LCCC's themselves are concerned, has been managed by the agency by the consistent communication of the message that the role of the LCCC's is advisory only, and that final decision making authority resides with the staff and the Regional Committee. A variation on this theme is that, while in any legal sense, the LCCC's are advisory, they are in effect the ultimate decision making body at the local level. As already stated in this report, these communications have not always laid the issue to rest. Firstly because not all local committees, all of the time, accept the limitations of the role. Some local workers have encouraged this tendency by allowing and wanting the local committee to take responsibility for some of the more controversial decisions. Other workers seek a more autonomous and respected role for themselves (eg. "We have the education."). Thus the tension remains.

In regard to the relationships between the service delivery structure (the local team) and locally elected officials, and particularly in regard to the issue of "political interference", all the Chiefs (ie. the membership of SERDC) have signed a declaration of non-interference. The declaration recognises the importance of the LCCC's within the system, recognises the regional Committee as the ultimate authority in the system, promises non-interference in any case decisions, and retains rights to question and remain informed in order to be accountable to their communities. No enforcement of this declaration is of course

possible, except by the chiefs themselves, but it is a significant gesture of goodwill, and a public affirmation of the arms length relationship between the political structure and its service agency. It has been put to the test on at least one occasion and the Chief in question abided by the declaration.

In addition to these specific measures, the agency has generally managed disagreements wherever they occur on a case by case basis. Management has appropriately been characterised by a consensus style of conflict resolution. Typically the disagreement is resolved by all parties meeting and attempting to talk out the disagreement until agreement is reached. These attempts seem to have been reasonably successful, but it was difficult to ascertain the degree to which there were residual bad feelings implied in such responses as "the LCCC's should be more supportive of the agency." The piece which seems to be missing is any neutral body which could arbitrate should it be required in these situations.

Centralisation versus Decentralisation

The agency has tried to manage the issue of decentralisation versus centralisation by recognising the aspirations of the local community for maximum control over decision making, as well as its general desirability. Apart from the original structure of the agency which reflects the philosophy of maximum local control, the agency has taken several recent measures to further strengthen local control. One is to hire Regional Workers. These are

personnel who are expected to be resident in the communities for 3-4 days of the working week. They are seen as part of the local team, thereby shifting more functions to the local level from the regional level. Unfortunately funding limitations have prevented the hiring of Regional Workers for all communities. Secondly, some of the centralisation-decentralisation tensions have been removed by having the funds for staff salaries and staff benefits administered by the Band administration. This has only been possible where staff salaries and benefit packages are similar between the Band and the agency. Finally the agency has made available a small allocation of discretionary funds to each local CFS team for them to administer in accordance with their own program priorities.

The Centrality of the Role of the LCCC's

The agency has attempted to manage the issue of the central role of the LCCC's by giving them some support. Orientation and training workshops have already been mentioned. In order to acknowledge the burden placed upon the time of volunteers, the agency's policy has been to reimburse members for any expenses incurred for attendance at meetings such as child care and travel. In addition, despite an earlier policy commitment to volunteerism, an honorarium is now paid in most cases. This was an attempt to overcome difficulties in gaining attendance at meetings. Some technical assistance and as a result some technology transfer is offered for specific situations. Two examples are guides to action and options in cases

of child abuse, and assisting the LCCC's with hiring of local workers through regional staff consultation, provision of interview guides and recommended criteria.

Implications and Recommendations

Communication

This issue by itself does not indicate major structural change, and the agency has managed this issue in structural terms in the best way possible. Because of the human factor and the many components of the system, it remains only for the agency to continuously remind the key actors in the system especially those with linking roles of their responsibilities. This would especially be needed when there is turnover as part of the orientation of new people. It is also especially true of new members of the R.C. and portfolio councillors which is where the turnover is greatest and where the breakdowns appear to occur most frequently. The only further measure which could be taken is where a key linking person is continuously in default of their responsibilities. No clear mechanism exists for calling people to account or effecting their removal in the last resort. One key informant speaking to this issue reported that the community has acted when the local representative is not doing its job, and that the R.C. should not be responsible for this. However, it does appear that when such default occurs, a part of the agency operation is placed in jeopardy, and that the R.C. should concern itself in some way with the breakdown. In the matter of portfolio councillors, the issue

is much more sensitive, because the agency has no powers over their behaviour or performance. These are elected locally and are accountable only to the people of the community, and to the Chief. Such eventualities can only be resolved in informal ways, and as is also the case other parts of the system, dependent on goodwill and commitment.

Training

In regard to the elected officials, while it is the portfolio councillor's responsibility to link the LCCC's with each Band Council, and while this person should at the outset receive an orientation to all aspects of the agency, s/he cannot be expected to be the sole conveyor of information to the Band Council. Supervisory staff, in cooperation with the portfolio councillor ought to take responsibility to provide an orientation to all newly elected officials in each community as soon as possible after this has happened.

Orientation should not, however, be confined to a one shot endeavour. The content of a one day meeting is soon forgotten, especially since it is usually separated from the context of the real day to day operation of the agency. The same people should take responsibility for two other activities. One is routine general reporting on the numbers and kinds of situations which have been dealt with since the last reporting period, the policy implications and rationales for actions or plans. This could occur

3 or four times a year with one of the meetings being reserved as part of the agenda for a general band meeting. Secondly, the portfolio chief and supervisory staff should inform and brief at least the chief, if not the whole council, on any controversial action just taken, or about to be taken. This would usually involve the removal of a child from its parents, but it might also involve other sorts of actions. There is of course an issue of confidentiality here which would require further discussion beyond the scope of this paper. However, it would appear from the data, that such decisions become matters of public record very quickly in such small communities, and that the issue of confidentiality, even though the agency upholds the principle, is something of a fiction. The provision of facts and informed opinion to the formal leadership in the community is not the same as a breach of confidentiality arising out of idle or malicious gossip.

In any event, the data does indicate the need for ongoing orientation of locally elected officials, and that one of the more effective ways for this to occur beyond the one shot orientation for new people, is orientation which is both routine as well as opportunistic and tied to the specific realities of the agency's functions. The interviews in particular suggested that cooperation at the local level would be enhanced and the potential for "political interference" would be diminished if the combination of communication links already in place (including information

received by the chiefs as members of the SERDC Board) and orientation as suggested here were to occur.

Accountability and Authority

This issue stems from the fact of the circularity and collective nature of decision making in the agency. It is the custom and fact of attempting to uphold the ideal of communal and collective decision making which bewilders the non-aboriginal observer. The latter seeks to locate the person or body which has responsibility for decisions. Regrettably and most frequently this need is invoked when poor judgement is seen to have been exercised. But the contradiction of the governance system reviewed here is that everybody and nobody is responsible, despite the legalities which would suggest otherwise. For the agency, the issue is not so much who is in charge, but finding ways to avoid disagreements arising, and ways to manage them when they do.

Measures already being taken by the agency around the issues of communication and orientation and training, have already minimised the incidence of disagreement. The implementation of recommendations in this report on those same two issues would improve the situation further. Attention to communication, orientation and training results in the building of a body of case precedents and the understanding of key actors in the system about those precedents. Such things as under what circumstances should a child be removed from its family, by what processes, with what

continuing involvement from the family, long term planning for the child and so on become increasingly matters of agreement rather than disagreement. The matter of responsibility and accountability become built into the specific case decisions, as for example when a particular worker is assigned to arrange specialised treatment for a child.

When disagreements do occur notwithstanding the foregoing measures, the agency needs to continue and build on the very strengths which it currently upholds - the strength of a consensus style of decision making. Decisions which emerge from this process serve further to add to the body of case law earlier referred to. The one missing element in the resolution of disputes is some independent body established to assist with the process. These could probably be established at the local level, and be composed of respected people in the community who are not part of the system in any way. The role at the outset would be to facilitate and mediate, but in the last resort, act as an appeal body. Any further and last appeal would be to the Regional Committee, which under existing arrangements is the ultimate authority in the agency. Even with further decentralisation of powers, an ongoing role for a Regional Committee, including the one suggested here, is still envisaged.

Centralisation/Decentralisation

The staff interviewed had some ambivalence around the total decentralisation to each community recommended by the Task Force. There was 100% support for maximum decentralisation, but even if phased in at an appropriate pace, there were some reservations. A major one is the probable loss of resources, especially some staff expertise, which is only available through a regional operation, and not affordable for each community. Currently, despite efforts to decentralise, requests for assistance and advice are most frequently directed upwards from the community to the Regional Committee. Whether the answer is yes or no, this tendency belies to some extent the notion of local control and underscores its limitations. A second problem identified is the issue of accountability. The Task Force recommended a First Nations Child and Family Services Directorate, but only as an interim measure until each community assumed full control. There is some concern that without some external check or balance on full local control that victims of such things as family violence trapped in a cycle of community denial will be helpless. A regional structure ensures at least some additional level of checks and balances. Thirdly, reservations about readiness were expressed. Specific reference was made to the levels of skill of local workers and the need for further education and training. It was not presumed that this was only a matter of time. Some of the communities suffer from severe "brain drain" so development efforts are hampered. The last comment from workers on the subject was that they did not experience in this agency compelling centrifugal forces or

pressures in the agency. The issue does surface from time to time in one or two communities, but the Task Force recommendations on total local autonomy were seen to be somewhat ahead of the aspirations or sentiments of most of the communities.

Not mentioned in the interviews by any of the respondents, nor appearing in any of the documents reviewed, was the possibility that self-government aspirations, which was the context within which the Task Force recommendations were set, could conceivably be realised through regional structures. David Hawkes has identified six major models of self government, ranging from the local to the regional (Hawkes, 1986). These models would apply as much to a particular service structure as they would to an overarching political structure. While the basic unit of Indian government and service delivery might be the community, this does not preclude the evolution of regional structures of government particularly for the purposes of cooperating on service delivery.

The Centrality of the Role of the LCCC's

The centrally important role carried by an essentially volunteer body remains of some concern. The operationalisation of the whole philosophy of the agency, not to mention the welfare of particular children and families, depends upon the ability of these committees to carry the role.

There are two approaches, not mutually exclusive, to dealing with this issue. The first is already being taken. This is to carefully select the members, provide orientation and training, some staff consultation, and some concrete supports such as honoraria. The critical piece missing here seems to be the quality/quantity of staff support. No volunteer body can function well without it, certainly not one dealing with such complex and often controversial issues as these committees. A first step to putting this piece in place would be a commitment from the agency to the routine provision of such supports in the form of assigning some portion of a staff person's time to committee development and maintenance. While staff were "believers" in the role of committees, there was recognition of their shortcomings (eg. "they don't attend meetings", "they don't understand enough about the issues and slow meetings down while we explain", etc.). Perhaps because the question was not specifically asked, there was no reference to the fact that these shortcomings are inherent to volunteer bodies, and that there should be a staff responsibility to play a facilitative role. This role should probably be assigned to one person, with the appropriate community development skills to carry it out. The role would include all that is required to ensure informed decision making - working with a chairperson around agenda setting, ensuring preparation of briefing materials and other documentation, preparation of options, facilitating consensus, monitoring follow up from decisions, and generally assisting with and transferring skills for a culturally appropriate

problem solving process. One of the vital roles for the worker would be to provide training and education to members of the committee on an "as needed" basis in order to reduce the time consuming demand for workshops for the whole committee; time which is difficult for all to give, and which has to be repeated any time there is turnover. A small example might be when there is a pending meeting about a child which involves people knowing about requirements of the legislation, half of the committee might already have that knowledge. The staff resource could have a small house meeting with the newer members to brief them on this material. This ensures knowledge for immediate use, learned in relation to specific decisions which the members have to make. This does not occur now because no staff member has such a role written into the job description.

The other approach to ensuring the continuing functioning of the committees is to narrow some of the functions, or perhaps more accurately, the manner in which they are carried out. Some time needs to be invested, with the assistance of the staff resource to the committee, in deciding which sorts of matters must come before the committee at all, which sorts should come merely as reported information, and which sorts must come for decision by the committee. Guidelines need to be laid out for staff with regard to their powers of decision making in dealing with situations which emerge in between meetings and which require action. Each community and committee will make its own accommodations; the point

being that such accommodations should be made. In short, this approach seeks both to increase the level of support available to the LCCC's and to streamline the carrying out of their functions. In this approach, the role and skill of the staff support is key. Both approaches are necessary if the committees are to be able to sustain the central role in the system which is assigned to them.

SECTION III: RELATIONSHIPS WITH THE PROVINCE OF MANITOBA

The original Master agreement to which SERDC was one of the First Nations signatories and the subsequent Subsidiary Agreements specific to SERDC has defined the relationship of the Province of Manitoba to Southeast CFS ever since the signing in 1982. The agreements specify that the Province is recognised as having the constitutional authority for the delivery of child and family services, and under the terms of the agreement chose to delegate this authority to the agency (Southeast CFS) also created by the agreements. Specifically, the authority delegated by the Province flows through the Regional Committee. Thus the strict interpretation of the wording of the agreements would place the province in a relationship to Southeast CFS almost identical to its relationship to other private non-profit child and family service agencies in the province.

This relationship is a superordinate-subordinate one. The authority in question is the Child and Family Services Act (1985)

which replaced the Child Welfare Act (1974). The private, non-profit agencies are permitted under section 6 of the Child and Family Services Act (Manitoba, 1985). Under the provisions of this section, the province chooses (my emphasis), to delegate its constitutional authority to the agency. This grants executive powers only; leaving the other two major functions - legislative and judicial - in the hands of the Province. Moreover, even the executive power is limited. The Province can choose to remove the mandate at any time and in subsection (15) Indian agencies are specifically named in this regard. Moreover, it can also choose to change the circumstances and conditions under which the agency may continue to operate. In the past 8 years, two different governments have suspended directors, and drastically altered the governance structures of the largest agency in the province. While the agency in question was not a First Nations agency, the Province has been quite clear that such powers extend to these agencies as well. Short of such drastic measures, the Province routinely acts to monitor, evaluate, pass regulations pursuant to the Act, issue binding directives, regulate auxiliary institutions (eg. group homes), conduct program audits and reviews, and carry out a host of other activities in relation to ensuring compliance with the Act and the maintenance of standards.

There are two sets of issues contained in this relationship. One is service; the other political. The service issue revolves around the question of the degree to which the provincial system; its

legislation, family courts, regulations and standards are appropriate to the First Nations communities, especially in regard to their culture and socio economic circumstances. The political issue is the contradiction between the superordinate role of the Province and aspirations for self government.

A starting point to examining the service issues is a section of the Subsidiary Agreement which states:

Services to be provided under this agreement will include those services normally provided under the Child Welfare Act of Manitoba and will incorporate traditional beliefs, values, customs and community standards.

This section captures the tension within the agreement. On the one hand mainstream services are mandated, while on the other hand traditional beliefs etc. are to be incorporated. Reconciling and balancing these has not been easy for either party.

The Province for its part, has evidenced some willingness to enable Southeast CFS, and other First Nations agencies, to develop services in its own unique ways. The statement of principles which formed the first section of the 1985 amendments to the legislation, referred to the entitlement of families to services which "respect their cultural and linguistic heritage." An eleventh principle added later states: "Indian Bands are entitled to the provision of child and family services in a manner which respects their unique status as aboriginal peoples." One very significant change was that the definition of the "best interests" of the child - the acid

test which agencies and courts were always to apply in decision making - was amended to include the "cultural and linguistic heritage" of the child (Manitoba, 1985). Prior to this change, argument which claimed that at least an important part of the wellbeing of the child was continued attachment and identification with his/her aboriginality had been discounted. Arguments based on enhanced life chances for the child and bonding if the child was already in a non-aboriginal setting, tended to win the day. Now at least the issue of retention of culture must be weighed along with other factors.

The Province has attempted to be helpful in other ways. Fiscally it has accepted responsibility for some agency initiatives. These have included defraying some of the costs and delivering through the Province's New Careers Program, training for 10 local CFS workers, as well as 4 agency staff currently enroled in the New Careers Training for Trainers program. The Province has also accepted some fiscal and administrative responsibility for a limited repatriation program for children previously placed outside of the community and in cases where an adoption has broken down and the child returns to the guardianship of the Province. In addition, the Province accepts responsibility for reimbursement of the agency for services which it renders on behalf of the province. This usually involves children in the care of the Province (ie. apprehended while off reserve), but for whom the agency is providing on reserve care and supervision services. Finally, the

province has responded to occasional requests from the agency for consultative assistance, the most recent being a request for an agency review conducted by provincial staff, and which the agency reported as being helpful.

Despite this, on the issue of service, the relationship with the Province remains problematic. The need to hire, or develop and retain skilled staff has always been an issue for the agency. It is also an issue for the Province, which as long as it claims ultimate authority for the wellbeing of children, must be concerned with the quality of staff delivering the services. Yet it reneged on an earlier promise to provide training for some of the supervisory staff. The Province has agreed to reimburse the maintenance cost for non-status Indian children living in substitute care on reserve, but refuses to assist with important preventive services to the families. Most significantly, a major initiative from the agency, to develop its own standards, codes and procedures, which would have been the first serious attempt to give expression to that part of the subsidiary agreement which speaks of incorporating traditional beliefs etc., was not supported by the Province. It had earlier agreed to cost share with the Federal government, but again withdrew from the commitment. Partly as a result of this, the project is only partially completed and is currently on hold.

Perhaps more importantly, the application of the legislation itself continues to hamper to some extent the development of the incorporation of "traditional beliefs, values, customs and community standards." Nine of the thirteen respondents identified statutory requirements as problematic, and the issue is reflected frequently in agency documentation. The brevity of time frames for the life of a Temporary Contract Placement has already been mentioned in this report. The requirements for foster and adoptive home studies have been a constant irritant. The requirements of the regulations, directives and protocols in relation to investigations of child abuse inhibit the development of culturally appropriate ways of handling such situations. For example, Hollow Water First Nation is experimenting with healing circles in which past and ongoing abuse has been disclosed. Often this has involved children as the victims. This requires investigative and possible court action under provincial rules. However, the community is reasserting the primary value of restitution and reconciliation here - the need to restore and maintain balance and harmony in the community. This process requires the avoidance of the courts. Again court processes and procedures are seen to be inappropriate when children are removed from their parents. These are geographically and culturally remote from the communities. Culturally, they are remote because of the heavy emphasis on an adversarial mode of decision making. Most communities are far more at ease with a consensus style of decision making. The latter entails everyone having a say until a plan is laid; the former

involves each side arguing a partisan and exaggerated case. It polarises rather than harmonises. The agency and the communities have found ways to manage these issues, but always with difficulty. For example the agency has a higher proportion of voluntary (with parental consent) admissions into care, but, as already pointed out, there are statutory limitations to this approach. The Hollow Water program was only possible after lengthy negotiations and complicated agreements had been struck (Taylor-Henley & Hill, 1990).

The political aspect of the relationship has been even more problematic. Essentially First Nations argue that in matters of jurisdiction over their children, no rights were ever acceded to another government. The Province may choose to recognize the inherent right of First Nations government in this, as in any other matter, but it cannot grant an authority which First Nations claim it never had. This issue has been at the heart of the evolving relationship between the Province and all of the First Nations Child and Family Services, including the Southeast CFS. One respondent who has been centrally involved with the agency from its inception, stated without hesitation that the First Nations signatories to the original agreements did not understand them in the same way as the Province. They saw the relationship between the Province and the agency as an interim measure. Certainly the language used in some of the documentation would express this. The 1990 and the 1992 Annual Reports of the agency contain language

which is in effect a declaration of self government and places Southeast CFS in that context.

The Southeast Ojibway Nations are distinct societies with inherent rights including the right to self government.....SECFS is an institution of Southeast Indian government. Its powers and mandate emanate from the Bands and SE Chiefs authorized to oversee implementation of its operations. The SERDC Board has delegated responsibility for policy and management of the Agency to the Regional Committee of the Southeast Child and Family Services.

There is no reference here to the delegation of authority from the Province.

The one major concession made by the Province was in Directive 18, first issued in 1984 and since amended and renamed (Manitoba, 1984). Briefly, this Directive obliges all non-aboriginal agencies to consult with the relevant First Nations agency in instances where a child has been apprehended off reserve. There have been complaints that it has not been properly followed, and also a disappointment that it was not integrated into the legislation itself.

Apart from this one initiative, the language used by the First Nations leadership to describe the relationship is clearly contradicted in the language of Provincial officials obtained from interviews and the document search (miscellaneous memoranda). "The agency is accountable to the province under legislation. The Provincial Directorate has authority to provide legislative direction." Some service planning, such as extra payments to a

foster home for a special needs child must be approved by the Province, even though it is the Federal government which reimburses. Generally the agency is regarded as autonomous by the Province, having the right to "develop their own governance structure and policies" but always "providing they are consistent with provincial policies and legislation." Referring to permanency planning for children in care, "the agency is expected to adhere to and follow the standards as stated in the standards manual."

A sub issue is the issue of jurisdiction for off-reserve services. The SERDC and the agency claims that a member is a member regardless of residence, and that jurisdiction for services and case planning for children and families who reside off-reserve ought to reside with the First Nations agency. The original agreements assert that services to Southeast and other First Nations community members who are residing off-reserve, even if only temporarily, are the jurisdiction of the Province. An agency document dated in 1988 indicated that 27% of the population are transient between the reserve and the city (of Winnipeg). Thus this issue involves significant proportions of the potential service need.

It is suspected although not demonstrated that the Federal signatory was primarily responsible for this contentious clause in the agreement. The two other parties reluctantly agreed. SERDC because it was anxious to begin providing a full range of services

to its on-reserve population, and the Province on condition that negotiations in regard to maintenance payments for off-reserve children in care resume. This never happened. At present the Province is reimbursed by the Federal government for the cost of services to off-reserve Status Indians, only on the 50% basis provided for under the Canada Assistance Plan - as for any other child. Federal culpability is further suspected simply on the evidence of an historically ambivalent Federal policy towards off reserve Status Indian people, which has tended towards a reluctance to recognise any responsibility (for example see Boldt & Long 1988). Such a policy reduces Federal fiscal responsibility to Indian people upheld in the Constitution Act, and is very tempting.

We have distinguished between service issues and political issues in our examination of agency-provincial relationships, but they are of course interwoven. In political terms, Southeast CFS has only executive authority over service delivery on-reserve. It does not have judicial (no community or tribal courts) or legislative authority. The political limitation to its powers limits, as we have seen, the quality and appropriateness of services and programs. The limitations placed on service delivery and the reporting and accountability requirements in turn, are a constant reminder that Indian self government is not recognized either as a concept or in its practice by the non-aboriginal governments.

In general terms the position of the Province of Manitoba towards the agency has tended towards managing the status quo. Staff assistance has been rendered when requested, except when requests have involved funds (involving Treasury Board approval), such as for the standards project. The ever present reality of Provincial jurisdiction surfaces in high profile cases such as the death of a child, but otherwise staff, sensitive to the political issues, have attempted to be as flexible and least intrusive as possible around the inspection, monitoring, regulatory and reporting requirements of the system. Most of the respondents mentioned an improvement in agency - Provincial relationships at the staff to staff level.

However, the Province at the Cabinet level have simply not responded at all to the political limitations placed on both on and off-reserve service delivery despite several initiatives from the Southeast CFS inviting dialogue. Neither has the Provincial government responded to the recommendation of the Task Force which it co-sponsored, to the effect that the Provincial authority be replaced by an Indian authority equivalent to the Child and Family Services Directorate. In the absence of policy initiatives supported by the government of the day, staff on both sides can only try to continuously balance the tensions between the desire of the agency to move forward to a more autonomous model and current Provincial statutory requirements. At a staff to staff level, there has been a genuine and largely successful attempt to manage the relationship in a cooperative manner. The superordinate-

subordinate political relationship severely limits the full promise of this goodwill.

The Geisbrecht Report (Manitoba 1992) criticised the Province for its "hands off" position towards all of the Indian agencies, and urged it to take the exercise of its authority more seriously. There is some evidence from the respondents, that in modest ways this is happening. We believe that Judge Geisbrecht and the Province are missing the point here. Fluctuating between a "hands off" and a "hands on" position is for the most part unhelpful. The former position maintains the current political relationship, while at the same time leaving the agency to deal alone with some desperate realities in the communities - the worst of both worlds. The latter position tends towards emphasising the regulatory and monitoring functions, which sharpens the affront to self government aspirations, and makes co-operation on service issues more difficult.

In short, the relationship has been characterised by the need to manage on a daily basis, tensions created by compromises made in the original agreements. The agreements have not changed despite the opportunity to renegotiate when the original ones expired in 1987. They have simply been implicitly renewed on an annual basis in order to continue the flow of funds and the operation of the agency. No serious negotiations to move the relationship forward have occurred.

For this to happen the Province needs to take a more proactive and dynamic stance and respond at a political level to these tensions and the invitations already extended by Southeast CFS. The major issue is the issue of jurisdiction. A secondary issue is the degree to which the Province, notwithstanding self government or Federal responsibilities, has some responsibility for funding certain functions and programs.

In regard to the jurisdiction issue, there are already partial blueprints, but a commitment to dialogue and negotiation is required in order to achieve them. This cannot be achieved at the staff level. One commentary on the issue has been offered in recent date, suggesting a partnership between equals, rather than the superordinate-subordinate relationship which now pertains. The Province could extend a variety of consultative and training services to the agency on an as needed basis. The agency in turn would be undertaking full responsibility for service to a population which is extremely difficult to serve (Taylor-Henley & Hudson 1992).

Off-reserve services are more complicated in that the recognition of SECFS jurisdiction may still require negotiated agreements on implementation. The off-reserve population is concentrated in Winnipeg, but is also scattered in other centres in the Province. It may not be feasible to fully serve even the urban population, and even less feasible to establish a service presence elsewhere.

In such instances a range of options for contracting are available: with the Province, the non-aboriginal child and family service, the status blind urban aboriginal agency in Winnipeg, and a host of others.

Once recognition of jurisdiction is achieved the implementive issues become technical, more than political, and thus more amenable to resolution. The key to resolving the jurisdictional question whether on or off-reserve, is the reconceptualisation of the relationship. This is illustrated graphically in Figure 2.

The delegated authority model is the one now in effect. If the autonomous model were applied to Southeast CFS only, the mandate for the agency would come from SERDC as now claimed, and accountability would be to the Regional Committee through the regionally based staff, who would assume most of the roles now played by the Provincial Directorate. If the model were to be applied to all First Nations agencies province wide, the First Nations Directorate would be lodged within some larger institution of Indian government. This is the model proposed by the Task Force. This reconceptualisation has already been achieved by SERDC and Southeast CFS. It remains for the Province to do the same.

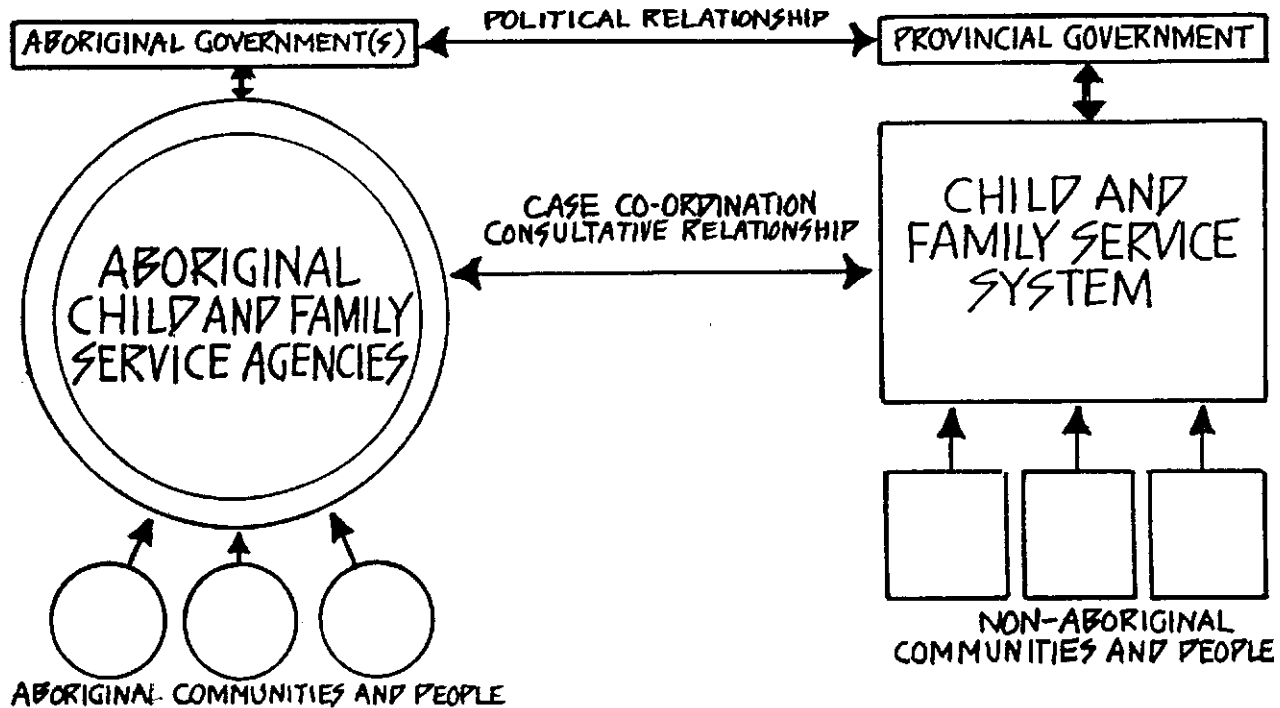
On the secondary issue of funding from the Province, the extreme position might be that the Province has no responsibility. While historically the Province has delivered some services to Status

Indian people, it has argued that the Federal government should assume total fiscal responsibility. For the most part the Federal government has agreed with this position, with one important exception already noted, which is its failure to accept billings for services to Status Indian people while resident off-reserve (except cost sharing under the provisions of the Canada Assistance Plan available for any person).

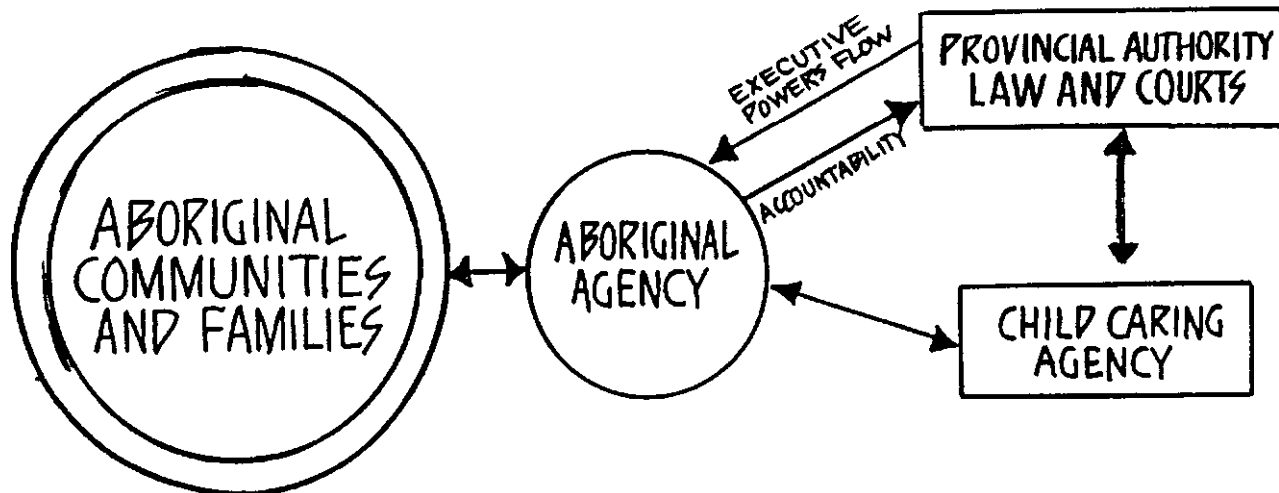
FIGURE 2

THE DELEGATED AUTHORITY MODEL VERSUS THE AUTONOMOUS MODEL

THE "AUTONOMOUS" MODEL



THE "DELEGATED AUTHORITY" MODEL



However, argument can be made for some limited Provincial funding responsibility, and precedents have already been set. In reviewing these precedents, it seems that there are three sorts of justifications for Provincial funding. The first is that the Province should agree to reimburse the First Nations agency for those services rendered by it, which would otherwise have to be provided by the Province. The obvious case in point is service to non-Status Indian people living within or around the First Nations community. These are people who live as an integral part of the community. The Province does not provide services to these people now, and in fact it makes no sense for them to do so when First Nations staff is already present. Therefore a contracting type of arrangement is appropriate. Moreover, the Province should be willing to reimburse for all services rendered; not just a portion of them. Reimbursement formulas need to be negotiated which reflect the cost of the necessary full range of services to these families; not just reimbursement for the maintenance of the non-status children in the care of the agency. The mainstream agencies are funded, although arguably inadequately, for the delivery of family support services. To treat the First Nations agency and this portion of the clientele differently is to discriminate, to perpetuate the artificial legal distinctions and divisiveness between aboriginal people, and to heighten the existing disproportion of resources allocated between front end preventive services and after the fact maintenance costs.

The second is financial support for those functions for which the Province normally assumes responsibility in regard to the total population including Status Indian people. The obvious example is post secondary education. While it is true that The Federal government assists Status Indian students with subsistence and tuition while studying at a post secondary institution, this does not defray a significant proportion of the costs of delivery. The Province assumes these costs for all students who, in turn, are the beneficiaries of the service along with subsequent employing organisations. The unique situation of the Southeast CFS and other First Nations agencies, calls not just for education at recognised post secondary institutions, but also special and custom designed training programs (especially for the local workers). These programs have objectives and benefits identical to any other post secondary education, and some portion of the costs should properly be assumed by the Province.

Finally, argument can be made for the Province to assist with the funding of programs and services which arise out of the need for the agency to make extraordinary efforts to repair past mistakes for which the Province is in part culpable. This category could be wide open given the history of colonisation and dispossession, but it can be narrowed to those programs which are not normally provided by the mainstream child and family service agencies. The obvious example is a repatriation program. Unknown, but significant numbers of Status Indian (as well as other aboriginal

children), were placed in the recent past under Provincial authority in substitute care arrangements far from their communities, including adoption placements in the USA. The anecdotal evidence available suggests that a high proportion of these children did not fare well in their non-aboriginal environment. A repatriation program which would include young adults, carefully planned on a case by case basis, and with the full range of appropriate community supports, provides an opportunity for the individual to heal, as well as restoration to the community of lost members. The compensatory argument advanced in human rights theory would apply here to justifying Provincial funding for such programs.

SECTION IV: RELATIONS WITH THE FEDERAL GOVERNMENT.

Funding Arrangements

In the mainstream child and family services system, the funders are the provinces, which choose in some catchment areas of some provinces (mostly Manitoba and Ontario) to fund private non-profit agencies to deliver the service on their behalf. In most other provinces and in northern Manitoba, the province also takes responsibility for the delivery of service. Thus the system is partly (ie where non-profits are used), or wholly "nationalized" into a unitary system involving only one level of government.

By virtue of the Tripartite Agreements signed with Southeast CFS and other First Nations agencies, the Federal agency, Indian and Northern Affairs, Canada agreed to be the primary and direct funder for operating and child maintenance costs. This has resulted in one of the unique features of the First Nations system, whereby the legislative and regulatory body, namely the province, is not the primary funder. As we have seen from the discussion of agency-Provincial relationships, the Province asserts jurisdiction and authority. This includes setting and maintaining standards. The ability of the agency to conform to these is dependent in large measure on the quantity of funding. These are controlled by a level of government other than the regulatory body, which has little influence and/or has chosen not to attempt to exercise influence on the funding formula provided by INAC.

The anomaly is partly resolved if the province were to reconceptualise its relationship with the agency in the way recommended in the foregoing section. This would place the Province aside from the regulatory function. In addition, and especially if the status quo in the agency-provincial relationship were to persist, the Province could ally itself with Southeast CFS in negotiating the most favourable terms possible from INAC; in any event being actively involved in the negotiations as an interested party.

Whatever the process, the critical issue for the agency is the outcome: the levels at which funding is struck each year, and the ability of the agency to roughly predict the outcome so that it can engage in long term planning. The ways in which agreements on levels have been struck and the annual outcome has evolved over the years. In 1986, INAC became concerned at what it regarded as rapidly expanding costs of First Nations CFS across the country. It called a moratorium on any new agreements until the report of The Child and Family Services Task Force commissioned by it was available. This Task Force was "to conduct a review of the agreements and the services and the costs associated with them." (my emphasis). The Task Force (INAC 1987) reported the following year.

While the implications of the Task Force were being digested, annual funding agreements, with some allowance for inflation and expansion, continued to be struck on an ad hoc basis. Finally in 1991, a formula was developed by INAC to be the basis for annual allocations to First Nations child and family service agencies across the country. (INAC, 1991) INAC'S objectives in doing so included to gain some measure of predictability in allocations and to treat all of the agencies in similar fashion. Previously allocations were sometimes a function of the skill of the First Nations agency negotiators rather than a function of any measure of service demand or need.

The formula has two parts. The first remains unchanged, which is an open ended commitment to advance payment or otherwise reimburse the agency for the cost of maintaining and providing supervisory services for children in care. The maintenance rates are authorised at the same levels authorised by the Province for children in its care and custody.

The second part is the one which is formula driven and has six components which are applied to striking the Operations Budget:

- 1) Population statistics provided by the bands. Funds based on a per capita amount (for Southeast CFS \$655 in 1991) times the number of children 18 and under living on the reserves are allocated to this part of the formula. This population formula is one crude, but reasonable indicator of the extent of need and service demand.

- 2) A fixed amount per band served by each agency to cover the costs of travel, extra administrative costs etc. In 1991 this was \$9,651 times 9 (the number of Bands in Southeast CFS)

- 3) A fixed amount (\$128,960 in 1991) to the agency for all other administrative costs. This does not vary with population size or any other indicator.

4) A remoteness factor. Southeast CFS serves 5 "fly in" communities, and was a beneficiary of the application of this component of the formula.

5) Socio-economic factors. This represents the degree of difficulty of the task assigned to the agency in any one, several, or all of the communities served. It is another attempt to identify indicators of the level of need.

6) Annual adjustments for inflation.

Devising ways of funding child and family services has never been achieved in a satisfactorily rational manner which reflects any objective measurement of need. Funding levels have tended to be set on a somewhat arbitrary basis, usually using an incremental methodology based on whatever the allocation was for the previous year. The current Federal formula is as reasonable a device as any other in use. Its implementation has not disadvantaged the Southeast CFS, nor others. The total operating budget from the year in which it was implemented (1992/3) actually increased relative to the previous year.

Nevertheless, there remain problems with it and further work is required. Firstly, the total budget is the product of the first four components of the operating budget plus the maintenance portion. No closure has yet been effected on the fifth and sixth

components. Both of these components are critical. The socio economic conditions in each community and cumulatively is a major indicator of service need - much more so than the child population which is the only other indicator used in the components. Such an indicator ought not to rely only on such things as employment or income levels, but also contain some measures of social morbidity. The latter is associated with the former, but there is not a direct one to one relationship. Measures of social morbidity would include the numbers of families served, some indications of intensity of service, suicide rates, involvement with justice systems, disclosures and estimates of the levels of the incidence of family violence and so forth. Such measures are not precise, and they would have to be self reported, but they do attempt to get closer to an indication of the service need on which budget allocations ought to be based.

The inflation factor remains problematic. There is apparently a verbal commitment from INAC to consider the inflation factor, but no figure has been attached to it. The usual figure is the consumer price index. If the preoccupation with deficits generates fiscal meanness, the figure could be the CPI minus a percentage point or two. In any event this is simple enough to calculate and would contribute towards achieving the predictability desirable for planning purposes.

The major difficulty, however, lies not so much with the formula itself, but in the philosophy which underlies it. The text of the formula refers to the need to direct funding solely towards "child centred activities" such as child abuse and neglect prevention. Commenting on this provision a consultants report states:

It is beyond the ability of these organisations to eliminate the causes of child abuse and neglect....Given the critical nature of the role of these organisations in the current communities, it is vital that the services be comprehensive and delivered in a highly competent manner. They will necessarily cover a wider scope of activity than their urban counterparts who have available to them, a range of alternative services. (BDO Ward Mallette: 10)

Another position paper elaborates on this comment. It argues that funding formulas, the methodology for which, or the outcome of which fail to recognise the degree of difficulty of the task assumed by the First Nations - the upset in the balance in many of the communities between those able to give help and those in need of it - severely limit the ability of the agencies to move forward. The paper further argues that narrowly targeted funding arrangements assumes that social problems are exceptionalistic, as opposed to widespread and even epidemic in some instances. Secondly, and as a consequence, it assumes that exceptionalistic "treatment" responses are appropriate as opposed to community wide healing efforts which are still very much in the developmental stages. Whole communities have been abused by external forces and intra-community abuse has resulted. Such an epidemiology requires

different responses than the narrowly targeted ones called for in the formula (Hudson & Taylor-Henley, 1993).

Both the content and the application of the formula reflect this exceptionalistic as opposed to a community healing approach. In terms of content, there is an item currently as a sub category of the Maintenance Budget called Services to Families. These services include staff time, and payment for concrete support services to families such as homemaker or day care. These funds were capped in 1992, when already these vital preventive services offered to many families represented a very small percentage of the total budget (In 1992 this amount was \$278,000 representing about 6% of the total). The failure to implement that portion of the formula under the heading of socio-economic conditions is another example of the content of the formula falling short of responding to community realities.

Neither does the application of the formula yield a final amount which fully allows for a host of items, either already available to, or not as desperately needed in the non-aboriginal system. These include a long term plan for effective training for staff, community development and other supports for the volunteers in the system, adequate salaries for staff (in Southeast CFS starting salaries for local workers are lower than those for the office janitor), and adequate rates for foster care which are currently set at Provincial rates (Northern food alone can cost four times

that of the Southern urban areas), or the high costs of obtaining specialised treatment services for children who are seriously damaged. In addition the formula does not yield funds for developmental costs which are so essential in the First Nations communities; development costs for the agency to move ahead with such projects as the standards project, and related developmental activities such as the creation of community wide healing programs such as that attempted in Hollow Water.

In short the formula needs to be changed in a number of ways. First the maintenance budget requires upward adjustment to reflect the true costs of substitute care in these remote communities.³ The Services to Families portion of what is now the maintenance budget needs to be uncapped and calculated in more generous amounts than now. The socio economic conditions component of the formula should be implemented. The actual figures used in the calculation of the formula need to be reviewed in order to accommodate the shortfalls already pointed out. Finally, a third portion of the formula needs to be added for developmental tasks. The formula now is a status quo formula and this is its greatest shortcoming. It assumes that the agency is fully formed and fully developed with only the daily business of protecting children to preoccupy it, whereas the reality is that a number of major political and service delivery issues still face it. These have very little in the way of forward momentum at present.

Federal Policy on Jurisdiction

The Federal partner to the arrangements for Southeast CFS is primarily in the role of funder. But it has also taken an active stand on a major policy issue other than financial. This stand is important to review as part of examining the Southeast CFS and its relationship to the Federal partner.

The Federal government has insisted during the negotiations leading up to the signing of the first Agreements and in subsequent policy papers on two items. One is that all Agreements be Tripartite. The other is that the First Nations agencies be subject to the Provincial authority. The first is harmless enough. While the First Nations agencies have often been reluctant to enter into a relationship with the Provinces, fearing for its implications for their special relationship to the Federal government, some kind of relationship has found to be necessary. The provinces are legitimately an interested party to First Nations affairs, and are an effected party to the results of any movement towards self government, including service delivery control such as in child and family services. As we have seen, the Province may chose to facilitate or impede, but they are nevertheless a legitimate stakeholder.

The problematic part in Federal policy has been its insistence on tying the policy of tripartitism to subjecting the First Nations child and family service agencies to Provincial authority. This

has not wavered since the first circular on the subject (INAC, 1982). The most recent statement on this subject was contained in a policy document which clearly stated that "principles for agreements affecting child and family services....will be in accordance with provincial legislation." (INAC(c), 1989) This policy is still in effect. It can only be said that there is no logic to connecting the two policy items. There is some rationality to including the Province as an interested party, and calling for tripartite agreements. There is no logic to prejudging one major outcome of tripartite negotiations:; namely the nature of the relationship which will evolve and pertain between Indian government and its agencies, and the Provincial government and its agencies.

As we have seen, the relationship which currently pertains between the Province of Manitoba and Southeast CFS is problematic. It is problematic both in political terms but also in terms of service delivery: a matter about which all parties ought to be equally concerned. The current relationship inhibits the development, articulation, implementation and evaluation of healing approaches which more appropriately reflect the cultural and socio-economic circumstances of the communities. When the relationship between the Federal government and Southeast CFS is examined, it is clear that the Federal party, is using its fiscal leverage to support the existing arrangements. It is oddly championing provincial rights,

rather than facilitating movement towards reconceptualising the relationship.

Interviews and document searches in connection with this specific project only reveal that the issue of the agency-provincial relationship and Federal support for it, remains the most pressing issue facing the agency. They do not reveal the motivation behind the Federal policy stand, and this remains a matter of speculation. It does appear though that historically, one level of government will assert jurisdiction when it stands to gain resources, and disavow jurisdiction when claiming it might result in a drain on resources. In child and family services the Province, while not wishing to say or do anything which challenges its constitutional right over social services, has been ambivalent about claiming the right in regard to First Nations people, because it involves a significant resource commitment. It has been a party to existing agreements, because the fiscal responsibilities are minimal, without setting any precedents with regard to its constitutional rights. In contrast, the Province of Manitoba was not at all reluctant to claim jurisdiction over gaming rights when some First Nations communities attempted to use gaming as generator of revenues. In fact police action was used to close down the operation in one community. This case is harder to make in regard to the Federal government since it has for the most part accepted its financial obligations for service delivery. The one major area in which this has not been the case, and for which the case can be

made, is in the area of off-reserve services. Here Federal "offloading" to the Province in the name of provincial constitutional rights can clearly be seen.

Regardless of motive, the Federal government has maintained that its relationship to Southeast CFS is purely a fiscal relationship. It has no involvement in program issues. Yet in insisting that program issues are ultimately a Provincial responsibility, it has indeed influenced program and service delivery.

The 1993 Task Force Report, referred to in other sections of this paper, recommended special child and family service legislation at the Federal level. Unfortunately, the Report was totally silent on the nature and content of such legislation. Presumably Southeast CFS could even now develop its own legislation which would articulate the principles for child and family service, outline who should receive service, under what circumstances and in what ways, and mandate an implementive structure including establishing local committees and some kind of accountability provisions. SERDC would need to endorse it, as would each community. Given current Federal policy, it is reasonably assumed, that such lengthy effort would be to no avail. Hence one presumes that the Task Force was suggesting some kind of brief enabling legislation at the Federal level simply recognising First Nations jurisdiction, which would permit such an effort to go forward without risk of litigation or other challenge.

Interview data suggested that the Province of Manitoba might at least not actively oppose such legislation, although it has maintained official silence on the subject. For the Federal government, a reversal of a policy to which it has so far firmly held would be required. Interviews and documents did reveal that the Federal rationale has been contained in terse statements concerning the constitutional rights of the Provinces. But such rights in regard to First Nations are by no means clear. The interpretation of the opposing Section 91(24) of the Constitution Act (1867) which refers to the Federal responsibility for "Indians and lands reserved for Indians" and Section 88 of the Indian Act which states that provincial responsibility holds unless specifically mentioned in the Act (social services are not mentioned), as well as additional arguments about treaty rights and inherent aboriginal rights is a continuing debate. There has been no closure or absolute certainty on this issue. The constitutional argument used by the Federal government as justification for its policy on Provincial authority is a weak one. Resolving the issue is more a matter of political will.

SECTION V: ONE OUTSTANDING ISSUE

The issue of training of staff was not intended to be a part of this research. Yet it was referenced so frequently in the documents and in the interviews that the report would be incomplete if it omitted to make some comment. It is placed near the end of

the report because it cuts across, more than any of the other issues discussed, the three aspects of government addressed in the report. It involves Federal funding responsibilities, and Provincial funding and constitutional responsibilities. Above all much of the future direction of the agency, especially its self governing as well as its decentralisation efforts depend upon the satisfactory resolution of this issue. It is difficult, if not impossible, to transfer technology to the communities without the skilled staff at the community level to implement. Just one small example is the skill required of staff to properly support the functioning of the LCCC's.

Human service agencies, as well as other employers, customarily obtain their staff "ready made" as graduates of post secondary education programs offered outside the workplace, and paid for mostly from general revenues. Such is not the case with First Nations and other aboriginal employers. This is true, firstly because they rightly desire to employ First Nations people as far as possible. Secondly, in the local communities, even without any positively discriminating hiring policy, the only staff available are First Nations people. Non-aboriginal people do not have a good record of long term commitment to the community. Given these first two considerations, it only remains to be said that First Nations graduates of the same programs from which non-aboriginal employers draw their staff are in seriously short supply. This fact has been

well documented elsewhere and requires no further justification here. (See for example INACa&b 1989 and Hull, 1987.)

A full range of responses, sustained over a considerable number of years, is required to attend to this shortcoming. These should include everything from in-service training to community college certificates, to degree programs as well as specially designed training programs. Some may require periods of study away from the community; others may be designed in more decentralised fashion enabling community based and part time study. Content and duration will vary depending upon the needs of the individual and the agency.

There is no space to comment further on these issues. The intention of this section is to point out some considerations in planning for training which have been somewhat underplayed in past efforts. These comments are not based on the data collected for this report, which only revealed the importance attached to the issue of staff training; nothing more. Rather the author is drawing on experience gained in personal involvement with two affirmative action degree programs, the delivery of a certificate program to staff of some of the First Nations Child and Family Service agencies, and involvement in a distance education program.

Firstly, it is observed that quite unrealistic expectations are placed upon post secondary institutions and training programs in

terms of what they can deliver in what time frame. Using a Bachelor of Social Work degree program as an example, a typical middle-class non-aboriginal student, entering with all of the academic pre-requisites takes four years of full time study to completion. This assumes no major economic or other interruptions to the student's program. The First Nations agencies on the other hand are dependent, at least for most of their local staff, on a program (degree or otherwise), into which existing staff can enrol. In other words, assuming working half time and studying half time, it would take each worker/student eight years to complete. It is true that a degree program is at the high end of the training continuum, and it is true that there are short cuts and accommodations which can be made even in a degree program (practical in the workplace for example), but the kind of time frames and sustained commitment from the agency, the employee and the funders outlined here, far exceed any discussions on the subject of training this author has seen or heard.

Furthermore, the typical student referred to here, hardly exists in the First Nations communities. A number of other unique factors compound the difficulties of completing a training program. Firstly, and taking again degree programming as the baseline example, very few local staff possess the usual pre-requisites. Completing the necessary remedial work may add yet more to the length of the study period.

Secondly, many aboriginal students enroled in programs offered by mainstream institutions, speak of the difficulties they experience with cultural dissonance. This is experienced in both the content and the process of instruction. It leads often to withdrawal, and at best frequent time outs to deal with their doubts.

All of the foregoing may be dismissed as the problems of the mainstream institutions, not the problems of the student. There is indeed some truth to this despite some small signs of change and accommodation on the part of these institutions. But in the foreseeable future, heavy reliance on the mainstream institutions for a trained staff will continue. Planning for the necessary time frames, staffing patterns and funding will need to be predicated on this fact.

Moreover, not all of the difficulties in planning and funding training programs are attributable to the inflexibility of current post secondary institutions. Even if a period of apprenticeship with elders, and/or a more culturally relevant program at an aboriginal controlled post secondary institution (of which there are few at present) were seen to be appropriate, other sorts of crises conspire to disrupt the continuity of the period of study. The content of the journey of inquiry in human services training, is more likely than for other students, to trigger in the aboriginal student memories of past abuse or other damaging experiences. Education and training at different points can and

should be for some students as much therapy as it is intellectual inquiry.

When the individual themselves feel whole and free of crisis in their own identity, they are rarely free of the crises experienced by family members and others close to them. Deaths, births, family violence, suicide, ill health, job loss, economic hardships of other kinds, are life events, most of a stressful kind, which are experienced more by aboriginal people certainly than the typical middle class student used in the earlier example. The individual is expected, and accepts the expectation, to discharge their obligation to assist family in such times.

Add to the elements listed above, the usual staff profile of a mature person (usually female), with his or her own children and immediate family, as well as extended family, combining the family role with that of worker and now student, and one begins to more fully appreciate the challenge to the individual, the employer, and the training institution.

All this is verified by past experience. In the original Tripartite Agreement, INAC agreed to fund a two year in-service training program for all the First Nations CFS's. Astonishingly, it was assumed, apparently by all parties, that this would meet the need for trained workers, and that this portion of the funding would be a one time contribution. In the Southeast CFS, which was

no exception, nearly 100% turnover of the trainees occurred within the first two years of the training program giving the lie to such optimism.

Accommodations were made. The program was extended. Courses were modified and repeated for newly hired staff. Some did graduate, and a few continued their employment. Other accommodations have been made beyond the first round of training, and other similar training programs have been implemented from time to time.

This section of the report concludes with two thoughts. The first is, that despite the evidence of flexibility and accommodation mentioned in the preceding paragraph, none of the three parties have developed a serious, long term training plan which would be commensurate with the degree of importance attached to the issue indicated in the data from this study. Secondly, none of the training programs provided to date, have planned for very many of the barriers to success which have been listed here. Time frames need to be planned in more realistic fashion, staffing patterns need to be changed to allow for educational leave at the same time as the agency is obliged to deliver service, and a high level of supports of varied kinds need to be provided to the students. Where even some of these elements have been present, completion rates have markedly improved. (See for example Hull, 1987 and McKenzie & Mitchinson, 1989.)

SECTION VI: CONCLUSION.

This report has been based on a case study of Southeast CFS. It suffers from the limitations always inherent in a case study approach in that for the purposes of policy formulation, the question of its applicability to other similar First Nations agencies and other parts of the country is always in doubt. On this issue, it should be noted that in several parts of the report, the commentary could not remain exclusively with the Southeast agency.

Issues of Federal and Provincial relationships are very similar across Manitoba and indeed across the country. Any uniqueness arises from the quality of the relationship, more than the way in which it is structured. In this regard, Southeast CFS and its parent body, SERDC, has chosen a cooperative mode in the relationships as opposed to a confrontational one. Non-aboriginal government staff have responded in kind, allowing the daily business of operating existing program and provisions for child and family service to carry on. Nevertheless the structural issues have remained never very far under the surface and we are confident that they are generalizable.

Moreover, we conclude that these structural issues are not just a matter of political principle, important though this is in its own right. There is an intimate connection with program delivery and

the evolution of agency program and governance. For example, the difficulties in managing the natural tensions occurring within the agency structure are compounded by the flow of Provincial authority through the Regional Committee with no formal recognition of the autonomy of the member communities. Moreover, this fact has influenced in major ways, the development of program initiatives. The acceptance by the Province of jurisdiction, while at the same time being reluctant to assume much in the way of fiscal responsibility, has further inhibited program initiatives. Federal funding formulas have been successful in achieving some equity between agencies. Compared to Provincial funding for the non-aboriginal agencies, it could even be called generous. The formulas and the outcomes of its application still fall short of a recognition of the cultural, political and socio-economic realities of the communities. Again, the impact of these shortcomings are ultimately on programs at the community level, or perhaps more accurately, on the development of programs. The upholding of Provincial authority by the Federal government has contributed equally to the holding pattern in which Southeast CFS finds itself.

There is room and flexibility within the existing system for Southeast CFS to initiate change. Commentary has been made in this report (especially in Section II) on these possibilities. However, in doing so, with the exception of some goodwill from the staff level within the Provincial system, the agency is largely on its own. More significantly, despite the degree of flexibility within

the existing system, there are difficulties and limits to the ability of the agency to take major initiatives, and move from where it is now into a different future. These difficulties are partly related to funds, but they are also related to other external controls - subject to provincial regulation, accountable to the non-aboriginal courts, and so forth. This of course has been the characterising feature of post contact relationships between aboriginal people and non-aboriginal governments. The recent constitutional talks gave promise of a different future. Although they failed, there are no barriers to changing this relationship at the service delivery level: in non-constitutional arenas. Serious movement forward is dependent upon the willingness of the Federal and Provincial governments, but especially the former because of its trust relationship, to develop more facilitative policies than those now in place. The pressing needs of the families and communities served by Southeast CFS and other similar First Nations agencies demands nothing less.

Endnotes

1. The First Nation's Child and Family Task Force in Manitoba was commissioned in November 1992, as a response to various contentious issues in regard to Native child and family services in Manitoba. The Task Force itself was comprised of appointees from the Assembly of Manitoba Chiefs, and both Federal and Provincial Governments. The Task Force was established to strengthen the quality, management and governance of child and family services to First Nations children.

2. These budget figures were all estimates prepared at year beginning. Year end actuals which may have differed from estimates as a result of interim amendments were not available. Any variance would have especially applied to the child maintenance portion of the budget.

3. As this report was nearing completion, Manitoba's Minister of Family Services announced an 83% reduction in foster care rates, where the child is placed with extended family. It remains to be seen how the Federal government will respond to this measure, but if it stays with its existing policy of using Provincial maintenance rates as its guide to allocations to First Nations agencies, it will follow suit. SECFS and other First Nations agencies rely heavily on extended family to provide substitute care both out of necessity and from a strong belief in its cultural appropriateness.

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**Politics and Program: A Case Study of a First Nations
Child and Family Service Agency**

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Executive Summary

This case study of a First Nations child and family service agency is one of three commissioned by the Royal Commission on Aboriginal People (RCAP). The scope and methodology of the three were not co-ordinated and thus are not the same, but the objectives were similar. These were to assist the RCAP to present recommendations to the federal government regarding its policies with respect to Aboriginal child and family services, as well as to share the studies with other Aboriginal agencies in the hope that there is sufficient similarity in circumstances so that the experience of one may be of assistance to another. There is also an attempt in this study to include content that might be of specific assistance to the participating agency, Southeast Child and Family Service (SECFS). It was believed that SECFS was sufficiently typical that the first two objectives could be met through the case study approach.

The study focused only on issues of governance and structures. This was separated into three areas: internal governance of the agency itself, structural relationships between the agency and the province, and structural relationships between the agency and the federal government. No attempt was made to evaluate the specifics of program delivery, although it was found that some aspects of intergovernmental relationships affected programs.

In terms of internal governance, a common thread is a strong adherence to a philosophy of community-based programming and community autonomy, combined with a regional structure of governance and administration. The respective roles of the community and region are in delicate balance and in constant adjustment. The system provides all the advantages but also some of the tensions inherent in a federated system. An additional part of the structure in need of continuous review and adjustment is the relationship between Indian government, as embodied in the tribal council and the band, and the service delivery agency operating at both these levels.

Five issues arising out of this structure are identified: communication, training, accountability and authority, decentralization and the central role of the local committees in

case and policy decision making (local child care committees or LCCCs). All these issues were interrelated. Most particularly it was found that management of these issues depended in large part on the functioning of the LCCCs, which had not entirely fulfilled their promise. It was found that one of the deficits was lack of skilled staff supports for these committees.

The relationship with the province of Manitoba at the staff level has been mixed, but generally improving over time with the cultivation of personal links and increased understanding of the needs and agendas of each party. The problematic aspects of the relationship have been primarily when funds have been involved and decisions have been made at the political level to deny requests for funds for specified purposes. The most important of these was the withholding of funds for SECFS to develop a code of standards through a series of intensive community consultations. The code would have been an important step toward articulating and implementing a culturally appropriate practice.

The issue that has been most problematic has been that of jurisdiction. This too is an essentially political issue. The province 'delegates' its authority to the agency in much the same manner as it does to other non-profit agencies delivering child and family services on its behalf under the authority of the *Child and Family Services Act*. This issue is not just a continual affront to First Nations self-government aspirations, but the study found that working under the authority of the Act, and provincial regulations and directives pursuant to it, places some significant constraints on the ability of the agency to develop its own forms of practice that are more consistent with cultural values and the socio-economic circumstances of the communities.

The primary role of the federal government in the system is to provide for operating and child maintenance funds. In this, the new funding formula has achieved equity, some measure of predictability, and even generosity when compared to provincial funding to its non-Aboriginal counterpart agencies. The critique of the formula is primarily in its emphasis on treatment responses to exceptional problems, as opposed to assisting with the development of healing responses to problems that are epidemic and community-wide. Included in this critique is the absence of routinely allocated dollars for developmental tasks, especially for staff development and training.

Summary of Recommendations

The recommendations that follow are extracted from the text of the report. They are not repeated in summary form in the text.

Recommendations to SECFs:

- The Regional Committee should continue to emphasize routine communication and reporting between the different parts of the system. In addition there is a need routinely to conduct orientation for incoming key links in the system, especially Regional Committee members and their reporting responsibilities to the local level, and portfolio councillors and their reporting responsibilities to the chief and council.
- Orientation should not be confined to a one-shot event, but should also include briefings around major issues and events as and when they arise. In this supervisory staff should have a major responsibility in supplementing and supporting the reporting links provided by the volunteers within the system.
- Some staff resources should be devoted to building a body of case law or precedents from these major issues or events with a view to beginning to establish guidelines and standards for decision making by local committees. This is so that in the medium term, each decision is not treated as exceptional and entirely unique, even though every situation will have some unique features. Examples of the content of such guidelines would be as follows:
 - the circumstances under which a child might be removed from its family;
 - the processes for removal;
 - conditions of continuing involvement of the parents and other members of the family;
 - procedures for long-term planning for the child; and
 - a hierarchy of priorities for long-term planning.
- Efforts at a consensus style of decision making should be maintained. An independent panel of respected people in the local community should be established to mediate or arbitrate any disagreements that are not resolvable through existing mechanisms.

- Continuing opportunities to decentralize authority and decision making should be sought. At the same time there are evident advantages to maintaining a regional structure.
- Funds should be sought, or resources otherwise redirected, to provide skilled staff support for the LCCCs. They cannot be expected to function fully in the very central role assigned to them without this. At the same time each LCCC should consider options, prepared by staff, for ways of discharging their obligations and maintaining their rights in more efficient ways. Training, for example, could be, with skilled staff assistance, related to real decisions on current agendas, as opposed to the special topic workshop format.

Recommendations to the province of Manitoba:

- At the political level a commitment to a re-examination of provincial authority over First Nations children is required. This jurisdictional issue applies to both on-reserve and off-reserve services. At the same time, or as an interim step, provincial staff could extend their co-operation in further examination of the service constraints that result directly from the application of provincial authority, with a view to shorter-term change in regulations or legislation to accommodate an emerging culturally appropriate practice.
- Provincial staff, and ultimately cabinet, should engage with agency staff to develop clearer criteria on the funding responsibilities of the province.

Recommendations to the government of Canada:

- Further work is required on the existing funding formula. Some important objectives have already been met, such as predictability and equity. The major unfinished business is an examination of a formula based on an 'exceptional' model of social welfare, as opposed to a 'universal' or holistic model. The latter model is more appropriate to the cultural and socio-economic circumstances of First Nations communities.

- The same model appears to be in effect within Medical Services Branch. INAC should take responsibility for all billings currently handled by MSB to avoid two sets of reporting requirements. In addition, MSB should examine and be prepared to change its approval process and the regulations that limit the options for choice of service provider.
- It is not certain at what level of government the insistence on provincial authority is located: senior staff or cabinet. Ultimately, however, this policy is the responsibility of the government of the day, which is urged to review this policy.

Recommendations to all parties:

- All three parties are confronted with staff training needs that are unique to First Nations agencies. The needs are persistent, pressing and not easily resolved. Three-way discussions are required to develop a long-term plan to address these needs. Any planning should recognize the special difficulties referred to in this report and recognize training as a continuing need.
- Most of the foregoing recommendations will be difficult, if not impossible to implement without a commitment from all three parties to a vehicle through which they can enter into serious and sustained discussions around the outstanding issues identified in this report. Thus the creation of a Tripartite Committee at the highest level is recommended.

Politics and Program: A Case Study of a First Nations Child and Family Service Agency

by Pete Hudson

Background

The Royal Commission on Aboriginal Peoples (RCAP) has undertaken research on Aboriginal child and family services in Canada. Three First Nations child and family agencies were selected for case studies of services whose experience might serve as useful models for other first Nations communities. The Southeast Child and Family Service (SECFS), the subject of this case study, was one of the agencies chosen.

The case studies were to be used in two ways:

1. to assist RCAP to present recommendations regarding First Nations child and family services to government;
2. to share the results of the review, either in its original form or in a policy paper, with other Aboriginal communities, services and political organizations.

From the perspective of SECFS, it was hoped that such a review and its process would be a chance for it to assess its opportunities and constraints and plan for change where appropriate in the areas discussed in this report. This is especially timely given the agency's need to digest the implications of a recent task force report and respond to it. (Manitoba 1993)¹

Selection

Selection criteria included the following:

- The degree to which the agency could be viewed as 'typical', thereby increasing the probability of applicability to other First Nations agencies. Manitoba has seven mandated First Nations child and family service agencies, covering all but one of 61 First Nations communities. The remaining one is served by a non-mandated First

Nations agency. Winnipeg is served by a 'status-blind' non-mandated agency. All but the Winnipeg agency were among the first in Canada created as a result of formal tripartite agreements. This model has since been followed in other parts of Canada.

- All the agencies have a body of experience in working with the model in excess of 10 years.
- SECFS in addition had the following characteristics:
 - existing links and a relationship with the author of this report;
 - an organizational commitment to, and a record of support for, research and evaluation efforts; and
 - a positive reputation in both Aboriginal and non-Aboriginal communities in its attempts to work co-operatively within the model while at the same time develop a critique of it.

Focus and Method

Initially the study was to be much more ambitious than what was subsequently undertaken. It was to involve all the member communities in a fully participatory process, covering the complete range of service and governance issues. Neither time nor funds permitted this. The case study instead focused solely on issues of governance. This was separated into three components: internal structures and relationships between different components of the system (for example, between local communities and the regional structure), the structure and quality of the relationship between the agency and the provincial government, and the structure and quality of the relationship between the agency and the federal government. An attempt was to be made to discuss how these relationships have evolved over time, outstanding issues, how these are currently being managed and any implications for change. No attempt was made to evaluate the quality of program delivery, but the study did attempt to assess the general impact of internal and external relationships on program delivery.

The method was also more modest and traditional (in the non-Aboriginal sense of traditional). Consultations on the project occurred at the board and senior administration level, from whom approvals and a commitment to participate were obtained. It was agreed that the agency's busy daily operations and service delivery functions, as well as a sense of being

over-studied, dictated the least intrusive methodology possible. Thus a two-stage data collection process was designed.

The first stage of data collection consisted of a document review, including the following documents:

- Regional Committee minutes, 1985-1993 (61 documents)
- Management Meeting minutes, 1988-1994 (69 documents)
- Staff meeting minutes, 1986-1993 (15 documents)
- Southeast Community Services Review, 1990
- Agency planning documents, 1987-1991 (2 documents)
- Miscellaneous correspondence, Child and Family Services Directorate, 1986-1990 (15 documents)
- Agency annual reports, 1985/86-1991/92
- Provincial review, 1993
- Manitoba Indian Child Welfare Subsidiary Agreement, 1983
- Canada-Manitoba-Indian Child Welfare Agreement (Master Agreement), 1982
- First Nations Child and Family Task Force Report, 1993
- Comprehensive Funding Arrangements (federal), 1992

These documents represented all that were available to the researchers that were judged relevant to the research questions. No sampling was necessary. All documents were searched for information that would aid in understanding the three subject areas of the study. All data deemed relevant were recorded and sorted into the three subject areas, as well as into sub-categories for ease in later qualitative analysis.

In addition, 17 interviews were conducted seeking information from key informants on the same three sets of questions. Fourteen of the respondents were associated with the agency. These included members of the Regional Committee, senior managers, supervisory staff and regional workers. The others were officials in the provincial Child and Family Support Directorate and the regional office of Indian and Northern Affairs Canada (INAC).

In selecting the agency personnel informants, accessibility was important. Funding of the study simply did not permit travel to the communities to interview local staff. Thus all the agency informants were drawn from professional and administrative staff located within the regional structure. Nevertheless, the staff based at the central office of SECFS are well placed as key informants given the focus of the study on issues of governance. Much more than local workers or clients, their duties give them daily experience in working within the tripartite model. They are the staff who most frequently are called upon to liaise with provincial and

federal officials. In addition, all are familiar with the one or several communities for which they have supervisory and other responsibilities. The provincial and federal officials were selected because of their specific roles as liaison with SECFS and other Manitoba First Nations child and family service agencies.

No attempt was made to sample the agency staff interviewed. All were interviewed who were able to make themselves available. Three were unavailable. No demographic data were obtained on the respondents themselves as to age, sex or length of service. A role within the agency was identified, but little reference to this is made in the report in the interests of confidentiality.

Background on SECFS

Before 1983, the southeast communities were receiving very limited services from the Children's Aid Society of Eastern Manitoba and the Eastman office of the province. Throughout 1981, resource development workers established the infrastructure for the current SECFS. The Canada-Manitoba-Indian Child Welfare Agreement was signed in February 1982. The necessary subsidiary agreement was signed by Southeast Resource Development Council (SERDC), the province and the department of Indian affairs in April 1982. A year later, in April 1983, Southeast Child and Family Services received its mandate under the 1974 *Child Welfare Act* of Manitoba. Under the provisions of these agreements the province agreed to 'grant' executive authority to an agency to be established by SERDC, and the federal government agreed to fund the new agency.

The latter was the agency studied in this report: SECFS, in operation since 1982 and mandated since 1983 to provide child protection and family support services to people living in nine First Nations communities in southeastern Manitoba that are members of the SERDC. These are scattered over a huge area of southeastern Manitoba, several located on or near the eastern shore of Lake Winnipeg. The communities are Berens River First Nation, Bloodvein First Nation, Buffalo Point First Nation, Poplar River First Nation, Brokenhead Ojibway Nation, Hollow Water Nation, Black River First Nation, Little Grand Rapids First Nation and Pauingassi First Nation. Five of the communities can be reached only by air most of the year.

The furthest is Poplar River, approximately 300 air kilometres from Winnipeg. The closest is Brokenhead, only one hour by road.

According to INAC's band membership program, population counts have increased significantly from 1983 to the present. In 1983, the total band population of the SERDC was 4,781, with 3,307 (70%) on-reserve and 1,213 (25%) off-reserve (Crown land figures excluded). The child population (ages 0 to 18) was 2,520, or 53% of the total band population. Of that figure, 1,730 (69%) lived on-reserve and 656 (26%) lived off-reserve (Crown land figures excluded). Comparative data for 1992 give a total band population of 7,498, with 4,644 (62%) persons residing on-reserve (excluding Crown land) and 2,761 persons living off-reserve (37%). The child population in 1992 was 3,452, or 46% of the total band population. Of that figure, 2,238 (65%) reside on-reserve and 1,175 (34%) are off-reserve.

Departmental figures have not always coincided with the bands' population counts. The figures are intended only to orient the reader and should be considered approximations. Of particular significance to this report, however, is the high proportion of children in the totals and the relatively large number of members resident off-reserve.

Paralleling growth in the population, as well as a phased in transfer of responsibilities and caseloads from the province, the SECFS has experienced rapid growth in its first 10 years of operation. In 1983, the annual budget included only an operating grant and totalled \$702,018. By 1987 budgets included funds for the maintenance of children in care as well as an operating grant. In this year the budget was set at \$2,372,248, of which the operating budget was \$1,276,222. By 1993, the last year for which these figures were available, the total annual budget was set at \$5,916,494, of which \$2,134,114 were operating funds.²

Growth in the staff complement has not been as rapid as budget growth. In 1983 the staff complement was 28. This had grown to 38 by 1993. This verifies the large proportion of the budget growth that has been driven by the maintenance portion of the budget and is reinforced upon examination of the child in care statistics — the only indicator of caseload growth available. On 31 December 1984, the agency had 43 children in its care. By 1987 these numbers had reached 160, and on 31 March 1993 there were 257 children in care.

SECFS is still a relatively small non-profit agency that has nevertheless experienced the stresses of rapid expansion. It serves a widely scattered rural and northern population, as well as providing some limited services to its members resident in Winnipeg, also the location of its regional office. Socio-economic indicators specific to the catchment area were not readily available, but this population is representative of the Canadian Aboriginal population, characterized by high rates of unemployment, low family incomes, some reliance on subsistence activities such as fishing and trapping, educational achievement lower than the Canadian average, and high rates of family violence and other manifestations of social malaise. The population under the age of 18 years — the subgroup with which the agency is most concerned — is a particularly high percentage of the total. For example the 43 per cent of the SERDC population that is under the age of 19 is considerably higher than the Canadian average, projected at 28 per cent for 1991. (INAC 1989d)

Internal Organization

Description

The internal organization of SECFS is complex for a relatively small social agency. This is not a result of inefficiencies or poor planning. It arises partly from external forces and relationships. Briefly, these include the current arrangements for First Nations government under the *Indian Act* and the nature of the relationship with the province of Manitoba inherited from the first tripartite master agreement for First Nations delivery of child and family services. These external factors are addressed fully in later sections of the report. In addition, complexity arises from the deliberate implementation of the agency's philosophy and objectives.

The ultimate governing body of the agency is the Southeast Resource Development Council (SERDC). This is a body consisting of the chiefs of each of the nine communities affiliated with the Council. This is the political body for which SECFS is the service arm for purposes of delivering protective services to children and supportive services to their families in the communities. For practical purposes responsibility for governance of the agency lies with a Regional Committee (RC). The RC is made up of one representative from each of the nine communities. The executive director of the agency and the portfolio chief from SERDC sit

ex officio without voting powers. Usually a few senior staff are in attendance as resource people without voting powers. The RC acts in a capacity similar to that of a board of directors of a non-profit social agency, discussing both policy and administrative matters and with decision-making powers in respect of both. Reports are made periodically to the SERDC through the portfolio chief. Generally these reports are accepted as information. The exception is any matter of major financial importance, including approval of the annual budget estimates.

A second part of the organizational structure involves the establishment of Local Child Care Committees (LCCCs). These committees operate at the level of the community and are an integral and central part of the system. The members are primarily volunteers, although some members may be paid caregivers in the community. There is no one way in which committees are appointed. In one community, for example, the members are appointed by the chief and council but not confirmed until a band meeting does so formally. In others the CFS staff may recruit interested and contributing people. In some communities members may have a set term of service; in others the term may be indefinite. The mandate is to consider all matters of child protection and family support in the community. Much of their deliberations involve case planning, approval of foster homes, etc., but they occasionally debate matters of procedure, policy and community needs.

The LCCCs are linked into the governance structure in two directions. First, it is always a member of the LCCC who represents the community on the Regional Committee. Thus there is a direct link between the local structure and the regional structure. Second, they usually include the portfolio councillor *ex officio*, who links the LCCC with the chief and council of the community.

The Southeast Resource Development Council, the Regional Committee of the Child and Family Service, the Local Child Care Committees, and the chief and council of each community are the four components of the political or voluntary governance structure of the agency. At the executive (staff) level of the structure, there is an executive director and two kinds of senior staff who operate out of the regional office. One is supervisory staff, responsible for overseeing the work of staff at the community level. The other is regional staff with specialized roles such as in placement and child abuse. Regional workers hired for

most, but not all the communities act as the link between the local workers and the regional structure. These workers spend 3 or 4 days of the week in the community to which they are assigned, but are not permanent residents, in contrast to the two or three local workers hired to carry the primary responsibility for frontline work in their community. An attempt to capture the structure and its philosophy is shown in Figure 1.

Evolution and Rationale of the Structure

Most parts of the current structure have been in place for most of the 12-year life of the agency. At the outset the RC was the sole decision-making body. The link to SERDC was informal and periodic. A formal link, in the person of the portfolio chief, was established about five years ago. The other change that has occurred as the agency has evolved is not in the structure itself, but in the language used to describe and affirm that structure. The document review indicates that it was not until the late 1980s that SERDC began to assert its ultimate authority. By 1990, SECFS was being regarded as "first and foremost an institution of Southeast Indian Government". By 1992 the "policy and management powers" of the RC of SECFS was described as "delegated" by the SERDC.

A part of the rationale for the creation of these two bodies is already implied. At the very least, the political body needs to be informed, and at the most it retains ultimate authority over all matters within its purview. This legitimately includes child and family services. The use of the term "delegated responsibility" is probably the best compromise that can be achieved between the rights of Indian government and the prudence of an arm's-length relationship with a service delivery agency. The arm's-length relationship between the RC and SERDC is further maintained through the general respect accorded by the SERDC to decisions made by the RC and by avoiding the use of what could be its veto powers. In addition, as a matter of policy, the members of the RC cannot be chief or members of the band council in their communities. This policy has been overridden on occasion, but always for good reason and when the statesmanlike qualities of the person involved were sufficient guarantee of avoidance of conflict of interest.

Figure 1

Figure 1. REPRESENTATION OF SECFS GOVERNANCE STRUCTURE

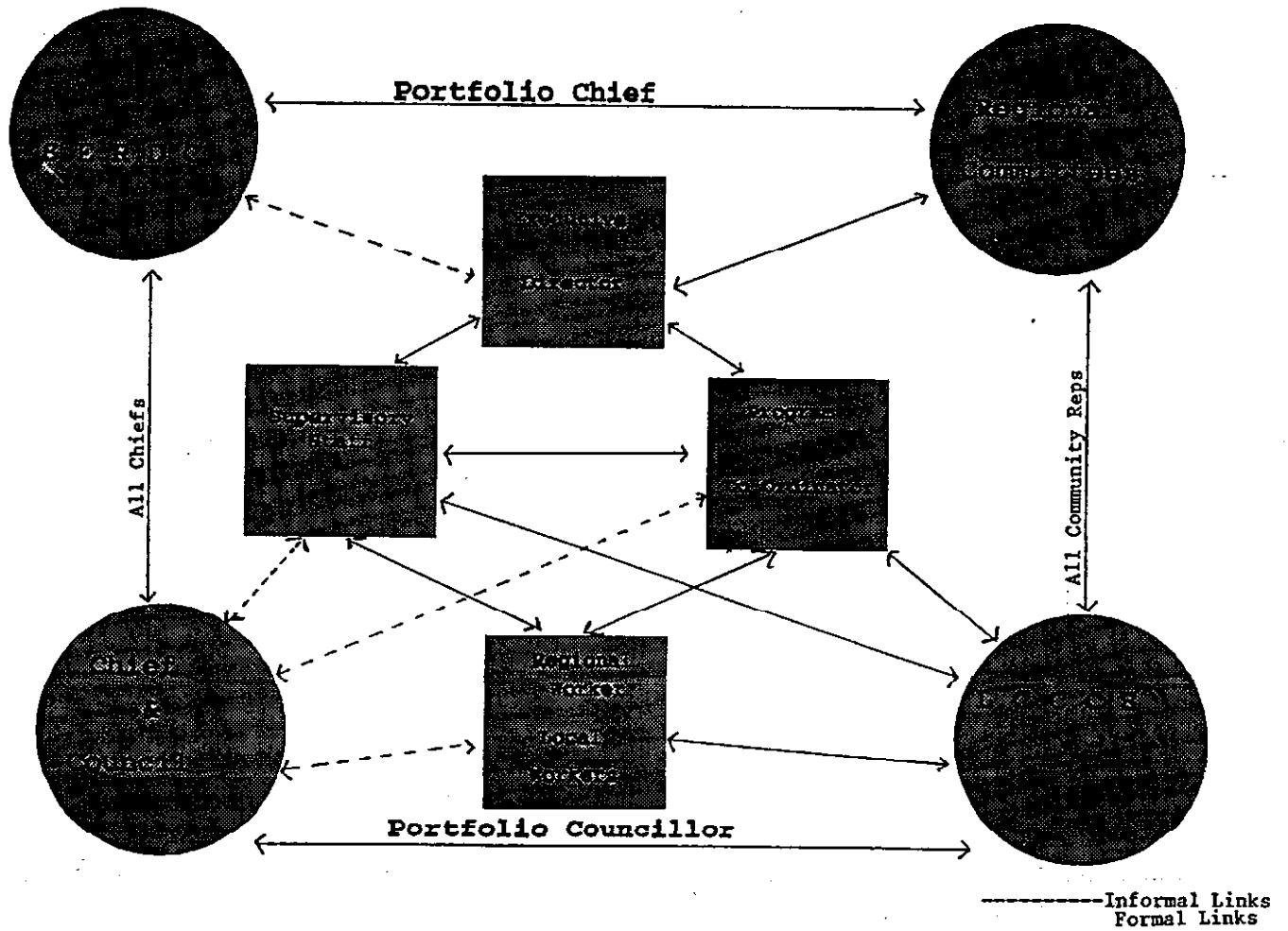


Figure 1

The rationale for the composition of the RC is found in the paradox of Indian government. The SERDC is a federation of autonomous First Nations communities brought together out of a common geography, history and culture. Similarly with the CFS. Although organized along tribal council lines, the attempt is made to uphold the autonomy of each community. Thus the RC is not regarded as the overarching ultimate authority, as would be the case with a non-Aboriginal non-profit board, but rather as a coalition of the communities. The prevailing philosophy is governance from the bottom (community) up, not from the top down. Hence the strict adherence to a committee composed of representatives from each community, with no community having a greater voice than another.

The philosophy underlying the LCCCs again involves maximizing community autonomy. The assumptions are twofold. One is based in quality service — the belief that local decision making in these matters is generally superior to more remote decision making. These are the people who know the community, the families and children at risk, and the local resources. The other is political — that each community is self-governing. Local interests and self-governance have been partially subsumed in the regional structure, but the right to local self-governance has not been relinquished. More than half the key informants interviewed made reference to both these rationales for the role of the LCCCs in the system, and all made reference to at least one. Many references in the documents surveyed repeat the theme, using such phrases as "community-based service" and "local control".

The central place of the LCCCs in the structure has not changed since the agency was formed. Both the document review and the key informant interviews attest to the consistency with which the importance of the LCCCs has been upheld.

The relationship between the political structure and the service delivery structure at the local level is almost an exact mirror of the relationship between the federation of chiefs and the SECFS operating at the regional level. The portfolio councillor acts as the link between the volunteer committee concerned with child and family service delivery and the elected politicians at the community level. The language used to describe the relationship has also evolved in similar ways. For example, one documentary reference as early as 1984 used the term "delegated responsibility" to describe the relationship between the chief and council and

the LCCC. This was apparently effected through a formal band council resolution in each community.

Staffing arrangements have changed over time in two respects. One is the normal adjustments made to the growth in responsibilities assumed by the agency and transferred from the province as well as other growth in service demand. This has resulted, for example, in the appointment of some specialist staff operating out of the central office. The other change has been in using staffing patterns to strengthen the ability of the communities to deliver service. The main change here is the hiring of regional workers for five of the communities.

Issues Arising

Communication

Several clusters of related issues emerge from this complex structure. The first is the issue of communication. As can be seen in Figure 1, the LCCCs, alone, give and receive communications to and from at least five sources, and the Regional Committee at least four. The documents reviewed are replete with concerns about communication breakdown, between all parties. The majority, as might be expected, involved the governance, or what might be termed the 'voluntary', section of the agency. There is a great range of complaint, all the way from specific events, such as failure to inform of a meeting, to failure to inform about the results of a meeting (or meetings — for example, "we never hear what goes on at the Regional Committee"), through to the more general, such as the chiefs' concern about their lack of knowledge about the CFS, which parallels a concern of staff, who decry that same lack of knowledge on the part of the chiefs. Some of this is idiosyncratic, such as a period during which a community has an uncommitted representative or one who lacks confidence on the Regional Committee; some is more systemic, such as the difficulty in maintaining a flow of information routinely to all concerned parties in such a complex system. Reference was made frequently to turnover in personnel, which compounds the difficulties. Turnover in staff has slowed somewhat in the past few years. To a lesser extent this has also been true of the LCCCs' membership. Elections held every two years for chief and councillors guarantee some

turnover among the politicians, and turnover occurs among representatives on the Regional Committee, even if the member remains on the LCCC.

Training

An overlapping issue is training. The plea for more training is another recurring theme in the life of the agency. Again this includes a wide range of concerns. It overlaps with the issue of communication in that some of the concerns indicate the need for something more akin to orientation than actual training. This concern has been expressed most frequently with respect to the chiefs and councillors and to the LCCCs (and by extension to the members of the Regional Committee). For the politicians this seems to imply a general orientation to the agency, its purposes, organization, policies and procedures, as well as the constraints under which it operates and the opportunities it can create.

For the LCCCs, training seems to mean something broader. It at least includes one extra dimension — knowledge of the provincial legislation that, under existing arrangements, the service implements. Briefing notes for the LCCCs prepared in 1984 make reference to the need for this knowledge. More than half of the those interviewed identified lack of knowledge of the statutory requirements as one of the limitations of the LCCCs. For example, a temporary contract placement (TCP), whereby a child can be placed in substitute care by the agency, has a time limit on its use. At the end of this time, either the child must be returned to the parents, or a court order must be obtained. The LCCC might believe (rightly in some cases) that the TCP should be continued. Yet this is not possible under existing legislation. Thus, sometimes what appears to be a difference of opinion between staff and committee on the best possible plan is in fact a question of what is or is not possible under existing legislation. Staff expressed frustration at the frequent delays in decision making that arise from the need to explain such constraints.

Beyond orientation and training in the statutory requirements of the service, the repeated requests for training for members of the LCCCs are diffuse and unspecified. Reference is made to prevention, to community development, and to child abuse (beyond definitions in the Act and procedures called for in the regulations). The briefing document of 1984 also refers to the need for members to "provide guidance, counselling and other services

to families when requested to assist workers." This seems to call for training to develop skills and knowledge similar to that expected of the paid staff. The evidence of the documentation and interviews indicates that these expectations for training for LCCC members have not been met. The issue is compounded by turnover in the membership of the committees.

Accountability and authority

A third issue evident in internal governance is accountability and authority. As can be seen from the description of the structure and from the communication issues just outlined, the structure lends itself to some confusion around who makes what decisions. The issue appears and is treated at some length in a recent provincial review of the agency. Reference was made during interviews and in the document review to a few critical incidents where disagreement occurred between different components of the system with no clear way to resolve them.

This is true at all levels and between different parts of the system. First, the relationship between the LCCCs and the Regional Committee has within it the normal tensions inherent in a federal structure. The philosophy upon which the structure is based is one of upholding a community-based service and maximizing local control. Yet the fact remains that a Regional Committee does exist, presumably with powers to set policy for all communities. Even though that body is composed of community representatives, each community is only one voice in nine.

The issue of the limits to the decision-making authority of the LCCC is complicated by a particular aspect of the relationship of the agency to the province of Manitoba. Current arrangements and agreements place the Regional Committee in the position of being the body through which the legal mandate to carry out the responsibilities set out in the provincial *Child and Family Services Act* passes. It is the body held accountable by the province of Manitoba for the quality of service and case decisions. In effect this subverts attempts to uphold community-based decision making through the LCCCs. It certainly runs contrary to the rhetoric of community control. The most recent manifestation of this issue was in 1993 in the form of legal liability. If the LCCCs make a decision that is subject to litigation, to what extent are they liable? It was clear from the recorded discussion that the LCCCs, while they are recognized internally as a vital part of the decision-making process, are not recognized as

such externally. "The LCCC is not really recognized as a board. The RC is responsible for whatever happens."³ As a consequence no liability insurance is available for LCCC members. More significant, the fact that responsibility, legal or otherwise, rests with the RC contradicts the degree of responsibility that the agency philosophy asserts for the LCCC. By the same token, to the extent that the RC allows effective decision making at the community level, it is placed in the position of being held responsible for decisions not of its making, a situation that has a degree of discomfort attached to it.

Second, disagreements can and do arise between staff and the LCCCs. These are sometimes in connection with the provincial legislation, but not exclusively. Service decisions independent of legal constraints have also arisen. In such cases the evidence is mixed on where the final decision lies.

Finally, although it has been established that the relationship between the political body and the service delivery body at the regional level has evolved in a satisfactory manner, there is some evidence to suggest that such has not always been the case at the local level. The local staff have a reporting relationship to supervisory staff and also to their LCCC. Two masters are manageable, but — although this is not revealed in the structure — chief and council have also sometimes asserted a role. Structurally, the reporting relationship to chief and council is from the LCCC in the person of the portfolio councillor. Ten of the 11 staff interviewed indicated that most often the agency staff and LCCC make case decisions and these are simply reported and received as information by the chief and council. Moreover, these same respondents indicated that at times specific assistance has been requested and has been forthcoming. In other words, a non-interfering and even actively supportive role was reported as the norm.

However, four respondents did refer to incidents, albeit infrequent, of interference from the political level that was considered unacceptable. These involved overturning, or attempts to overturn, case decisions, or influencing hiring of local workers. There was even reference to a turnover of local workers every time a new chief and council were elected. What made these actions unacceptable interference, as opposed to the exercise of legitimate authority, was that the best interests of the child appeared to be secondary to a political agenda.

In this the chiefs and other elected politicians are in a somewhat difficult position. First Nations government, as currently constituted, places the chief especially, but also other councillors, in the role of all things to all people. This, as with so many other things in the system of government that has replaced pre-contact government, runs counter to tradition, in that leadership roles were divided and diffuse depending on the function. In the current system of government anyone in the community who has a grievance or complaint about any matter will seek redress through the chief and or other councillors. The elected officials feel bound to respond to these grievances. The line between ensuring that child and family service policies are fair and clear, and are implemented fairly and clearly, and actually acting as the final arbitrator, even with 'pure' motives, is a very fine one. It is all too easy to cross it. In regard to hiring, unemployment levels are so high in many of the communities that jobs become a commodity. The constant temptation is for politicians to retain control over job allocation.

Centralization versus decentralization

All these issues are interconnected, and this fourth issue especially so with respect to the issue of authority and accountability. The documents reviewed and the interviews indicated that the agency has always tried to be sensitive to this issue, but it has since resurfaced in the form of a radical restructuring in favour of total self-governance at the community level recommended by the First Nations Child and Family Task Force. (Manitoba 1993) The impetus for the Task Force came from several allegations of political interference on the part of First Nations politicians in the affairs of the First Nations child and family service agencies. These were highlighted in a much publicized inquest into the suicide of a teenage boy in the care of another First Nations agency. Despite the original impetus for the Task Force, the political interference issue does not appear in the terms of reference. The closest reference is in an introductory section headed "Issues to be addressed", which were to include "the structure, management and governance of First Nations Agencies...". The issue of political interference is dealt with surprisingly briefly in the report, while an appendix contains a reproduction of rather generally worded conflict of interest guidelines developed earlier by the First Nations child and family service agencies in Manitoba.

On the subject of decentralization the report states that

One of the primary goals of First Nations at the inception of First Nations child welfare was that child and family services would eventually be community controlled and operated. This goal has not been achieved and it is still a priority among First Nations communities.

Indeed, the subsidiary agreement for Southeast CFS, signed between the three levels of government in 1983, states that "The mandate of the Tribal Council is to facilitate the transfer of control and responsibility of programs and services to member bands. The Tribal Council seeks to develop the administrative and management skills necessary to help each deliver local services." The document goes on to state that "Our goal is to ensure that services will be community-based and programs locally controlled."

The report seems to translate this terminology to mean that each community will have full control over its own child and family service, the potential for Manitoba thereby being 61 autonomous agencies. It is ambiguous in its reference to First Nations communities or *groups of communities*, leaving open the possibility of a continued regional structure, but it is quite clear on the subject of where ultimate authority in any self-government arrangement lies — at the community level. Unfortunately, the report does not suggest steps to achieve this, nor does it identify any difficulties that might arise if the goal were to be achieved. On this issue all the report has done is to reiterate the issue and come down on the side of local control in a way that suggests something more than just further decentralization of the structure.

The centrality of the LCCCs

Finally, there is the issue of the central role assigned to the LCCCs and their ability to perform it. The Task Force report recognized that the LCCCs throughout the First Nations child and family services in Manitoba are both the strength and the weakness of the system. They are the strength in that they represent a genuine attempt to maintain a community base for decision making. In the Southeast briefing document for committee members, for example, they are referred to as part of the team, the other two parts being the local worker(s) and the regional worker(s). The weakness lies in the heavy and important role assigned to a purely voluntary body and the question of whether a voluntary body can sustain the role. This

weakness is recognized implicitly in the Task Force report, which called for renewed efforts to restore LCCCs to the level of functioning originally envisioned for them.

The data for Southeast CFS indicate that this agency has not been immune to the difficulty. Three references were made, in minutes of the Regional Committee, to LCCCs with a very limited core membership. There were other references to poor attendance at LCCC meetings. In addition to the almost universal plea for more training, seven of those interviewed mentioned more than one difficulty associated with the functioning of the LCCCs. These included

- difficulties arising from frequent turnover of membership,
- difficulties arising from members' personal relationships with clients,
- difficulties associated with members dealing with their own and family issues in meetings,
- difficulties in making some decisions because of fear of community disapproval,
- low levels of literacy and general understanding of child and family services, and
- difficulties of scheduling meetings and gaining good attendance.

Thus there have been both quantitative and qualitative concerns about the functioning of the LCCCs. This issue relates to issues of accountability but is also separate from it. Whether the role of the LCCCs is advisory or something more, it is seen as central, and the issue of the general functioning of the committees becomes one of vital concern to the agency. It is also related to the issue of decentralization in that if, and as the agency decentralizes its decision making further, the committees assume an even more central place in the system.

The Agency's Management of These Issues

Communication

The agency and the SERDC have attempted to respond to this issue by putting in place structural links between the different components of the system. These include

- The portfolio chief for the Tribal Council linking the two regional political and service bodies.

- A representative from each of the LCCCs making up the membership of the RC and linking those two bodies.
- The portfolio councillor for each community linking the LCCC to the band council.
- Supervisory and specialist staff with responsibilities for several communities, including meetings with local staff and the LCCCs.

The data indicate some degree of success in improving communication through these measures. All of the agency respondents made mention of increased understanding and awareness throughout the system. Eight of these attributed the improvements directly to these measures.

Training

On the issue of training, this section of the paper concentrates on elected officials and the LCCCs. In regard to the former, although the word training is often used, orientation is the more appropriate term. Extensive training in child and family service matters is not called for here. Elected officials need a general overview of the philosophy, role and functions of the agency, its structures, especially decision making, and relationships between it as a service delivery agency and Indian government. For the most part the agency has managed this issue by attempting to clarify reporting relationships, as mentioned in the section on communication. Nothing in the data would indicate that special efforts at orientation of elected officials goes beyond this. There does not seem to be an orientation package or guide of any kind to support oral briefings. Again, the interview data indicate some improvement in elected officials' level of understanding of the agency. This can be attributed to the process and content of improved communication, rather than any formal and sustained efforts at orientation.

Orientation and training for the LCCCs have been managed by the agency in a somewhat ad hoc fashion. The briefing notes for the LCCCs state that committees were to identify their own training needs. For the most part these have taken the form of short one- or two-day workshops. These have occurred sporadically, depending on requests received and the availability of facilitators and funds. Most of the requests for training have been on the subject of the *Manitoba Child and Family Services Act*. In general, training expectations, as

evidenced by repeated calls for more training in the documents and in the interviews, have not been met. As already stated, the LCCCs take on an important and time-consuming role. Meetings, at least once a month, may last one day or more. Special meetings between the monthly meetings, as situations arise demanding attention, leave little space for a sustained training program. Thus the agency is confronted with something of a Catch 22 situation. The importance of the role reduces the time available for training while at the same time creating a demand for more training.

Accountability and authority

Little more needs to be said about accountability and authority in regard to the relationship between the Regional Committee and the SERDC. The compromise that has evolved between the authority of Indian government and the need for some arm's-length distance from the operation of a major service delivery agency seems to be effective.

In regard to the relationship between the Regional Committee and the LCCCs, the agency has managed this as best it can by consistently upholding the importance of the LCCCs in their role in local case and policy decisions and as advisers to the RC as it discharges its role of overseeing the operation of the whole program in each and every community.

Nevertheless, some tensions and confusion remain. The most frequent mention of the role of the LCCCs in the documents refers to them as being in an advisory capacity to staff. The interviews, however, referred nearly unanimously to the final decision-making powers of the LCCCs in case matters. The best sense that can be made of this conflicting data is that for all practical purposes, the LCCCs do have the final say in all matters involving only the local community and its families. It is only in the strictly legal sense that they are seen as simply advisory, because provincial legislation and the tripartite agreements do not recognize the authority of any such body. It is not at all certain from the data, however, that this last interpretation of the powers of the LCCCs is universally shared or understood. For example, one staff respondent offered the opinion that supervisory staff should and do make the final decision in the case of disagreement. Other workers seek a more autonomous and respected role for themselves (e.g., "We have the education.").

With regard to the relationships between the service delivery structure (the local team) and locally elected officials, and in particular the issue of political interference, all the chiefs (i.e., the membership of SERDC) have signed a declaration of non-interference. The declaration recognizes the importance of the LCCCs within the system, recognizes the Regional Committee as the ultimate authority in the system, promises non-interference in case decisions, and retains rights to question and remain informed in order to be accountable to their communities. No enforcement of this declaration is of course possible, except by the chiefs themselves, but it is a significant gesture of goodwill and a public affirmation of the arm's-length relationship between the political structure and its service agency. It has been put to the test on at least one occasion, and the chief in question abided by the declaration.

In addition to these specific measures, the agency has generally managed disagreements wherever they occur on a case-by-case basis. Management has been characterized, appropriately, by a consensus style of conflict resolution. Typically the disagreement is resolved by all parties meeting and attempting to talk out the disagreement until agreement is reached. These attempts seem to have been reasonably successful, but it was difficult to ascertain the degree to which there were residual bad feelings implied in such responses, as "the LCCCs should be more supportive of the agency." The piece that seems to be missing is a neutral body that could arbitrate, should it be required in these situations.

Centralization versus decentralization

The agency has tried to manage the issue of decentralization versus centralization by recognizing the aspirations of the local communities for maximum control over decision making, as well as its general desirability. Apart from the original structure of the agency, which reflects the philosophy of maximum local control, the agency has taken several recent measures to strengthen local control further. One is to hire regional workers. These staff members are expected to live in the communities for three or four days of the working week. They are seen as part of the local team, thereby shifting more functions to the local level from the regional level. Unfortunately, funding limitations have prevented the hiring of regional workers for all communities.

Second, some of the centralization-decentralization tensions have been removed by having the funds for local staff salaries and benefits administered by bands. This has been possible only where staff salary and benefit packages are similar between the band and the agency. Finally, the agency has made available a small allocation of discretionary funds to each local CFS team for them to administer in accordance with their own program priorities.

The centrality of the role of the LCCCs

The agency has attempted to manage the issue of the central role of the LCCCs by giving them some support. Orientation and training workshops have already been mentioned. To acknowledge the burden placed on the time of volunteers, the agency's policy has been to reimburse members for expenses incurred because of attendance at meetings, such as child care and travel. In addition, despite an earlier policy commitment to voluntarism, an honorarium is now paid in most cases. This was an attempt to promote attendance at meetings. Some technical assistance is offered for specific situations. Two examples are guides to action and options in cases of child abuse, and assisting the LCCCs with hiring local workers through regional staff consultation, provision of interview guides and recommended criteria.

Implications and Recommendations

Communication

This issue by itself does not indicate major structural change, and the agency has managed this issue in structural terms in the best way possible. Because of the human factor and the many components of the system, it remains only for the agency continually to remind the key actors in the system, especially those with linking roles, of their responsibilities. This is needed especially when there is turnover, as part of the orientation of new people. It is also especially true of new members of the RC and new portfolio councillors, which is where turnover is greatest and where breakdowns in communication seem to occur most frequently.

The only further step that could be taken is in a case where a key linking person was continuously in default of his/her responsibilities. No clear mechanism exists for calling people to account or effecting their removal in the last resort. One key informant speaking to

this issue reported that the community has acted when the local representative was not doing her/his job and that the RC should not be responsible for this. It appears, however, that if default occurs, a part of the agency operation is placed in jeopardy, and that the RC should therefore concern itself in some way with the breakdown.

In the matter of portfolio councillors, the issue is much more sensitive, because the agency has no powers over their behaviour or performance. They are elected locally and are accountable only to the people of the community and to the chief. Resolving such situations can be done only informally and, as is also the case in other parts of the system, depends on goodwill and commitment.

Training

With regard to elected officials, although it is the portfolio councillor's responsibility to link the LCCCs with the band council, and although this person should at the outset receive an orientation to all aspects of the agency, he/she cannot be expected to be the sole conveyor of information to the band council. Supervisory staff, in co-operation with the portfolio councillor, ought to take responsibility for providing orientation to all newly elected officials in each community as soon as possible after election.

Orientation should not, however, be confined to a one-shot endeavour. The content of a one-day meeting is soon forgotten, especially since it is usually separated from the context of the real day-to-day operation of the agency. The same people should take responsibility for two other activities. One is routine general reporting on the number and kinds of situations dealt with since the last reporting period, the policy implications, and rationales for actions or plans. This could occur three or four times a year, with one of the meetings being reserved as part of the agenda of a general band meeting.

Second, the portfolio chief and supervisory staff should inform and brief at least the chief, if not the whole council, on any controversial action just taken or about to be taken. This would usually involve the removal of a child from its parents, but it might also involve other sorts of actions. There is of course an issue of confidentiality here that would require further discussion beyond the scope of this paper. However, it would appear from the data that such decisions become matters of public record very quickly in such small communities,

and that confidentiality, even though the agency upholds the principle, is something of a fiction. The provision of facts and informed opinion to the formal leadership in the community is not the same as a breach of confidentiality arising out of idle or malicious gossip.

In any event, the data indicate the need for continuing orientation of local elected officials and that one of the more effective ways of doing this, beyond the one-shot orientation for new people, is orientation that is routine, as well as orientation that is opportunistic and tied to the specific realities of the agency's functions. The interviews in particular suggested that co-operation at the local level would be enhanced, and the potential for political interference diminished, if the combination of communication links already in place (including information received by the chiefs as members of the SERDC board) and orientation as suggested here were to occur.

Accountability and authority

This issue stems from the attempt to uphold the ideal of communal and collective decision making. This practice bewilders the non-Aboriginal observer. The latter seeks to locate the person or body with responsibility for decisions. Regrettably and most frequently this need is invoked when poor judgement is seen to have been exercised. But the contradiction of the governance system reviewed here is that everybody and nobody is responsible, despite legalities that suggest otherwise. For the agency, the issue is not so much who is in charge, but finding ways to avoid disagreements and ways to manage them when they do.

Measures being taken by the agency around the issues of communication and orientation and training have already minimized the incidence of disagreement. Implementing the recommendations in this report on those same two issues would improve the situation further. Attention to communication, orientation and training could result in the building of a body of case precedents and the understanding of key actors about those precedents. Indeed, it is recommended that such precedents be built into the development of any agency standards and would include such things as

- the circumstances under which a child might be removed from its family,
- the processes for removal,

- conditions for continuing involvement from the family,
- procedures for long-term planning for the child, and
- a hierarchy of priorities for long-term plans.

At the very least, these measures should lead to more informed case discussions and focus disagreements, making their resolution easier. At best the likelihood of agreement is generally improved. Responsibility and accountability become built into the specific case decisions, as for example when a particular worker is assigned to arrange specialized treatment for a child.

When disagreements do occur, notwithstanding the foregoing measures, the agency needs to continue and build on the very strengths that it currently upholds — the strength of a consensus style of decision making. Decisions that emerge from this process serve further to add to the body of case law referred to earlier. The one missing element in the resolution of disputes is an independent body to assist with the process. These could probably be established at the local level and be composed of respected people in the community who are not part of the system in any way. The role at the outset would be to facilitate and mediate, but in the last resort, they would act as an appeal body. Any further and last appeal would be to the Regional Committee, which under existing arrangements is the ultimate authority in the agency. Even with further decentralization of powers, a continuing role for a Regional Committee, including the one suggested here, is still envisaged.

Centralization/decentralization

All respondents expressed full support in principle for some further degree of decentralization. All respondents stated the need to phase this in at an appropriate pace. No one was prepared unreservedly to support total decentralization and dismantling of the regional structure as recommended by the Task Force. Among the reservations expressed were these:

- The probable loss of resources, especially some staff expertise, which are available only through a regional operation and not affordable for individual communities. Currently, despite efforts to decentralize, requests for assistance and advice are most frequently directed from the community to the Regional Committee. This tendency belies to some extent the notion of local control and underscores its limitations.

- Concerns about accountability. The Task Force recommended a First Nations child and family services directorate, but only as an interim measure until each community assumed full control. There is some concern that, without some external check or balance on full local control, victims of such problems as family violence could become helplessly trapped in a cycle of community denial. One respondent described this as a woman's issue and stated that full local control would leave women and children even more vulnerable than now, because local leadership is almost totally male-dominated and generally unsympathetic on issues related to family violence issues. A regional structure ensures at least some additional level of checks and balances.
- Concerns about community readiness. Specific reference was made to the skill levels of local workers and the need for further education and training. It was not presumed that this was only a matter of time. Some of the communities suffer from severe brain drain, so development efforts are hampered.

The last comment from workers on the subject was that they were not experiencing compelling centrifugal forces or pressures in the agency. The issue does surface from time to time in one or two communities, but the Task Force recommendations on total local autonomy were seen to be somewhat ahead of the aspirations or sentiments of most of the communities.

Not mentioned in the interviews or appearing in any of the documents reviewed was the possibility that self-government aspirations — which was the context for the Task Force recommendations — could conceivably be realized through regional structures. David Hawkes has identified six major models of self-government, ranging from the local to the regional. (Hawkes 1986) These models would apply as much to a particular service structure as they would to an overarching political structure. Although the basic unit of Indian government and service delivery might be the community, this does not preclude the evolution of regional governance structures, particularly for purposes of co-operating on service delivery.

The centrality of the role of the LCCCs

The centrally important role assumed by an essentially volunteer body remains of some concern. The operationalization of the whole philosophy of the agency, not to mention the welfare of particular children and families, depends on the ability of these committees to carry out the role. Agency efforts, in the form of member selection, provision of orientation and training, and some concrete supports such as honoraria, have been insufficient. In a situation where expectations of the role are not being met, one solution is to reduce the expectations. This would run completely counter to the whole philosophy of the agency and all its efforts directed toward community autonomy and empowerment.

There are two alternative approaches, not mutually exclusive, to dealing with this issue. The first is to increase the level of supports given to the committees. Specifically, there is a need to assign some portion of a staff person's time to committee development and maintenance in each community. No volunteer body can function well without it, certainly not one dealing with such complex and often controversial issues as these committees. The shortcomings of the LCCCs were identified readily enough by the respondents. Awareness that these shortcomings are *inherent* in volunteer bodies, and of the need for a strong facilitative role from staff, was not evident, however, perhaps because the question was not asked directly. This role should probably be assigned to one person with the appropriate community development skills to carry it out.

The role would have two related parts. One would be attending to all that is required to ensure informed decision making — working with a chairperson around agenda setting, ensuring preparation of briefing materials and other documentation, preparation of options, facilitating consensus, monitoring follow-up of decisions, and generally assisting with and transferring skills for a culturally appropriate problem-solving process. The other would be to provide training and education to members of the committee on an as-needed basis to reduce the demand for time-consuming workshops for the whole committee — time that is difficult for all to give, particularly if workshops have to be repeated any time there is turnover. A small example might be when a meeting about a child is scheduled that involves people knowing about requirements of the legislation. Half the committee might already have that knowledge. The staff resource person could hold a small meeting with the newer members to

brief them on this material. This ensures knowledge for immediate use, learned in relation to specific decisions that the members have to make. This does not occur now because no staff member has such a role written into the job description.

The other approach to ensuring the continued functioning of the committees is to change the manner in which their role is carried out. Some time needs to be invested, with the assistance of the staff resource to the committee, in deciding which kinds of matters must come before the committee at all, which kinds should come merely as reported information, and which kinds must come for decision by the committee. Guidelines need to be laid out for staff with regard to their powers of decision making in dealing with situations that emerge between meetings and that require action. Each community and committee will make its own accommodations, a major purpose of which will be to protect the committee from excessive burdens on the members, while at the same time upholding its rights and obligations.

These approaches are recommended as a way for expectations to be met without placing unrealistic burdens on volunteer members. Particularly important is the recommendation that training be carried out by one staff person on an as-needed or on-the-job basis, so that needed training is integrated efficiently with the decision-making function, rather than separated from it. The role and skill of the staff support are key to both approaches, and some training for personnel to help them do this job may be a prerequisite for implementing the recommendation.

Relationships with the Province of Manitoba

Description of the Relationship

The original master agreement, to which SERDC was one of the First Nations signatories, and the subsequent subsidiary agreements specific to SERDC have defined the relationship of the province of Manitoba to Southeast CFS from the outset. The agreements specify that the province is recognized as having constitutional authority for the delivery of child and family services. The province agreed to delegate this authority to the agency (Southeast CFS). Specifically, the authority delegated by the province flows through the Regional Committee. Thus a strict interpretation of the wording of the agreements would place the province in a

relationship to Southeast CFS almost identical to its relationship to other private non-profit child and family service agencies in the province.

This relationship is a superordinate-subordinate one. The authority in question is the *Child and Family Services Act* (Manitoba 1985), which replaced the *Child Welfare Act* (1974). The private non-profit agencies are permitted under section 6 of the *Child and Family Services Act*. Under the provisions of this section, the province *chooses* to delegate its constitutional authority to the agency. This grants executive powers only, leaving the other two major functions — legislative and judicial — in the hands of the province. Moreover, even the executive power is limited. The province can choose to remove the mandate at any time, and in subsection 15 Indian agencies are specifically named in this regard. Moreover, it can also choose to change the circumstances and conditions under which the agency can continue to operate. In the past eight years, two different governments have suspended directors and drastically altered the governance structures of the largest agency in the province. Although the agency in question was not a First Nations agency, the province has been quite clear that such powers extend to these agencies as well. It is true that the province of Manitoba has been reluctant to use these powers in regard to First Nations agencies, even when there has been pressure to do so. Moreover, its relationship to SECFS, and its opinion of its performance, has been good enough that such drastic action has never even been contemplated. Nevertheless, the province acts routinely to monitor, evaluate, pass regulations pursuant to the Act, issue binding directives, regulate auxiliary institutions (e.g., group homes), conduct program audits and reviews, and carry out a host of other activities to ensure compliance with the Act and the maintenance of standards.

There are two sets of issues contained in this relationship. One is service, the other political. The service issue revolves around the question of the degree to which the provincial system, its legislation, family courts, regulations and standards are appropriate to First Nations communities, especially in regard to their culture and socio-economic circumstances. The political issue is the contradiction between the superordinate role of the province and self-government aspirations.

A starting point for examining the service issues is a section of the subsidiary agreement that states

Services to be provided under this agreement will include those services normally provided under the Child Welfare Act of Manitoba and will incorporate traditional beliefs, values, customs and community standards.

This section captures the tension within the agreement. On the one hand mainstream services are mandated, while on the other hand traditional beliefs and values are to be incorporated. Reconciling and balancing these has not been easy for either party.

For its part, the province has shown some willingness to enable Southeast CFS and other First Nations agencies to develop services in their own unique ways. The statement of principles that formed the first section of the 1985 Act referred to the entitlement of families to services that "respect their cultural and linguistic heritage." An eleventh principle states: "Indian Bands are entitled to the provision of child and family services in a manner which respects their unique status as aboriginal peoples." One very significant change was that the definition of the best interests of the child — the acid test that agencies and courts were always to apply in decision making — was amended to include the "cultural and linguistic heritage" of the child. (Manitoba 1985) Before this change, arguments claiming that at least an important part of the well-being of the child was continued attachment and identification with his/her aboriginality had been largely discounted. Arguments based on enhanced life chances for the child and bonding if the child was already in a non-Aboriginal setting, tended to win the day.³ Now at least the issue of retention of culture must be weighed along with other factors.

The province has attempted to be helpful in other ways. Fiscally it has accepted responsibility for some agency initiatives. These have included defraying some of the costs and delivering, through the province's New Careers Program, training for ten local CFS workers, as well as four agency staff currently enrolled in the New Careers Training for Trainers program. The province has also accepted some fiscal and administrative responsibility for a limited repatriation program for children previously placed outside the community and in cases where an adoption has broken down and the child returns to the guardianship of the province. In addition, the province accepts responsibility for reimbursing the agency for services it renders on behalf of the province. This usually involves children who are non-status, or who are status but both parents live off-reserve. Finally, the province

has responded to occasional requests from the agency for consultative assistance, the most recent being a request for an agency review, which the agency reported as being helpful.

Despite this, on the issue of service, the relationship with the province remains problematic. The need to hire or to develop and retain skilled staff has always been an issue for the agency. It is also an issue for the province, for as long as it claims ultimate authority for the well-being of children, the province must be concerned with the quality of staff delivering the services. Yet it reneged on an earlier promise to provide training for some of the supervisory staff. The province has agreed to reimburse the maintenance cost for non-status Indian children living in substitute care on-reserve, but refuses to assist with important preventive services to the families. Most significantly, a major initiative from the agency to develop its own standards, codes and procedures was not supported by the province. This was the first serious attempt to give expression to that part of the subsidiary agreement that refers to incorporating traditional beliefs. The project is only partially completed and is currently on hold.

Perhaps more important, the application of the legislation itself continues to hamper to some extent incorporation of "traditional beliefs, values, customs and community standards." Ten of the eleven respondents identified statutory and other provincial requirements as problematic, and the issue is reflected frequently in agency documentation. As one respondent put it,

We get caught between two different value systems. As a worker I feel I have to follow the mandate, but I know it won't work. I feel torn. I try to work as best I can within the system, while at the same time respecting community values.

Specific examples of this general comment included the following:

- The ultimate requirement that the parental tie be cut, as for example, when a parent signs a voluntary surrender of guardianship, he or she signs away forever all rights and obligations with respect to the child. Respondents state that this practice is not recognized or accepted in the communities. It is not consistent with a tradition of family ties that is still strongly held and believed to be sound.
- Related to the foregoing is the failure of the legislation to allow time for healing on the part of First Nations parents. The brevity of timeframes for the life of a temporary

contract placement is a prime example. Another example, mentioned frequently, is the reluctance of the province to accept permanency plans for children that entail long-term foster care. The latter arrangement leaves open the possibility of future reuniting of parents and child, an option that is valued much more highly in the Aboriginal community than in the non-Aboriginal. In addition, it recognizes the severity of the difficulties faced by many Aboriginal people in their lives and in parenting, difficulties that may take many years to overcome.

- The requirements of the regulations, directives and protocols in relation to investigations of child abuse inhibit the development of culturally appropriate ways of handling such situations. For example, Hollow Water First Nation is experimenting with healing circles in which past and continuing abuse has been disclosed. Often this has involved children as the victims. This requires investigative and possible court action under provincial rules. However, the community is reasserting the primary value of restitution and reconciliation here — the need to restore and maintain balance and harmony in the community. This process requires the avoidance of the courts. This was possible only after lengthy negotiations and complicated agreements had been struck. (Taylor-Henley and Hill 1990)
- Court processes and procedures are seen to be inappropriate also when children are removed from their parents. The courts are geographically and culturally remote from the communities. Culturally, they are remote because of the heavy emphasis on an adversarial mode of decision making. Most communities are far more at ease with a consensus style of decision making. The latter entails everyone having a say until a plan is laid; the former involves each side arguing a partisan and exaggerated case. It polarizes rather than harmonizes. "I have to provide all the dirt on people. This reinforces the negative image they have for themselves as parents."
- Unrealistic standards for substitute care homes. This is especially true of group home and daycare licensing regulations.
- Miscellaneous and occasional responses included reference to unnecessary and excessive reporting requirements and to the feeling that the First Nations agencies are monitored more closely than the non-Aboriginal agencies.

The political aspect of the relationship has also been problematic. Essentially First Nations argue that in matters of jurisdiction over their children, no rights were ever ceded to another government. The province may choose to recognize the inherent right of First Nations government in this, as in any other matter, but it cannot grant an authority that First Nations claim it never had. This issue has been at the heart of the evolving relationship between the province and all the First Nations child and family services, including the Southeast CFS. One respondent who has been centrally involved with the agency from its inception stated without hesitation that the First Nations signatories to the original agreements did not understand them in the same way as the province. They saw the relationship between the province and the agency as an interim measure. Certainly the language used in some of the documentation would express this. The 1990 and the 1992 annual reports of the agency contain language that is in effect a declaration of self-government:

The Southeast Ojibway Nations are distinct societies with inherent rights including the right to self government... SECFS is an institution of Southeast Indian government. Its powers and mandate emanate from the Bands and SE Chiefs authorized to oversee implementation of its operations. The SERDC Board has delegated responsibility for policy and management of the Agency to the Regional Committee of the Southeast Child and Family Services.

There is no reference here to the delegation of authority from the province.

One major concession made by the province was to establish a policy in 1984 that obliges all non-Aboriginal agencies to consult with the relevant First Nations agency in instances where a child has been apprehended off-reserve. (Manitoba 1984) There have been complaints that this policy has not been followed properly, as well as disappointment that it was not integrated into the legislation itself.

Apart from this one initiative, the language used by the First Nations leadership to describe the relationship is clearly contradicted in the language of provincial officials obtained from interviews and the document review. "The agency is accountable to the province under legislation. The Provincial Directorate has authority to provide legislative direction." Some service planning, such as extra payments above a certain amount to a foster home for a child with special needs, must be approved by the province, even though it is the federal government that reimburses. Generally the agency is regarded as autonomous by the province,

having the right to "develop their own governance structure and policies" but always "providing they are consistent with provincial policies and legislation." Referring to permanency planning for children in care, "the agency is expected to adhere to and follow the standards as stated in the standards manual."

An additional major jurisdictional issue concerns off-reserve services. The SERDC and the agency claim that a member is a member regardless of residence, and that jurisdiction for services and case planning for children and families living off-reserve ought to belong with the First Nations agency. The original agreements assert that services to Southeast and other First Nations community members living off-reserve, even if only temporarily, are the jurisdiction of the province. A 1988 agency document indicated that 27 per cent of the population is transient between the reserve and the city (of Winnipeg). Thus this issue involves significant proportions of the First Nations population.

SERDC agreed to this contentious clause because it was anxious to begin providing a full range of services to its on-reserve population. The province agreed on condition that negotiations in regard to maintenance payments for off-reserve children in care resume. This never happened. At present the province is reimbursed by the federal government for the cost of services to off-reserve status Indians only on the 50 per cent basis provided for under the *Canada Assistance Plan*. The extent to which federal negotiators were responsible for insisting on the off-reserve clause is not known, but the savings to the federal treasury are obvious. The clause is also consistent with long-standing federal policy toward off-reserve status Indian people, which has tended toward a reluctance to recognize any responsibility. (See, for example, see Boldt and Long 1988.) Such a policy reduces federal fiscal responsibility to Indian people upheld in the *Constitution Act* and is very tempting.

A distinction between service issues and political issues has been identified for discussion purposes; in reality they are interconnected. In political terms, Southeast CFS has only executive authority over service delivery on-reserve. It does not have judicial (no community or tribal courts) or legislative authority. As we have seen, the political limitation on its powers constrains the quality and appropriateness of services and programs. The limitations placed on service delivery, and in turn the reporting and accountability

requirements, are a constant reminder that Indian self-government is not recognized either as a concept or in its practice by non-Aboriginal governments.

In general terms the position of provincial officials with regard to the agency has tended toward managing the status quo. Assistance has been rendered when requested, except when requests have involved funds (involving Treasury Board approval), such as for the standards project. The ever-present reality of provincial jurisdiction surfaces in high-profile cases such as the death of a child, but otherwise provincial staff, sensitive to the political issues, have attempted to be as flexible and as little intrusive as possible with respect to the inspection, monitoring, regulatory and reporting requirements of the system. Most of the respondents mentioned an improvement in agency-provincial relations at the staff-to-staff level through the cultivation of personal working relationships.

On the other hand, despite several initiatives from the Southeast CFS, the province at the cabinet level simply has not responded at all to the political limitations placed on both on- and off-reserve service delivery. Neither has the provincial government responded to the recommendation of the Task Force it co-sponsored, to the effect that the provincial authority be replaced by an Indian authority equivalent to the Child and Family Services Directorate. In the absence of policy initiatives supported by the government of the day, staff on both sides can only try continuously to balance the tensions between the desire of the agency to move forward to a more autonomous model and current provincial statutory requirements. At a staff-to-staff level, there has been a genuine attempt to manage the relationship in a co-operative manner. The superordinate-subordinate political relationship severely limits the full promise of this goodwill.

The Geisbrecht Report (Manitoba 1992) criticized the province for its hands-off stance with respect to the Indian agencies, and urged the province to take the exercise of its authority more seriously. We believe that Judge Geisbrecht and the province are missing the point here. Fluctuating between a hands-off and a hands-on approach is for the most part unhelpful. The former approach maintains the current political relationship, while at the same time leaving the agency to deal alone with some desperate realities in the communities — the worst of both worlds. The latter stance tends to emphasize the regulatory and monitoring

functions, which sharpens the affront to self-government and makes co-operation on service issues more difficult.

In short, the relationship has been characterized by the daily need to manage tensions created by compromises made in the original agreements. The agreements have not changed, despite the opportunity to renegotiate when the original ones expired in 1987. They have simply been renewed implicitly each year in order to continue the flow of funds and the operation of the agency. No serious negotiations to move the relationship forward have occurred.

For this to happen the province needs to take a more active and dynamic stance and respond at a political level to these tensions and the invitations already extended by Southeast CFS. The major issue is jurisdiction. A secondary issue is the degree to which the province, notwithstanding self-government or federal responsibilities, has some responsibility for funding certain functions and programs.

The Issue of Jurisdiction

In regard to jurisdiction, the key is a reconceptualization of the relationship. This is illustrated in Figure 2.

The delegated authority model is the one now in effect. If the autonomous model were applied to Southeast CFS only, the agency's mandate would come from SERDC as now claimed, and accountability would be to the Regional Committee through the regionally based staff, who would assume most of the roles now played by the provincial directorate. If the model were to be applied to all First Nations agencies province-wide, the First Nations directorate would be lodged within some larger institution of Indian government. This is the model proposed by the Task Force. This reconceptualization has already been achieved by SERDC and Southeast CFS. It remains for the province to do the same.

Essentially the relationship would evolve into a partnership between equals. The province could extend a variety of consultative and training services to the agency on an as-needed basis. The agency in turn would have full responsibility for service to a population that is extremely difficult to serve. (See also Taylor-Henley and Hudson 1992.) This

partnership would be in contrast to the superordinate-subordinate relationship that now pertains. As one agency respondent put it,

We need the province to be an active partner, but we need the role to be supportive and consultative. We need funds for staff and foster parent training for example. What we don't need is provincial involvement in terms of continually exerting and proclaiming its authority.

Such a state can be achieved only by dialogue and negotiation at the political level — discussions that have been noticeably absent during most of the life of the agreements.

Off-reserve services are more complicated, in that the recognition of SECFS jurisdiction may still require negotiated agreements on implementation. The off-reserve population is concentrated in Winnipeg but is also scattered in other centres in the province. It may not be feasible to serve fully even the urban population, and even less feasible to establish a service presence elsewhere. In such instances a range of options for contracting are available: with the province, with non-Aboriginal child and family services, with the status-blind urban Aboriginal agency in Winnipeg, and a host of others.

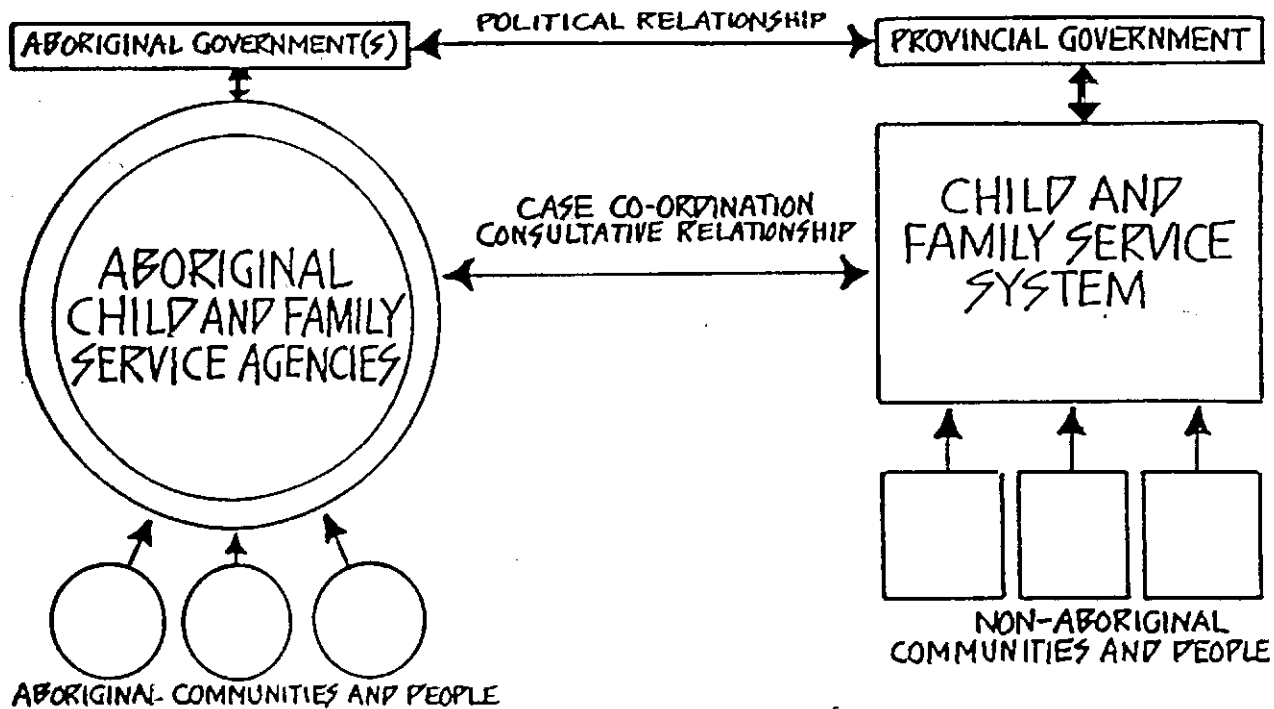
The Issue of Funding

On the secondary issue of funding from the province, the extreme position might be that the province has no responsibility. Although the province has in the past delivered some services to status Indian people, it has argued that the federal government should assume total fiscal responsibility. For the most part the federal government has agreed with this position, with one important exception already noted — its failure to accept billings for services to status Indian people while resident off-reserve (except cost sharing under the provisions of the *Canada Assistance Plan* available for any person).

FIGURE 2

THE DELEGATED AUTHORITY MODEL VERSUS THE AUTONOMOUS MODEL

THE "AUTONOMOUS" MODEL



THE "DELEGATED AUTHORITY" MODEL

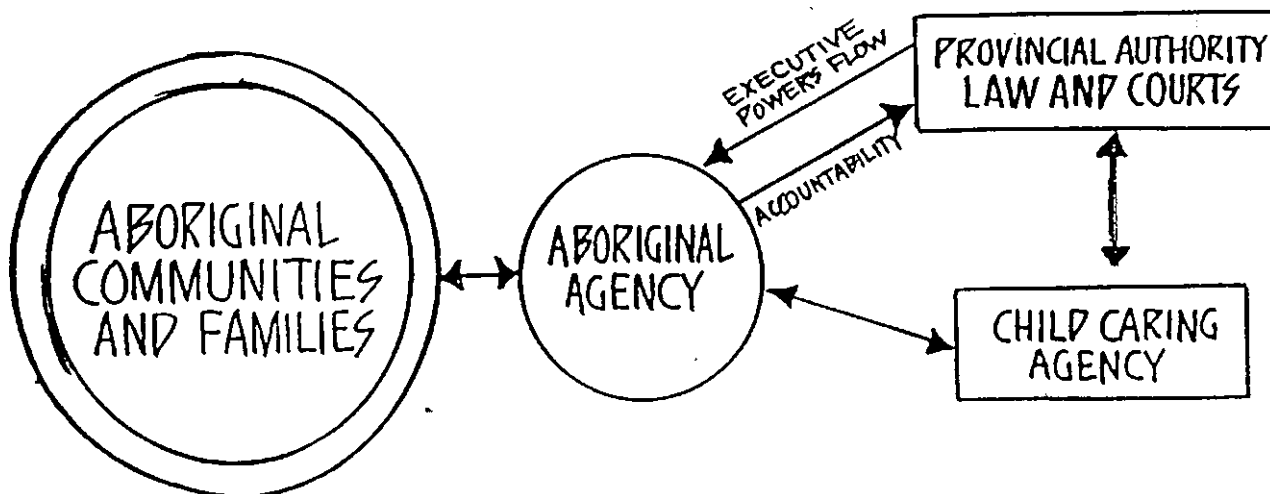


Figure 2
The Delegated Authority Model Versus The Autonomous Model

However, the argument can be made for some limited provincial funding responsibility, and precedents have already been set. In reviewing these precedents, it seems that there are three justifications for provincial funding. The first is that the province should agree to reimburse the First Nations agency for services rendered by it on behalf of the province. The obvious case in point is service to non-status Indian people living within or around the First Nations community. These are people who live as an integral part of the community. Moreover, the province should be willing to reimburse for all services rendered, not just a portion of them. Reimbursement formulas need to be negotiated that reflect the cost of the necessary full range of services to these families, not just reimbursement for the maintenance of the non-status children in the care of the agency.

The second is financial support for functions for which the province normally assumes responsibility with respect to the overall population, including status Indian people. The obvious example is post-secondary education. The federal government does assist status Indian students with subsistence and tuition while studying at a post-secondary institution, but this does not defray a significant portion of the costs of delivery. The unique situation of the Southeast CFS and other First Nations agencies calls not just for education at recognized post-secondary institutions, but also special and custom-designed training programs (especially for the local workers). These programs have objectives and benefits identical to any other post-secondary education, and some portion of the costs should properly be assumed by the province.

Finally, an argument can be made for the province to assist with the funding of programs and services that arise from the need for the agency to make extraordinary efforts to repair past mistakes for which the province is in part culpable. This category could be wide open, given the history of colonization and dispossession, but it can be narrowed to programs that are not normally provided by the mainstream child and family service agencies. The obvious example is a repatriation program. In the recent past, significant numbers of status Indian children were placed, under Provincial authority, in substitute care arrangements far from their communities, including adoption placements in the United States. The anecdotal evidence available suggests that a high proportion of these children did not fare well in their non-Aboriginal environment. A repatriation program that would include young adults,

carefully planned on a case-by-case basis and with the full range of appropriate community supports, provides an opportunity for the individual to heal, as well as restoration to the community of lost members. The compensatory argument advanced in human rights theory would apply here to justifying provincial funding for such programs.

Relations with the Federal Government

Funding Arrangements

In the mainstream child and family services system, the funders are the provinces, which, in some catchment areas of some provinces (mostly Manitoba and Ontario), choose to fund private non-profit agencies to deliver services on their behalf. In most other provinces and in northern Manitoba, the province also takes responsibility for delivering services. Thus the system is for the most part a unitary system involving only one level of government.

By virtue of the tripartite agreements signed with Southeast CFS and other First Nations agencies, the federal agency, Indian and Northern Affairs Canada, agreed to be the primary and direct funder for operating and child maintenance costs. This has resulted in one of the unique features of the First Nations system: the legislative and regulatory body — the province — is not the primary funder. As we have seen from the discussion of agency-province relations, the province asserts jurisdiction and authority. This includes setting and maintaining standards. The ability of the agency to conform to these depends in large measure on the quantity of funding. This is controlled by a level of government other than the regulatory body, which has little influence and/or has chosen not to attempt to exercise influence on the funding formula provided by INAC.

The most critical issues for the agency, however, are the level at which funding is established each year and the ability of the agency to predict the outcome so that it can engage in long-term planning. The ways agreements on levels have been struck and the annual outcome have evolved over the years. In 1986, INAC became concerned at what it regarded as rapidly expanding costs of First Nations child and family services across the country. It called a moratorium on any new agreements until the report of the Child and Family Services Task Force (commissioned by INAC in 1987 and not to be confused with the Manitoba Task Force of 1993) was available. This Task Force was "to conduct a review of

the agreements and the services and the *costs associated with them*" (emphasis added). The Task Force (INAC 1987) reported the following year.

While the implications of the Task Force were being digested, annual funding agreements, with some allowance for inflation and expansion, continued to be struck on an ad hoc basis. Finally in 1991, INAC developed a formula to be the basis for annual allocations to First Nations child and family service agencies across the country. (INAC 1991) INAC's two most important objectives were to gain some measure of predictability in allocations and to treat all the agencies in similar fashion. Previously allocations were sometimes a function of the skill of agency negotiators rather than a function of any measure of service demand or need.

The formula has two parts. The first remains unchanged, which is an open-ended commitment to advance payment or reimbursement of the agency for the cost of maintaining and providing supervisory services for children in care. The maintenance rates are authorized at the same levels authorized by the province for children in its care and custody.

The second part is formula-driven and has six components that are applied to striking the operations budget:

1. Population statistics provided by the bands. Funds based on a per capita amount (for Southeast CFS \$655 in 1991) times the number of children 18 and under living on the reserves are allocated to this part of the formula. This population formula is a crude but reasonable indicator of the extent of potential need and service demand.
2. A fixed amount per band served by each agency to cover such costs as travel and extra administrative costs. In 1991 this was \$9,651 times 9 (the number of bands in Southeast CFS).
3. A fixed amount (\$128,960 in 1991) to the agency for all other administrative costs. This does not vary with population size or any other indicator.
4. A remoteness factor. Southeast CFS serves five fly-in communities and was a beneficiary of the application of this component of the formula.
5. Socio-economic factors. This represents the degree of difficulty of the task assigned to the agency in any one, several, or all communities served. It is another attempt to identify indicators of the level of need.

6. Annual adjustments for inflation.

Devising ways of funding child and family services has never been achieved in a satisfactorily rational manner that reflects any objective measurement of need. Funding levels have tended to be set somewhat arbitrarily, usually using an incremental methodology based on the allocation for the previous year. The current federal formula is as reasonable a device as any other in use. Its implementation did not disadvantage the Southeast CFS or others in relation to allocations of previous years. The total operating budget from the year in which it was implemented (1992-93) actually increased relative to the previous year.

Nevertheless, problems with it remain, and further work is required. First, the total budget is the product of the first four components of the operating budget plus the maintenance portion. No closure has yet been effected on the fifth and sixth components. Both components are critical. The socio-economic conditions in communities are a major indicator of service need — much more so than the child population, which is the only other indicator used in the components. A socio-economic indicator ought to rely not only on such things as employment or income levels, but should also contain some measures of social morbidity. The latter is associated with the former, but there is not a direct one-to-one relationship. Measures of social morbidity would include the number of families served, some indications of intensity of service, suicide rates, involvement with justice systems, disclosures and estimates of the levels of the incidence of family violence. Such measures are not precise, and they would have to be self-reported, but they do attempt to get closer to an indication of the service need on which budget allocations ought to be based. For the agency's part, it would be required to demonstrate that programs are in place or planned to respond to these needs.

The inflation factor remains problematic. There is apparently a verbal commitment from INAC to consider the inflation factor, but no figure has been attached to it. It is therefore subject to change, and one element of the predictability desirable for planning purposes is lost.

The major difficulty, however, lies not so much in the formula, but in the philosophy underlying it. The text of the formula refers to the need to direct funding solely toward

"child-centred activities" such as child abuse and neglect prevention. Commenting on this provision, a consultant's report states,

It is beyond the ability of these organizations to eliminate the causes of child abuse and neglect. ...Given the critical nature of the role of these organizations in the current communities, it is vital that the services be comprehensive and delivered in a highly competent manner. They will necessarily cover a wider scope of activity than their urban counterparts who have available to them a range of alternative services. (BDO Ward Mallette 1991, p. 10)

Another position paper elaborates on this general comment. It argues that funding formulas whose methodology or outcome fails to recognize the degree of difficulty of the task assumed by the First Nations — the upset in the balance in many of the communities between those able to give help and those in need of it — severely limit the ability of the agencies to move forward. The paper argues further that narrowly targeted funding arrangements assume that social problems are exceptional, as opposed to widespread and even epidemic in some instances. Second, and as a consequence, they assume that exceptional 'treatment' responses are appropriate, as opposed to community-wide healing efforts that are still very much in the developmental stages. Whole communities have been abused by external forces, and intra-community abuse has resulted. Such an epidemiology requires responses different from the narrowly targeted ones called for in the formula. (Hudson and Taylor-Henley 1993)

Eight of 13 of the agency respondents referred to the need for greater emphasis on prevention and/or a healing approach. Six of these referred to these terms specifically in relation to what they considered to be an imbalance between resources allocated to children in care and resources that they thought should be allocated to preventing children from coming into care, such as family violence programs, more sustained programming to combat alcohol and drug abuse, and community development.

Both the content and the application of the formula reflect the exceptional as opposed to a community healing approach. In terms of content, one item, currently a sub-category of the maintenance budget, is called services to families. These services include staff time and payment for concrete support services to families, such as a homemaker or daycare. These funds were capped in 1992, when already these vital preventive services offered to many families represented a very small percentage of the total budget. (In 1992 this amount was

\$278,000, representing about 6 per cent of the total.) The failure to implement that portion of the formula under the heading of socio-economic conditions is another example of the content of the formula falling short of responding to community realities.

Neither does the application of the formula yield a final amount that allows fully for a host of items either already available to or not needed as desperately in the non-Aboriginal system. These include a long-term plan for effective training for staff, community development and other supports for the volunteers in the system, adequate salaries for staff (in Southeast CFS starting salaries for local workers are lower than those for the office janitor), and adequate rates for foster care, which are currently set at provincial rates (northern food alone can cost four times as much as in southern urban areas), or the high cost of obtaining specialized treatment services for children who are seriously damaged. In addition the formula does not yield funds for the developmental costs that are so essential in First Nations communities — development costs for the agency to move ahead with such projects as the standards project, and related developmental activities such as the creation of community-wide healing programs such as that attempted in Hollow Water.

In short, the formula needs to be changed in a number of ways:

- The maintenance budget requires upward adjustment to reflect the true cost of substitute care in these remote communities.⁴
- The services to families portion of what is now the maintenance budget needs to be uncapped and calculated in more generous amounts than at present.
- The socio-economic conditions component of the formula should be implemented. The actual figures used in the calculation of the formula need to be reviewed to accommodate the shortfalls already pointed out.
- A third portion of the formula needs to be added for developmental tasks. The current formula is a status quo formula, and this is its greatest shortcoming. It assumes that the agency is fully formed and fully developed, with only the daily business of protecting children to preoccupy it, whereas the reality is that the agency still faces a number of major political and service delivery issues. These have very little in the way of forward momentum at present.

Federal Policy on Jurisdiction

The federal partner in the arrangements for Southeast CFS is primarily in the role of funder. But the federal government has also taken an active stand on a major policy issue other than financial. It is important to review this stand as part of examining the Southeast CFS and its relationship with the federal partner.

The federal government insisted, during the negotiations leading to the signing of the first agreements and in subsequent policy papers, on two items. One is that all agreements be tripartite. The other is that First Nations agencies be subject to provincial authority. The first is positive. While First Nations agencies have often been reluctant to enter into relationships with the provinces, fearing its implications for their special relationship with the federal government, some kind of relationship has been found to be necessary. The provinces are legitimately an interested party to First Nations affairs and are an affected party to the results of any movement toward self-government, including service delivery control such as in child and family services. As we have seen, the province may chose to facilitate or impede, but it is nevertheless a legitimate stakeholder.

The problematic part of federal policy has been its insistence on tying the policy of tripartism to subjecting First Nations child and family service agencies to provincial authority. This has not wavered since the first circular on the subject. (INAC 1982) The most recent statement on this subject was in a policy document that stated clearly that "principles for agreements affecting child and family services...will be in accordance with provincial legislation." (INAC 1989c) It can only be said that there is no logic in connecting the two policy items. There is some rationale for including the province as an interested party and calling for tripartite agreements. There is no logic in prejudging one major outcome of tripartite negotiations, namely, the nature of the relationship that will evolve and pertain between Indian government and its agencies and the provincial government and its agencies.

As we have seen, the relationship that currently pertains between the province of Manitoba and Southeast CFS is problematic. It is problematic in political terms but also in terms of service delivery, a matter about which all parties ought to be equally concerned. The current relationship inhibits the development, articulation, implementation and evaluation of healing approaches that reflect more appropriately the cultural and socio-economic

circumstances of the communities. When the relationship between the federal government and Southeast CFS is examined, it is clear that the federal party is using its fiscal leverage to support the existing arrangements. It is, oddly, championing provincial rights rather than facilitating movement toward reconceptualizing the relationship.

Interviews and document reviews in connection with this specific project reveal only that the issue of the agency-provincial relationship and federal support for it is one of the more important governance and structural issues facing the agency. They do not reveal the motivation behind the federal policy stance, and this remains a matter of speculation. It does appear, though, that historically, governments have asserted jurisdiction when they stand to gain resources and disavowed jurisdiction when claiming it might result in a drain on resources. In child and family services, the province, while not wishing to say or do anything that challenges its constitutional authority over social services, has been ambivalent about claiming this authority in regard to First Nations people, because it involves a significant resource commitment. It has been a party to existing agreements, because the fiscal responsibilities are minimal, without setting any precedents with regard to its constitutional authority. In contrast, the province of Manitoba was not at all reluctant to claim jurisdiction over gaming when some First Nations communities attempted to use gaming as a generator of revenue. In fact, police action was used to close down the operation in one community. This case is harder to make in regard to the federal government, since it has for the most part accepted its financial obligations for service delivery. The one major area in which this has not been the case, and for which a case can be made, is off-reserve services. Here federal offloading to the province in the name of provincial constitutional authority can be seen clearly.

Regardless of motive, the federal government has maintained that its relationship to Southeast CFS is purely a fiscal relationship. It has no involvement in program issues. Yet in insisting that program issues are ultimately a provincial responsibility, the federal government has indeed influenced program and service delivery.

One possible response to this problem is the passage of legislation to clarify the jurisdictional issue. There are two options here. Southeast CFS could take the initiative and develop its own legislation. This would articulate the principles for child and family services,

outline who should receive service, under what circumstances and in what ways, and mandate an implementation structure, including establishing local committees and some kind of accountability provisions. SERDC would need to endorse it, as would each community. Given current federal policy, it is reasonable to assume that such lengthy effort would be to no avail.

The second option would be the passage of special child and family services legislation at the federal level. This was recommended by the 1993 Task Force report. (Manitoba 1993) Unfortunately, the report was totally silent on the nature and content of such legislation. One presumes that the Task Force was suggesting some kind of brief enabling legislation at the federal level simply recognizing First Nations' jurisdiction, which would then permit Southeast CFS to develop its own legislation without risk of litigation or other challenge.

As early as 1986, reference to the need to develop its own legislation and discussion of plans to do so appear in SECFS documents reviewed for this study. Reference is also made to possible co-operation with other First Nations child and family services. This appears to be linked in people's minds with the project to develop standards. Interviews with staff revealed support for First Nations legislation, with two staff having no opinion. Their reservations, as well as those of others, involved the need for suitable checks and balances, functions now performed by the province.

Both ways of resolving the jurisdictional question are workable. The option involving federal legislation is slower but surer. Neither way could be unilateral and would require some policy decision from the other two levels of government. Interview data suggested that the province of Manitoba might at least not actively oppose such legislation, although it has maintained official silence on the subject. For the federal government, reversal of a policy to which it has so far held firm would be required. Interviews and documents did reveal that the federal rationale has been contained in terse statements concerning the constitutional authority of the provinces. But such authority in relation to First Nations is by no means clear. Interpretation of section 91(24) of the *Constitution Act, 1867*, which refers to federal responsibility for "Indians, and Lands reserved for the Indians", and section 88 of the *Indian Act*, which states that provincial responsibility holds unless mentioned specifically in the Act (social services are not mentioned), as well as additional arguments about treaty rights and

inherent Aboriginal rights, are part of a continuing debate. There has been no closure or absolute certainty on this issue. The constitutional argument used by the federal government as justification for its policy on provincial authority is a weak one. Resolving the issue is more a matter of political will.

Medical Services Branch

In addressing the question of the current relationship between the agency and the federal government and how it could be improved, the role of Medical Services Branch was seen as problematic. Medical Services Branch has been assigned the role of providing health services to status Indian people. Two issues were identified in agency documents and in staff interviews.

One is administrative. The minutes of one meeting express alarm "at the prospect of having to waste scarce resources to comply with cumbersome MSB policies formulated for individuals and not [Indian child and family services] agencies." Staff spoke of frequent disputes between INAC and MSB over which of them is responsible for billings on behalf of status Indian children in care. A Regional Committee minute from 1992 referred to financial losses incurred by the agency caught in the middle of the dispute. One agency should be responsible here, and that is logically INAC, which could recover costs from MSB if it must. Failing this, there appears to be a need for much clearer criteria establishing which arm of government is responsible for what.

The second issue is around control over decisions. Ultimately MSB decides who will get service, and approvals have to be sought from them. The approval is contingent on a referral from a licensed physician. No matter how streamlined the approval process, this removes from staff the ability to control treatment decisions in the best interests of the children assigned to their care. More seriously, MSB controls who provides service. For example, it will not approve billings for service provided by a social worker, but it will approve the services of a psychologist. Most of the First Nations professionals are social workers. Thus the policy virtually excludes billings for services obtained from a First Nations helper.

No progress appears to have been made on these issues, nor does there appear to be a commitment on the part of MSB or INAC to participate in discussions to resolve them.

One Outstanding Issue: Staff Training

The issue of staff training was not intended to be a part of this research. Yet it was referred to so often in the documents and interviews that the study would be incomplete if it omitted comment. It is placed near the end of the paper because it cuts across, more than any of the other issues discussed, the three aspects of government addressed in the study. It involves federal funding responsibilities and provincial funding and constitutional responsibilities. Above all, much of the future direction of the agency, especially its self-governing and its decentralization efforts, depends on the satisfactory resolution of this issue. It is difficult, if not impossible, to transfer responsibility to the communities without skilled staff at the community level. Just one small example is the skill required of staff to support the functioning of the LCCCs.

Human service agencies, as well as other employers, customarily obtain their staff ready-made as graduates of post-secondary education programs offered outside the workplace and paid for mostly from general revenues. Such is not the case with First Nations and other Aboriginal employers. This is true, first, because they rightly want to employ First Nations people as far as possible. Second, in the local communities, even without any positively discriminating hiring policy, the only staff available are First Nations people. Non-Aboriginal people do not have a good record of long-term commitment to the community. Given these two considerations, it remains to be said only that First Nations graduates of the same programs from which non-Aboriginal employers draw their staff are in seriously short supply. This fact has been well documented elsewhere and requires no elaboration here. (See, for example, INAC 1989a and 1989b; Hull 1987.)

A full range of responses, sustained over a considerable number of years, is required to attend to this shortcoming. These should include everything from in-service training to community college certificates, from degree programs to specially designed training programs. Some may require periods of study away from the community; others may be designed in

more decentralized fashion, enabling community-based and part-time study. Content and duration will vary with the needs of the individual and the agency.

There is no space here to expand on these options. The intention of this section is to point out some considerations in planning for training that have been somewhat underplayed in past efforts. These comments are not based on the data collected for this study, which revealed only the importance attached to the issue of staff training, nothing more. Rather the author is drawing on experience gained in personal involvement with two affirmative action degree programs, the delivery of a certificate program to staff of some of the First Nations child and family service agencies, and involvement in a distance education program.

First, it is observed that quite unrealistic expectations are placed on post-secondary institutions and training programs in terms of what they can deliver in what timeframe. For example, a typical middle-class non-Aboriginal student, entering a bachelor of social work program with all the academic prerequisites, takes four years of *full-time* study to complete the degree. This assumes no major financial or other interruptions in the student's program. The First Nations agencies on the other hand depend, at least for most of their local staff, on programs (degree or otherwise) in which *existing staff* can enrol. In other words, assuming half-time work combined with half-time study, it would take each worker/student eight years to complete a degree. Granted, a degree program is at the high end of the training continuum, and some short-cuts and accommodations can be made even in a degree program (practicums in the workplace, for example), but the timeframes and sustained commitment from the agency, employee and funders outlined here far exceed any discussions on the subject of training this author has seen or heard.

Furthermore, the typical student referred to here hardly exists in First Nations communities. Several other unique factors compound the difficulties of completing a training program. First, and again taking a degree program as the baseline example, very few local staff have the usual prerequisites. Completing the necessary remedial work may add yet more time to the study period.

Second, many Aboriginal students enrolled in programs offered by mainstream institutions speak of the difficulties they experience with cultural dissonance. This is

experienced in both the content and the process of instruction. It leads often to withdrawal and, at best, frequent time-outs to deal with their doubts.

All the foregoing can be dismissed as the problems of the mainstream institutions, not the problems of the student. There is indeed some truth in this, despite some small signs of change and accommodation on the part of these institutions. But in the foreseeable future, heavy reliance for trained staff on the mainstream institutions will continue. Planning for the necessary timeframes, staffing patterns and funding will need to be predicated on this fact.

Moreover, not all the difficulties in planning and funding training programs are attributable to the inflexibility of existing post-secondary institutions. Even if a period of apprenticeship with elders and/or a more culturally relevant program at an Aboriginal-controlled post-secondary institution (of which there are few at present) were seen as appropriate, other sorts of crises conspire to disrupt the continuity of the period of study. For the Aboriginal student, more than for other students, the content of the journey of inquiry in human services training is likely to trigger memories of past abuse or other damaging experiences. Education and training at different points can and should be, for some students, as much therapy as they are intellectual inquiry.

When the individuals themselves feel whole and free of crisis in their own identity, they are rarely free of the crises experienced by family members and others close to them. Deaths, births, family violence, suicide, ill-health, job loss, and economic hardship of other kinds are life events, most of a stressful kind, that are experienced more by Aboriginal people than by the typical middle-class student referred to in the earlier example. The individual is expected, and accepts the expectation, to discharge their obligations to assist family in such times.

Add to these elements the usual staff profile of a mature person (usually female), with extensive family responsibilities now combined with those of worker and student, and one begins to appreciate more fully the challenge to the individual, the employer, and the training institution.

All this is verified by experience. In the original tripartite agreement, INAC agreed to fund a two-year in-service training program for all the First Nations CFSS. Astonishingly, it was assumed, apparently by all parties, that this would meet the need for trained workers, and

that this portion of the funding would be a one-time contribution. In the Southeast CFS, which was no exception, nearly 100 per cent turnover of the trainees occurred within the first two years of the training program, giving the lie to such optimism.

Accommodations were made. The program was extended. Courses were modified and repeated for newly hired staff. Some did graduate, and a few continued their employment. Other accommodations have been made beyond the first round of training, and other similar training programs have been implemented from time to time.

This section of the paper concludes with two thoughts. The first is that despite the evidence of flexibility and accommodation mentioned in the preceding paragraph, none of the three parties has developed a serious, long-term training plan that would be commensurate with the degree of importance attached to the issue as indicated in the data from this study. Second, planning for the training programs provided to date has not taken into account very many of the barriers to success listed here. Timeframes need to be planned in more realistic fashion, staffing patterns need to be changed to allow for educational leave at the same time as the agency is obliged to deliver service, and a high level of supports of various kinds need to be provided for students. Where even some of these elements have been present, completion rates have improved markedly. (See, for example, Hull 1987; McKenzie and Mitchinson 1989.)

Conclusion

The Application of this Study

This paper has been based on a case study of Southeast CFS. It suffers from the limitations always inherent in a case study approach, in that for purposes of policy formulation, the question of its applicability to other similar First Nations agencies and other parts of the country is always in doubt. On this subject the following comments are offered:

- Most of the First Nations child and family service agencies have been founded on similar principles and assert a philosophy similar to that of SECFS. Central to this philosophy is respect for community autonomy and community-based programming. All, for example, work through some local committee such as the LCCCs, with a major decision-making role. A few agencies are organized around only one community, such

as the Spallumcheen Band in British Columbia, and Sageeng in Manitoba. Issues inherent in a federated structure would not apply to these agencies, but issues that involve relationships within the community, such as the relationship between the band political structure and the service agency, would still apply. Most of the agencies across the country are organized along tribal council lines in very similar fashion to SECFS.

- Some agencies in other parts of Canada are organized very similarly to SECFS, except in one important respect, which is that they have not been 'granted' full powers under provincial legislation. They are not empowered to apprehend children or effect adoptions or carry out any of the functions normally called statutory functions. Instead they provide family counselling and supervisory functions for children in care and develop local resources to provide general support to families and children. Although these agencies may have avoided some of the issues facing agencies with the broader mandate, in some senses they have even less flexibility and ability to develop culturally appropriate ways of caring for their own children. For example, they cannot exercise discretionary powers when faced with a judgement about whether to remove a child from its parents. These remain with the provincial authority and provincial staff.
- In all other respects, issues of federal and provincial relationships are very similar across Manitoba and indeed across the country. In this regard, it should be noted that some of the documentation reviewed for the sections on provincial and federal relationships were applicable beyond SECFS, and some beyond Manitoba. Any uniqueness arises from the quality of the relationship, more than the way it is structured. In this regard, Southeast CFS and its parent body, SERDC, have chosen a co-operative mode in the relationships as opposed to a confrontational one. Non-Aboriginal government staff have responded in kind, allowing the daily business of operating existing program and provisions for child and family services to carry on. Nevertheless the structural issues have remained never very far from the surface, and we are confident that they are generalizable.

The Jurisdictional Issue in Perspective

Threaded throughout the sections of this paper that address intra- and intergovernmental relationships is the issue of jurisdiction. This includes the maintenance of provincial authority in general, and specifically in the delivery of off-reserve services. The study confined itself to issues of governance, rather than program issues, and it is in this context only that the issue of jurisdiction assumes great importance. This is not to say that resolution of this issue provides a panacea for all the service and program difficulties and challenges facing SECFS or others. Addressing all these issues would have required a much more comprehensive study.

Nevertheless we do conclude that the jurisdictional issues addressed here are not just a matter of political principle, important though this is in its own right. There is an intimate connection with program delivery and the evolution of agency programming and governance. For example, difficulties in managing the natural tensions occurring within the agency structure are compounded by the flow of provincial authority through the Regional Committee, with no formal recognition of the autonomy of the member communities. Moreover, this fact has influenced in major ways the development of program initiatives. Provincial acceptance of its authority has been reinforced by federal policy, and both have contributed equally to the holding pattern in which Southeast CFS finds itself.

Funding

Federal funding formulas have been successful in achieving some equity between agencies. Compared to provincial funding for the non-Aboriginal agencies, it could even be called generous. The formulas and the outcomes of its application still fall short of recognizing the cultural, political and socio-economic realities of the communities. Again, the impact of these shortcomings is ultimately on programs at the community level or, perhaps more accurately, on the development of programs. Provincial funding has remained a very small component of agency budgets, negotiated in an ad hoc manner. Criteria such as those suggested earlier in this paper are required to clarify the provincial role and make it routine.

The Tripartite Structure

There is room and flexibility within the existing system for Southeast CFS to initiate change. Reference was made to these possibilities earlier in this study. Another example might be the need for SECFS vigorously to pursue its standards project. Successful completion would place it in a better position to review options for change within the existing system as well as establish points for negotiating change with the other governments. In fact one of the government officials interviewed stated that it was not always clear what the agency wanted of them — the implication being that if positions were to be articulated more clearly, there would be an openness to change existing arrangements.

In past and current attempts to take its own initiatives, however, with the exception of some goodwill at the staff level within the provincial system, the agency has been largely on its own. More significant, despite the degree of flexibility in the existing system, there are difficulties and limits to the ability of the agency to take major initiatives and move from where it is now into a different future. These difficulties are related in part to funds, but they are also related to other external controls — subject to provincial regulation, accountable to the non-Aboriginal courts, and so forth. This of course has been the characterizing feature of post-contact relationships between Aboriginal people and non-Aboriginal governments. The recent constitutional talks gave promise of a different future. Although they failed, there are no barriers to changing this relationship at the service delivery level — that is, in non-constitutional arenas. Serious movement forward depends on the willingness of the federal and provincial governments, but especially the former because of its trust relationship, to develop more facilitative policies than those now in place. Such movement can occur only as a result of dialogue and negotiations between all three parties to the original agreements. Although the federal government especially has insisted on tripartite agreements, no mechanism that would implement the policy, at either the political or the staff level, has ever been in operation. All discussions are held on a bipartite basis, usually between the agency and one of the other levels of government. Federal and provincial officials are rarely together.

A tripartite mechanism at both the political and the staff level is needed to bring the issues discussed in this study to the negotiating table. Another opportunity to do this now presents itself with the proposed dismantling of INAC in Manitoba. The opportunity should not

be missed. The pressing needs of the families and communities served by Southeast CFS and other similar First Nations agencies demand nothing less.

Notes

1. The First Nations Child and Family Task Force in Manitoba was commissioned in November 1992, as a response to various contentious issues in regard to Aboriginal child and family services in Manitoba. The Task Force consisted of appointees from the Assembly of Manitoba Chiefs and the federal and provincial governments. The Task Force was established to strengthen the quality, management and governance of child and family services for First Nations children.
2. These budget figures were all estimates prepared at year beginning. Year-end actuals, which may have differed from estimates as a result of interim amendments, were not available. Any variations would have applied especially to the child maintenance portion of the budget.
3. All quotations not otherwise attributed (including this one) are from interviews conducted by the author for this study.
4. There were several court cases through the 1980s in which reattachment to the culture of the child versus bonding with an existing non-Aboriginal substitute caregiver was the central issue. In all of these the issue of bonding won the day. One of the more public cases was *Woods v. Racine*, County Court of Killarney, Province of Manitoba, May 1982. This case went all the way to the Manitoba Court of Appeal, where it was again dismissed in December 1982.
5. As this report was nearing completion, Manitoba's minister of family services announced an 83-per cent reduction in foster care rates, where the child is placed with extended family. It remains to be seen how the federal government will respond to this measure, but if it stays with its existing policy of using provincial maintenance rates as its guide to allocations to First Nations agencies, it will follow suit. Southeast CFS and other First Nations agencies rely heavily on extended family to provide substitute care, both out of necessity and from a strong belief in its cultural appropriateness.

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**Politiques et programme : étude de cas sur un organisme
de services à l'enfant et à la famille des Premières nations**

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Sommaire

La présente étude de cas d'un organisme de services à l'enfant et à la famille des Premières nations constitue l'une des trois études qui ont été commandées par la Commission royale sur les peuples autochtones (CRPA). L'ampleur de l'étude et la méthode utilisée diffèrent d'une étude à l'autre; toutefois, les objectifs étaient analogues. Ces objectifs étaient d'aider la CRPA à présenter des recommandations au gouvernement fédéral sur les politiques relatives aux services à l'enfant et à la famille autochtones et à faire connaître le résultat des études à d'autres organismes autochtones dans l'espoir qu'il y ait suffisamment de ressemblances pour que l'expérience des uns puisse profiter aux autres. En outre, on a cherché à inclure dans le présent rapport des éléments susceptibles d'aider particulièrement l'organisme visé, en l'occurrence les Southeast Child and Family Services (SECFS). On a jugé que cet organisme était assez typique pour que les deux premiers objectifs puissent être atteints à l'aide de l'approche retenue.

Dans le cadre de l'étude, on s'est intéressé uniquement aux questions liées à la fonction gouvernementale et aux structures. L'étude a été divisée en trois parties : la gestion interne de l'organisme, les liens structurels entre l'organisme et la province et les liens structurels entre l'organisme et le gouvernement fédéral. On n'a pas cherché à évaluer les caractéristiques de l'exécution des programmes, bien qu'on ait constaté que certains aspects des relations intergouvernementales avaient une incidence sur les programmes.

En ce qui a trait à la gestion interne, l'élément commun est une solide adhésion à des principes qui prônent des programmes communautaires et l'autonomie des collectivités, combinés à une structure régionale sur le plan de la gestion et de l'administration. Les rôles respectifs de la collectivité et de la région sont en équilibre précaire et ils doivent constamment être rajustés. Le système offre tous les avantages d'un système fédéré, mais il comporte également certaines pressions inhérentes à un tel système. Une autre partie de la structure qui doit sans cesse être revue et modifiée est la relation qui existe entre le gouvernement indien, représenté par le conseil tribal et la bande, et les structures régionale et locale de prestation de services de l'organisme.

On a relevé cinq questions liées à la complexité de cette structure : les communications, la formation, la responsabilité et l'autorité, la décentralisation et le rôle central des comités locaux dans la prise de décision concernant les cas et les politiques (les comités locaux de prise en charge des enfants). Toutes ces questions sont intimement liées. En particulier, on a constaté que la gestion de ces questions dépendait en grande partie du fonctionnement des comités locaux, qui n'avaient pas totalement respecté leur promesse. Une des faiblesses de ces comités est qu'ils ne reçoivent aucun soutien d'un personnel qualifié.

Les relations de l'organisme avec le gouvernement provincial du Manitoba, au niveau du personnel, ont été variables, mais elles se sont améliorées avec le temps grâce à l'établissement de liens personnels et à une meilleure compréhension des besoins et des priorités de chaque partie. C'est lorsque l'organisme a fait des demandes de financement et que la décision de rejeter les demandes a été prise au niveau politique que les relations ont été problématiques. L'exemple le plus significatif est lorsque la province a refusé d'accorder des fonds à l'organisme pour qu'il puisse élaborer un code de normes à la suite de consultations communautaires intensives. L'élaboration de ce code aurait constitué une étape importante vers la mise en oeuvre de pratiques adaptées à la culture autochtone.

La question qui s'est avérée la plus problématique est celle de la compétence. Il s'agit encore là d'une question politique. Le gouvernement provincial «délègue» ses pouvoirs à l'organisme de la même manière qu'il le fait pour les autres organismes sans but lucratif qui dispensent des services à l'enfant et à la famille en son nom en vertu de la *Loi sur les services à l'enfant et à la famille*. Non seulement cette question est un continuel affront aux aspirations des Premières nations à l'autonomie gouvernementale, mais nous avons constaté que le fait de devoir respecter la loi, les règlements et les directives connexes empêche l'organisme d'élaborer ses propres pratiques, qui seraient plus adaptées aux valeurs culturelles et aux conditions socio-économiques des collectivités.

Le rôle principal du gouvernement fédéral dans le système est de fournir des fonds pour le fonctionnement de l'organisme et l'entretien des enfants. À cet égard, le mécanisme de financement a réussi à réaliser une certaine équité et une certaine mesure de prévisibilité. On peut même le qualifier de généreux lorsqu'on le compare au financement accordé par la province aux organismes non autochtones. La principale critique que l'on formule à l'égard de

ce mécanisme de financement est qu'il permet uniquement de répondre de façon ponctuelle à des problèmes exceptionnels et qu'il ne permet pas de mettre en place des solutions de guérison à des problèmes qui sont répandus dans toute la collectivité. On reproche aussi au gouvernement fédéral de ne pas prévoir, dans son mécanisme de financement, de sommes pour les activités d'expansion, en particulier pour la formation du personnel.

Résumé des recommandations

Les recommandations qui suivent sont tirées du texte du rapport. Elles ne sont pas reprises sous forme résumée dans le texte.

Recommandations aux SECFS

- Le comité régional doit continuer à insister pour qu'il y ait des communications et des rapports réguliers entre les différentes composantes du système. En outre, il faut donner systématiquement des séances d'orientation aux personnes qui auront un rôle de liaison à jouer dans le système, en particulier aux membres des comités régionaux, qui devront transmettre de l'information aux comités locaux, et aux conseillers chargés du dossier, qui devront transmettre de l'information au chef et au conseil.
- L'orientation ne doit pas être limitée à une seule activité; elle devrait aussi comprendre des séances d'information sur les questions et les événements importants qui se produisent. À cet égard, le personnel de supervision devrait avoir la responsabilité de compléter et d'appuyer les comptes rendus fournis par les bénévoles du système.
- Certains membres du personnel devraient se consacrer à bâtir un ensemble de précédents à partir de ces questions et événements dans le but de commencer à établir des lignes directrices et des normes pour la prise de décisions par les comités locaux, et ceci afin qu'à moyen terme, aucune décision ne soit considérée comme exceptionnelle et unique, même si chaque situation comporte certaines caractéristiques particulières. Voici les éléments que pourraient contenir ces lignes directrices :
 - les circonstances dans lesquelles un enfant peut être retiré de sa famille;
 - les façons de procéder pour retirer un enfant de sa famille;
 - les contacts ultérieurs des parents et d'autres membres de la famille avec l'enfant;

- les plans à long terme pour l'enfant;
- une hiérarchie de priorités pour la planification à long terme.
- Il faudrait s'efforcer de maintenir un processus décisionnel fondé sur le consensus. Un comité indépendant composé de personnes respectées de la collectivité devrait être établi pour arbitrer tout désaccord qui ne peut être résolu au moyen des mécanismes en place.
- Il faudrait s'efforcer de décentraliser l'autorité et le processus décisionnel dans la mesure du possible. En même temps, il y a des avantages évidents à maintenir une structure régionale.
- Il faudrait affecter des fonds ou réaffecter des ressources pour fournir un soutien du personnel aux comités locaux. Ces comités ne peuvent remplir le rôle central qui leur a été assigné dans le système sans ce soutien. En même temps, chaque comité local devrait examiner les options qui lui sont proposées par le personnel pour s'acquitter de ses obligations et maintenir ses droits de façon plus efficace. Par exemple, la formation pourrait, avec l'aide du personnel qualifié, être liée à des décisions qui doivent être prises sur des problèmes actuels plutôt que donnée dans le cadre d'un atelier sur un sujet spécial.

Recommandations à la province du Manitoba

- Au niveau politique, il faut réexaminer l'autorité du gouvernement provincial sur les enfants des Premières nations. Cette question de compétence s'applique aux services dans les réserves et à l'extérieur des réserves. En même temps, ou entre-temps, le personnel de la province pourrait coopérer avec les SECFS pour examiner les obstacles qui résultent directement de l'application de l'autorité provinciale, dans le but d'apporter des changements à court terme aux règlements ou aux lois afin de favoriser les pratiques adaptées à la culture autochtone.
- Les fonctionnaires provinciaux, et en bout de ligne le Cabinet, devraient collaborer avec le personnel de l'organisme pour élaborer des critères plus clairs sur les responsabilités financières de la province.

Recommandations au gouvernement du Canada

- Il faudrait modifier le mécanisme de financement actuel. Certains objectifs importants sont déjà atteints, comme la prévisibilité et l'équité. Il reste maintenant à mettre en place un modèle «universel» ou holistique pour remplacer le modèle actuel qui est fondé sur des situations «exceptionnelles». Le modèle holistique est plus adapté aux conditions culturelles et socio-économiques des collectivités des Premières nations.
- Le même modèle semble être en vigueur à la Direction générale des services médicaux. Le MAINC devrait s'occuper de toutes les factures actuellement traitées par la DGSM afin qu'il n'y ait plus deux ensembles d'exigences à respecter. En outre, la Direction générale devrait modifier son processus d'approbation, ainsi que les règlements qui limitent les prestataires de services que l'on peut choisir.
- On ne sait pas exactement si ce sont les cadres supérieurs ou le Cabinet qui insistent pour que la province détienne l'autorité. En bout de ligne, toutefois, cette politique est la responsabilité du gouvernement en place, et celui-ci devrait la réviser.

Recommandations à toutes les parties

- Les trois parties ont des besoins de formation qui sont particuliers aux organismes des Premières nations. Ces besoins sont persistants et pressants, et il n'est pas facile de les combler. Il devra y avoir des discussions tripartites afin d'élaborer un plan à long terme pour combler ces besoins. Le plan devra tenir compte des difficultés particulières mentionnées dans le présent rapport et il faudra reconnaître que la formation est un besoin continu.
- La plupart des recommandations qui précèdent seront difficiles, sinon impossibles à mettre en oeuvre si les trois parties ne s'engagent pas à créer un mécanisme qui permettra d'engager des discussions sérieuses et soutenues sur les questions en suspens abordées dans le présent rapport. Par conséquent, la création d'un comité tripartite au plus haut niveau est recommandée.

Politiques et programme : étude de cas sur un organisme de services à l'enfant et à la famille des Premières nations

par Pete Hudson

Contexte

La Commission royale sur les peuples autochtones (CRPA) a décidé d'entreprendre une recherche sur les services autochtones à l'enfant et à la famille au Canada. L'approche qui a été retenue pour cette recherche est l'étude de cas. On a donc sélectionné trois organismes dont l'expérience pourrait servir de modèle aux autres collectivités des Premières nations. Les Southeast Child and Family Services (SECFS) sont l'un des organismes qui ont été choisis.

Les études de cas devaient être utilisées de deux façons :

1. pour aider la CRPA à présenter au gouvernement des recommandations sur les services à l'enfant et à la famille des Premières nations;
2. pour faire connaître les résultats de l'examen, soit sous leur forme originale, soit sous la forme d'un document d'orientation, à d'autres collectivités, organismes de services et organismes politiques autochtones.

Les SECFS, quant à eux, espéraient que cet examen leur fournirait l'occasion d'évaluer les possibilités et les contraintes de l'organisme et de planifier les changements nécessaires dans les domaines qui sont abordés dans le présent rapport. Cette étude tombait à point, puisque l'organisme devait analyser les recommandations formulées par un groupe de travail qui avait été chargé de faire une étude peu avant, et y donner suite (Manitoba, 1993¹).

Sélection

Voici les critères qui ont été utilisés pour choisir les trois organismes qui allaient faire l'objet de l'examen :

- La mesure dans laquelle l'organisme pouvait être considéré comme «typique», c'est-à-dire les possibilités d'appliquer les résultats de l'étude à d'autres organismes des Premières nations. Il y a au Manitoba sept organismes reconnus de services à l'enfant et à la famille des Premières nations, qui sont reconnus et qui desservent les 61 collectivités des Premières nations, sauf une. Cette dernière est desservie par un

organisme des Premières nations non reconnu. La ville de Winnipeg est desservie par un organisme non reconnu offrant des services aux Indiens sans distinction de statut. Tous les organismes, sauf celui de Winnipeg, sont parmi les premiers au Canada qui ont été créés en vertu d'ententes tripartites officielles. Depuis, ce modèle a été adopté dans d'autres régions du Canada.

- Tous les organismes choisis ont plus de 10 ans d'expérience de travail dans le cadre de ce modèle.
- Les SECFS possèdent en outre les caractéristiques suivantes :
 - ils ont des liens avec l'auteur du présent rapport;
 - ils sont déterminés, en tant qu'organismes, à déployer des efforts en matière de recherche et d'évaluation, et ils ont toujours accordé leur soutien aux activités de recherche et d'évaluation;
 - ils ont la réputation, tant dans les collectivités autochtones que dans les collectivités non autochtones, d'essayer de fonctionner à l'intérieur du modèle tout en sachant être critiques à l'égard de celui-ci.

Ampleur de l'examen et méthode utilisée

À l'origine, l'étude préconisée était beaucoup plus ambitieuse que celle qui a été entreprise par la suite. On avait prévu d'utiliser un processus pleinement participatif qui couvrirait toutes les questions liées aux services et à la fonction gouvernementale et de mettre à contribution toutes les collectivités membres. Ni le temps ni les fonds n'ont permis de mettre en oeuvre un projet d'une telle envergure. L'étude de cas a donc été axée uniquement sur les questions liées à la fonction gouvernementale. On a divisé cette étude en trois composantes : les structures internes et les relations entre les différents éléments du système (par exemple entre les collectivités locales et la structure régionale), la structure et la qualité des relations entre l'organisme et le gouvernement provincial et, enfin, la structure et la qualité des relations entre l'organisme et le gouvernement fédéral. L'objectif visé était de voir comment ces relations avaient évolué avec le temps, de déterminer quelles questions restaient en suspens, de constater ce que l'organisme faisait à propos de ces questions, et de voir quels genres de modifications pourraient être apportées. On n'a pas cherché à évaluer la qualité de l'exécution

des programmes, mais on a tout de même essayé de voir quelle incidence globale avaient les relations internes et externes sur cet élément.

La méthode a également été plus modeste et traditionnelle (pas au sens autochtone du terme) qu'on ne l'avait prévu. Des consultations sur le projet ont été menées auprès du conseil d'administration et des cadres supérieurs, de qui on a obtenu une approbation et un engagement de participer à l'étude. On a convenu qu'en raison des nombreuses tâches quotidiennes de l'organisme et de ses fonctions de prestation de services, et pour que l'organisme n'ait pas l'impression de faire l'objet d'une étude trop exhaustive, il fallait opter pour la méthode qui soit la moins gênante possible. Ainsi, on a choisi un processus de collecte de données en deux étapes.

La première étape consistait en un examen de la documentation. Voici les documents qui ont été examinés :

- Procès-verbaux des comités régionaux, de 1985 à 1993 (61 documents)
- Procès-verbaux des réunions de la direction, de 1988 à 1994 (69 documents)
- Procès-verbaux des réunions du personnel, de 1986 à 1993 (15 documents)
- Examen des Southeast Community Services, 1990
- Documents de planification de l'organisme, de 1987 à 1991 (2 documents)
- Correspondance de la Direction générale des services à l'enfant et à la famille, de 1986 à 1990 (15 documents)
- Rapports annuels de l'organisme, de 1985-1986 à 1991-1992
- Examen provincial, 1993
- Entente auxiliaire sur les services de la protection de l'enfance du Manitoba, 1983
- Entente Canada-Manitoba sur les services de la protection de l'enfance (entente-cadre), 1982
- Rapport du Groupe de travail sur les services à l'enfant et à la famille des Premières nations, 1993
- Ententes de financement global (fédéral), 1992

Ce sont tous les documents qui ont été mis à la disposition des chercheurs et qui ont été jugés pertinents pour l'objet de la recherche. Il n'a pas été nécessaire de procéder à un échantillonnage. On a examiné tous ces documents pour en extraire les données qui pourraient aider à comprendre les trois composantes de l'étude. Toutes les données jugées utiles ont été relevées et classées en trois catégories, ainsi qu'en sous-catégories pour faciliter l'analyse qualitative ultérieure.

Pour la deuxième étape de la collecte des données, on a réalisé 17 entrevues avec des informateurs clés sur les trois mêmes séries de questions. Quatorze des répondants étaient associés à l'organisme : membres des comités régionaux, cadres supérieurs, personnel de supervision et agents régionaux. Les autres étaient des fonctionnaires de la Direction générale des services à l'enfant et à la famille de la province et du bureau régional du ministère des Affaires indiennes et du Nord canadien (MAINC).

Lorsqu'on a choisi les membres du personnel de l'organisme qu'on allait interroger, la question de l'accessibilité s'est avérée importante. En effet, les fonds alloués à l'étude ne permettaient pas de couvrir les frais des déplacements vers les collectivités pour rencontrer le personnel local. Pour cette raison, tous les répondants de l'organisme ont été choisis parmi le personnel professionnel et administratif faisant partie de la structure régionale. Soulignons que les personnes travaillant au bureau central des SECFS sont bien placées à titre d'informateurs clés compte tenu du fait que l'étude porte sur la fonction gouvernementale. Beaucoup plus que tous les agents ou clients locaux, elles doivent travailler chaque jour dans le cadre du modèle tripartite. Ce sont elles qui sont le plus souvent appelées à établir la liaison avec les fonctionnaires provinciaux et fédéraux. En outre, elles connaissent toutes une ou plusieurs des collectivités à l'égard desquelles elles exercent des responsabilités de supervision ou autres. Quant aux fonctionnaires provinciaux et fédéraux, ils ont été choisis en raison de leurs tâches de liaison avec les SECFS et les autres organismes de services à l'enfant et à la famille des Premières nations du Manitoba.

On n'a pas cherché à établir un échantillon des membres du personnel de l'organisme qu'on allait interviewer. On a fait une entrevue avec tous ceux qui pouvaient se libérer. Trois membres du personnel n'étaient pas disponibles. On n'a consigné aucune donnée démographique sur les répondants, par exemple leur âge, leur sexe ou leurs états de service. On a simplement noté leur rôle au sein de l'organisme, mais on en a peu parlé dans le rapport par souci de confidentialité.

Historique des SECFS

Avant 1983, les collectivités du Sud-Est recevaient des services très limités de la société d'aide à l'enfance de l'est du Manitoba et du bureau du gouvernement provincial situé à

Eastman. Au cours de l'année 1981, des agents d'exploitation des ressources ont mis sur pied l'infrastructure qui allait donner naissance aux SECFS. En février 1982, l'entente Canada-Manitoba sur les services de protection de l'enfance a été signée. Une entente auxiliaire a été conclue en avril 1982 entre le Southeast Resource Development Council (SERDC), le gouvernement provincial et le ministère fédéral des Affaires indiennes. Une année plus tard, en avril 1983, les SECFS ont reçu leur mandat en vertu de la *Loi sur la protection de l'enfance* du Manitoba de 1974. Conformément aux clauses de ces ententes, le gouvernement provincial consentait à confier des pouvoirs exécutifs à un organisme qui serait établi par le SERDC, et le gouvernement fédéral acceptait de financer ce nouvel organisme.

Il s'agit en l'occurrence de l'organisme qui fait l'objet du présent rapport, les SECFS, qui exerce ses activités depuis 1982 et qui, depuis 1983, est autorisé à offrir des services de protection de l'enfance et de soutien à la famille à la population de neuf collectivités des Premières nations situées dans le sud-est du Manitoba et membres du SERDC. Ces collectivités sont dispersées sur un vaste territoire, plusieurs d'entre elles étant situées sur la rive est du lac Winnipeg, ou à proximité. Il s'agit des bandes de Berens River, de Bloodvein, de Buffalo Point, de Poplar River, de Hollow Water, de Black River, de Little Grand Rapids et de Pauingassi, ainsi que de la bande ojibway de Brokenhead. Cinq de ces collectivités ne sont accessibles que par avion pendant presque toute l'année. La collectivité la plus éloignée est celle de Poplar River, située à 300 km de vol de Winnipeg. La plus rapprochée est Brokenhead, à une heure de route seulement.

D'après le Programme des effectifs des bandes du MAINC, la population a connu une croissance importante depuis 1983. Cette année-là, le nombre de membres des bandes desservies par le SERDC s'élevait à 4 781 dont 3 307 (70 %) vivaient dans des réserves et 1 213 (25 %) à l'extérieur des réserves (les statistiques sur les terres de la Couronne ne sont pas comprises). La population des jeunes âgés de moins de 18 ans s'élevait à 2 520 (53 % de la population totale des bandes). Parmi ces jeunes, 1 730 (69 %) vivaient dans des réserves et 656 (26 %) à l'extérieur (les statistiques sur les terres de la Couronne ne sont pas comprises). Pour l'année 1992, la population totale des bandes était de 7 498 membres, dont 4 644 (62 %) habitaient dans des réserves (à l'exclusion des terres de la Couronne) et 2 761 hors des réserves (37 %). En 1992, la population des jeunes s'élevait à 3 452, soit 46 % de la

population totale des bandes. Parmi ce nombre, 2 238 (65 %) jeunes habitaient dans des réserves et 1 175 (34 %) hors des réserves.

Les statistiques que possède le Ministère ne coïncident pas toujours avec celles des bandes. Ces chiffres sont donnés à titre indicatif pour guider le lecteur et doivent être considérés comme approximatifs. Toutefois, il est utile de souligner la proportion élevée d'enfants et le nombre relativement élevé de membres des bandes qui habitent hors réserve.

Parallèlement à la croissance de la population et au transfert graduel des responsabilités et des dossiers du gouvernement provincial, les SECFS ont connu une croissance rapide au cours de leurs 10 premières années d'activité. En 1983, le budget annuel était constitué uniquement d'une subvention de fonctionnement et s'élevait à 702 018 \$. En 1987, le budget comportait des fonds pour l'entretien des enfants pris en charge ainsi qu'une subvention de fonctionnement. Pour cet exercice, le budget s'élevait à 2 372 248 \$, dont 1 276 222 \$ constituaient le budget de fonctionnement. En 1993, la dernière année où les chiffres sont disponibles, le budget annuel total s'établissait à 5 916 494 \$, dont 2 134 114 \$ constituaient le budget de fonctionnement².

La croissance de l'effectif n'a pas été aussi rapide que celle du budget. En 1983, le nombre d'employés était de 28; il est passé à 38 en 1993. Voilà qui confirme que la grande proportion de la croissance du budget est due aux coûts d'entretien des enfants; cette constatation est renforcée par l'examen des statistiques sur les enfants pris en charge — le seul indicateur dont on dispose sur la charge de travail. Le 31 décembre 1984, l'organisme avait à sa charge 43 enfants. En 1987, ce nombre atteignait 160, et au 31 mars 1993, 257.

Les SECFS demeurent toutefois un organisme sans but lucratif relativement modeste, qui a subi les tensions provoquées par une expansion rapide. L'organisme dessert une population rurale et nordique largement dispersée; il fournit également des services limités à ses membres qui habitent Winnipeg, où se trouve également son bureau régional. Il a été impossible d'obtenir rapidement les indicateurs socio-économiques propres à cette population, mais celle-ci est représentative de la population autochtone canadienne, dans laquelle on retrouve des taux élevés de chômage, de faibles revenus familiaux, une certaine dépendance à l'égard des activités de subsistance comme la pêche et le piégeage, des niveaux de scolarité inférieurs à la moyenne canadienne, ainsi que des taux élevés de violence familiale et d'autres

manifestations de malaise social. La population des jeunes de moins de 18 ans, le sous-groupe qui intéresse le plus l'organisme, représente une proportion particulièrement élevée de la population totale. Ainsi, 43 % de la population desservie par les SERDC est âgée de moins de 19 ans, ce qui représente un taux de loin supérieur à la moyenne canadienne évaluée à 28 % en 1991 (MAINC, 1989d).

Organisation interne

Description

L'organisation interne des SECFS est complexe pour un organisme social relativement petit. Cette complexité n'est pas le résultat d'une inefficacité ou d'une mauvaise planification. Elle découle en partie de forces et de relations externes. En bref, elle découle des mesures qui régissent tout gouvernement des Premières nations en vertu de la *Loi sur les Indiens* et de la nature des relations entre l'organisme et la province du Manitoba qui ont été établies dans la première entente-cadre tripartite sur la prestation des services à l'enfant et à la famille par les Premières nations. Ces facteurs externes seront examinés en détail dans les sections qui suivent. En outre, on peut aussi attribuer la complexité de l'organisation des SECFS à une mise en oeuvre délibérée des principes et des objectifs de l'organisme.

L'instance suprême qui chapeaute l'organisme est le Southeast Resource Development Council (SERDC). Il s'agit d'une entité composée des chefs de chacune des neuf collectivités affiliées au Conseil. Cette entité constitue l'instance politique, alors que les SECFS ont pour tâche de dispenser des services de protection aux enfants et des services d'aide aux familles dans ces collectivités. En pratique, la responsabilité de la gestion de l'organisme incombe au comité régional (CR). Celui-ci est composé d'un représentant de chacune des neuf collectivités. Le directeur exécutif de l'organisme et le chef du portefeuille au SERDC siègent d'office au comité, sans droit de vote. Normalement, quelques cadres supérieurs assistent aussi aux réunions du comité à titre de personnes-ressources, mais ils n'ont pas non plus le droit de vote. Le comité régional possède les mêmes fonctions que le conseil d'administration d'un organisme social sans but lucratif; il discute des questions stratégiques politiques et administratives, et il possède des pouvoirs décisionnels dans les deux cas. Des comptes rendus sont transmis périodiquement au SERDC par le chef de portefeuille. En général, ces comptes

rendus sont accueillis par le Conseil à titre d'information, sauf quand il s'agit de questions financières importantes comme l'approbation des prévisions budgétaires annuelles.

Une autre partie de la structure organisationnelle comprend les comités locaux de prise en charge des enfants. Ces comités oeuvrent au niveau communautaire et font partie intégrante du système dont ils constituent un élément central. Les membres de ces comités sont principalement des bénévoles, bien que certains soient des prestataires de soins rémunérés. Le processus de nomination des membres diffère d'une collectivité à l'autre. Par exemple, dans une des collectivités, les membres sont nommés par le Chef et le conseil de bande, mais cette nomination n'est confirmée qu'après avoir été ratifiée à une réunion du conseil de bande. Dans d'autres collectivités, le personnel des SECFS recrute les personnes qui sont désireuses d'offrir leur contribution. Dans certaines collectivités, la durée du mandat des membres est limitée; dans d'autres, le mandat peut être de durée indéfinie. Les attributions des comités locaux consistent à se pencher sur toutes les questions touchant la protection de l'enfant et le soutien à la famille dans la collectivité. La plupart des réunions portent sur la planification des cas, l'approbation de familles d'accueil, etc.; à l'occasion, on y discute de questions de méthodes et de principes et des besoins de la collectivité.

Les comités locaux sont liés à la structure de gestion de deux façons. D'une part, c'est toujours un membre du comité local qui représente la collectivité au comité régional. Il y a ainsi un lien direct entre la structure locale et la structure régionale. D'autre part, le conseiller responsable du dossier siège d'office au comité local et il établit la liaison entre le comité local et le chef et le conseil communautaire.

Le Southeast Resource Development Council, le comité régional des SECFS, les comités locaux, ainsi que le chef et les conseillers de chaque collectivité constituent les quatre composantes de la structure politique ou bénévole de l'organisme. Au niveau exécutif, on retrouve un directeur exécutif ainsi que deux types de cadres supérieurs qui travaillent au bureau régional : du personnel de supervision, qui est responsable de superviser le travail du personnel au niveau communautaire, et des spécialistes régionaux, qui s'occupent particulièrement des dossiers spéciaux comme le placement et les cas de violence à l'égard d'enfants. Les agents régionaux, qui ont été engagés pour la plupart des collectivités, mais non pour toutes, servent d'intermédiaires entre les agents locaux et la structure régionale. Ces

agents passent de 3 à 4 jours par semaine dans la collectivité à laquelle ils sont affectés, mais ils ne sont pas des résidents permanents comme le sont les deux ou trois agents locaux qui sont engagés pour effectuer le travail de première ligne dans leur collectivité. La figure 1 donne une idée de la structure de l'organisme et des liens entre les diverses composantes.

Figure 1

/ STRUCTURE ORGANISATIONNELLE DES SECFS

SERDC

Chef de portefeuille

Comités régionaux

Directeur exécutif

Personnel de supervision

Coordonnateur des programmes

Chef et conseil

Agents régionaux - Agents locaux

Comités locaux

Conseiller responsable du dossier

Tous les chefs

Représentants de toutes les collectivités

liens non officiels

liens officiels

Raison d'être et évolution de la structure

La plupart des composantes de la structure actuelle sont en place depuis la création de l'organisme il y a 12 ans. Au début, le comité régional était l'unique instance décisionnelle. Le lien entre le comité régional et le SERDC était officieux et occasionnel. Un lien officiel en la personne du chef du portefeuille a été établi il y a environ cinq ans. L'autre type de changement qui s'est produit au cours de l'évolution de l'organisme ne concerne pas sa structure même, mais le vocabulaire utilisé pour décrire cette structure. D'après les documents examinés, le SERDC n'a commencé à affirmer son autorité ultime qu'à la fin des années 80. En 1990, les SECFS étaient considérés avant tout comme une institution du gouvernement indien du Sud-Est. En 1992, les pouvoirs du comité régional des SECFS en matière de politiques et de gestion ont été décrits comme étant des pouvoirs «délégués» par le SERDC.

Une partie des raisons qui expliquent la création de ces deux instances est déjà implicite. L'instance politique exige au moins d'être informée et, au mieux, elle conserve son autorité suprême sur toutes les questions qui se trouvent dans son champ de compétence, ce qui inclut légitimement les services à l'enfant et à la famille. L'usage du terme «responsabilité déléguée» constitue probablement le meilleur compromis qui puisse être atteint entre les droits du gouvernement indien et la prudence d'une relation d'égal à égal avec un organisme de prestation de services. Cette relation d'égal à égal entre le comité régional et le SERDC est aussi maintenue grâce au respect que témoigne généralement le SERDC pour les décisions prises par le comité régional et grâce au soin qu'il met à éviter d'utiliser ce qu'on pourrait appeler son droit de veto. De plus, les membres du comité régional ne peuvent en principe être chefs ou membres du conseil de bande de leur collectivité. Cette règle a été contournée à l'occasion, mais toujours pour une bonne raison et lorsque l'intégrité de la personne en cause était une garantie suffisante de l'absence de conflit d'intérêts.

Le principe de base de la composition du comité régional réside dans le paradoxe du gouvernement indien. Le SERDC est une fédération de collectivités autonomes des Premières nations qui ont en commun leur situation géographique, leur histoire et leur culture. C'est également le cas pour les SECFS. Même si le SERDC est organisé à l'image d'un conseil tribal, on essaie de respecter l'autonomie de chaque collectivité. Ainsi le comité régional n'est pas tant considéré comme l'autorité suprême qui chapeaute les autres instances, comme ce

serait le cas pour le conseil d'administration d'un organisme non autochtone sans but lucratif, mais plutôt comme une coalition de collectivités. D'après les principes que l'on défend, l'autorité va du bas (la collectivité) vers le haut, et non l'inverse. Il s'agit donc strictement d'un comité composé de représentants de toutes les collectivités, chacune des collectivités ayant la même importance.

Les principes qui sous-tendent les comités locaux prônent l'autonomie totale des collectivités. On s'appuie sur deux prémisses. La première est fondée sur la qualité des services : on estime que les décisions prises localement sont généralement supérieures aux décisions prises à un niveau plus éloigné. Les membres des comités locaux connaissent la collectivité, les familles, les enfants à risque et les ressources locales. La deuxième prémisses est politique : chaque collectivité est autonome. Les intérêts locaux et l'autonomie gouvernementale se sont partiellement fondus dans la structure régionale, mais les droits à l'autonomie gouvernementale au niveau local n'ont pas été abandonnés. Plus de la moitié des informateurs clés ont parlé de ces deux prémisses pour expliquer le rôle des comités locaux dans le système et tous ont fait mention d'au moins une de ces prémisses. Divers passages des documents qui ont été examinés reprennent ce thème et contiennent des expressions comme «services communautaires» et «contrôle local».

La place centrale qu'occupent les comités locaux dans la structure n'a pas changé depuis la création de l'organisme. Les documents consultés et les entrevues réalisées auprès des informateurs clés confirment que l'importance des comités locaux a toujours été maintenue.

La relation entre la composante politique et la composante prestation des services au niveau local est le reflet presque exact de la relation qui existe entre la fédération des chefs et les SECFS au niveau régional. Le conseiller responsable du dossier agit comme intermédiaire entre le comité des bénévoles, qui s'occupe de la prestation des services à l'enfant et à la famille, et les politiciens élus au niveau communautaire. Le vocabulaire utilisé pour décrire ce lien a également évolué de la même façon. Par exemple, dans un des documents examinés, daté de 1984, on a utilisé l'expression «responsabilité déléguée» pour décrire la relation qui existait entre le chef et le conseil et le comité local. Cette délégation de responsabilité était

apparemment sanctionnée par une résolution officielle du conseil de bande de chaque collectivité.

Avec le temps, on a effectué des changements au niveau de l'effectif de l'organisme, et ce à deux égards. D'une part, on a apporté des changements qui s'imposent en raison des responsabilités qui ont été transférées à l'organisme par la province, et aussi en raison de l'accroissement de la demande de services. Par exemple, on a engagé quelques spécialistes au bureau central. D'autre part, on a apporté des changements pour renforcer la capacité des collectivités de dispenser des services. Le principal changement à cet égard a été l'embauche d'agents régionaux pour cinq des collectivités.

Questions liées à la complexité de la structure

Communications

Différentes questions sont liées à la complexité de la structure organisationnelle des SECFS. Regardons d'abord la question des communications. Comme on peut le voir à la figure 1, les comités locaux à eux seuls ont des liens avec au moins cinq entités; le comité régional, avec au moins quatre. Les documents qui ont été examinés abondent en commentaires sur la rupture des communications entre les parties. Comme on pouvait s'y attendre, la majorité de ces commentaires concernent la section «bénévole» de l'organisme. Les plaintes sont nombreuses : elles concernent parfois un événement particulier, comme le fait de ne pas être informé de la tenue d'une réunion ou des résultats d'une réunion (ou de plusieurs réunions — «nous ne sommes pas au courant de ce qui se passe au comité régional»), ou des événements plus généraux, comme les chefs qui déplorent leur manque de connaissance des services à l'enfant et à la famille, ce qui est aussi l'opinion du personnel. Certaines de ces préoccupations sont ponctuelles, comme lorsqu'une collectivité est représentée au comité régional par une personne irresponsable ou indigne de confiance; d'autres sont plus systémiques, comme la difficulté de faire circuler l'information de façon régulière à toutes les parties intéressées dans un système si complexe. On a mentionné souvent la question de la rotation du personnel, qui aggrave les difficultés. Le roulement du personnel a quelque peu diminué ces dernières années. Dans une moindre mesure, il en a été de même dans les comités locaux. Les élections qui ont lieu tous les deux ans pour les postes de chef et de

conseillers entraînent automatiquement une certaine rotation des politiciens, et il y a également une rotation des représentants au comité régional, même si le représentant demeure membre du comité local.

Formation

La demande accrue de formation est un autre thème qui a souvent été abordé au cours de la vie de l'organisme. Là encore, cette question recouvre de nombreux éléments. Elle est liée à la question des communications en ce sens que certaines personnes réclament une formation qui s'apparente davantage à des séances d'orientation. La formation concerne le plus souvent les chefs et les conseillers ainsi que les membres des comités locaux (et par extension les membres du comité régional). Pour les politiciens, il pourrait s'agir d'une orientation générale sur les objectifs de l'organisme, son organisation, ses politiques et ses procédures, ainsi que sur les contraintes auxquelles l'organisme doit faire face dans ses activités et sur ses perspectives d'avenir.

Pour les membres des comités locaux, la formation devrait être quelque chose de plus large. Elle devrait comprendre au moins un aspect de plus, soit la connaissance des lois provinciales que les SECFS doivent appliquer en vertu des arrangements actuels. Des notes d'information préparées en 1984 à l'intention des comités locaux confirment la nécessité pour les membres de posséder cette connaissance. Plus de la moitié des informateurs clés ont mentionné que le manque de connaissance des dispositions législatives était l'un des points faibles des comités locaux. Prenons comme exemple le cas d'un contrat de placement temporaire; en vertu de ce contrat, un enfant peut être placé par l'organisme dans une famille d'accueil pour une période définie. À la fin du délai fixé, l'enfant doit être retourné à ses parents ou bien il faut obtenir une ordonnance du tribunal. Le comité pourrait estimer (à juste titre dans certains cas) que le placement temporaire devrait être prolongé. Or, cela n'est pas possible en vertu de la loi. Ainsi, ce qui semble parfois être une divergence d'opinion entre le personnel et les membres du comité local à propos du meilleur plan à adopter n'est en fait qu'une question de ce qui est possible ou non en vertu de la loi. Le personnel a exprimé sa déception à propos des fréquents retards dans la prise de décision qui découlent du fait qu'il est nécessaire d'expliquer des contraintes de ce genre.

En dehors de l'orientation et de la formation sur les dispositions législatives, les demandes répétées de formation pour les membres des comités locaux sont diffuses et imprécises. On fait allusion à la prévention, au développement communautaire et à la violence à l'égard des enfants (au-delà des définitions prévues par la loi et des procédures prévues dans les règlements). Dans les notes d'information de 1984, on mentionne aussi que les membres des comités locaux devraient «fournir de l'aide, des conseils et d'autres services aux familles lorsqu'on leur demande d'aider le personnel». Il faudrait donc que les membres des comités locaux reçoivent une formation qui leur permettrait d'acquérir les mêmes compétences et connaissances que le personnel rémunéré. Les documents examinés et les entrevues indiquent que ces attentes n'ont pas été comblées. Le problème de la formation est aggravé par le roulement des membres des comités locaux.

Responsabilité et autorité

Une troisième question qui découle de la complexité de la structure concerne la responsabilité et l'autorité. Comme on peut le voir dans la description de la structure et dans le bref exposé sur la question des communications, la structure prête à une certaine confusion lorsqu'il s'agit de savoir qui prend quelles décisions. Ce problème est évoqué et est examiné de façon assez détaillée dans un examen récent réalisé par le gouvernement provincial sur l'organisme. Au cours des entrevues et dans les documents examinés, on a relevé certaines circonstances dans lesquelles il y a eu des divergences entre différentes composantes du système sans qu'il y ait de moyen évident pour les régler.

Ce problème se présente à tous les niveaux et entre différentes parties du système. Tout d'abord, la relation entre les comités locaux et le comité régional comporte les tensions habituelles qui sont inhérentes à toute structure fédérale. Les principes sur lesquels s'appuie cette structure sont qu'il faut maintenir des services communautaires et maximiser le contrôle au niveau local. Il reste cependant qu'il existe un comité régional qui possède soi-disant le pouvoir d'établir des politiques pour l'ensemble des collectivités. Même si cet organisme est composé de représentants des collectivités, chaque collectivité ne représente qu'une voix sur neuf.

La question des limites imposées à l'autorité décisionnelle des comités locaux est compliquée par un aspect particulier du lien qui existe entre l'organisme et la province du Manitoba. En vertu des dispositions et ententes actuelles, le comité régional a le mandat légal d'assumer les responsabilités prévues dans la loi provinciale sur les services à l'enfant et à la famille. Il doit rendre compte à la province du Manitoba de la qualité des services et des décisions concernant les cas. En fait, cette situation met en péril les tentatives de maintenir la prise de décisions au niveau communautaire par l'entremise des comités locaux. Elle va à l'encontre du discours sur le contrôle communautaire. Cette question a fait surface pour la dernière fois en 1993 lorsqu'on a parlé de responsabilité légale. Si les comités locaux prennent une décision qui est contestée, dans quelle mesure sont-ils légalement responsables? Il était clair, dans les commentaires consignés dans les documents, que les comités locaux, bien qu'ils soient reconnus à l'interne comme étant une partie vitale du processus décisionnel, ne sont pas reconnus comme tels à l'externe. «Le comité local n'est pas réellement reconnu comme un conseil d'administration. Le comité régional est responsable de tout ce qui se passe³.» Par conséquent, les membres des comités locaux ne peuvent être couverts par une assurance-responsabilité. Élément encore plus important, le fait que la responsabilité, légale ou autre, incombe au comité régional contredit le degré de responsabilité que l'organisme, en accord avec ses principes, revendique pour les comités locaux. De même, dans la mesure où le comité régional permet que des décisions exécutoires soient prises au niveau de la collectivité, il s'expose à être tenu responsable de décisions auxquelles il n'a pas participé, une situation un peu embarrassante.

Ensuite, des divergences peuvent survenir — et il en survient parfois effectivement — entre le personnel et les comités locaux. Ces divergences sont quelquefois liées aux dispositions législatives provinciales, mais pas exclusivement. Des décisions relatives aux services ont également donné lieu à des divergences. Dans ces cas, il ne semble pas facile de déterminer qui doit prendre la décision finale.

Enfin, bien qu'il ait été établi que la relation entre l'instance politique et l'instance de prestation de services au niveau régional a évolué de façon satisfaisante, certains indices laissent supposer que tel n'a pas toujours été le cas au niveau local. Le personnel local doit rendre compte au personnel de supervision et au comité local. Avoir deux maîtres ne présente

pas vraiment de problème; cependant, même si la structure ne le montre pas, il est arrivé parfois que le chef et le conseil décident d'intervenir. Officiellement, le comité local rend compte au chef et au conseil par l'intermédiaire du conseiller responsable du dossier. Dix des onze membres du personnel qui ont été interviewés ont mentionné que le plus souvent, lorsque le personnel de l'organisme et le comité local prennent des décisions sur les cas, ces décisions sont communiquées au chef et au conseil et sont reçues à titre d'information. En outre, ces mêmes répondants ont mentionné qu'à l'occasion, ils ont demandé de l'aide du conseil et qu'ils l'ont obtenue. Autrement dit, de façon générale, le chef et le conseil n'interviennent pas et offrent même un soutien actif.

Par ailleurs, quatre répondants ont mentionné des incidents, quoique rares, d'ingérence politique qu'ils jugent inacceptables. Il s'agit de cas où on a renversé ou tenté de renverser des décisions ou encore usé d'influence pour faire embaucher des agents locaux. On a même parlé d'une rotation des agents locaux chaque fois qu'un nouveau conseil était élu. Si l'on a qualifié ces façons d'agir d'ingérence inacceptable par opposition à l'exercice d'un pouvoir légitime, c'est que les intérêts de l'enfant semblaient être relégués au second plan au profit de raisons purement politiques.

Dans ce genre de situation, les chefs et les autres élus se retrouvent dans une position assez difficile. Le gouvernement des Premières nations, tel qu'il est actuellement constitué, donne au chef et aux conseillers un rôle très important. Ce principe, comme beaucoup d'autres choses dans le système gouvernemental qui a remplacé le type de gouvernement antérieur au contact, va à l'encontre de la tradition en ce sens que les rôles de leadership étaient divisés et diffus selon la fonction. Dans le système gouvernemental actuel, toute personne de la collectivité qui a un grief ou une plainte à formuler à propos de quoi que ce soit cherche réparation auprès du chef ou des conseillers. Les fonctionnaires élus se sentent tenus de répondre à ces griefs. Il existe une frontière très mince entre le fait de veiller à ce que les politiques relatives aux services à l'enfant et à la famille soient équitables et claires et mises en oeuvre équitablement et clairement, et le fait d'agir comme arbitre final, même si l'on s'appuie sur des motifs «purs». Cette frontière est trop facile à franchir. En ce qui concerne l'embauche, les taux de chômage sont si élevés dans bon nombre de collectivités

que l'emploi devient une marchandise. Les politiciens sont constamment tentés de garder le contrôle sur la répartition des postes.

Centralisation et décentralisation

Toutes ces questions sont intimement liées; la question de la décentralisation est particulièrement liée à celle de l'autorité et de la responsabilité. L'examen des documents et les entrevues ont révélé que l'organisme a toujours essayé d'être sensible à cette question, mais celle-ci a depuis refait surface sous la forme d'une restructuration radicale en faveur d'une autonomie communautaire totale, comme l'a recommandé le Groupe de travail sur les services à l'enfant et la famille des Premières nations (Manitoba, 1993). Le groupe de travail a été mis en branle à la suite de plusieurs allégations d'ingérence politique de la part de politiciens des Premières nations dans les affaires des organismes de services à l'enfant et à la famille des Premières nations. Ces allégations ont été mises en lumière dans une enquête sur le suicide d'un adolescent pris en charge par un autre organisme des Premières nations. Malgré la raison originale qui a motivé la mise sur pied du groupe de travail, la question de l'ingérence politique n'apparaît pas dans les attributions du groupe. Le passage qui se rapproche le plus de cette question se trouve dans une introduction intitulée «questions à examiner»; parmi ces questions, on retrouve «la structure, la gestion et la fonction gouvernementale des organismes des Premières nations». Fait surprenant, la question de l'ingérence politique n'est traitée que brièvement dans le rapport, bien qu'on trouve en annexe une reproduction de directives plutôt générales sur les conflits d'intérêts qui avaient été élaborées antérieurement par les organismes de services à l'enfant et à la famille des Premières nations du Manitoba.

En ce qui concerne la décentralisation, il est mentionné dans le rapport que l'un des buts principaux des Premières nations lors de l'établissement des services à l'enfant et à la famille était que ces services soient contrôlés et dirigés par la collectivité. De plus, on ajoute que ce but n'a pas été atteint et demeure toujours une priorité pour les collectivités des Premières nations. En effet, l'entente auxiliaire sur les SECFS conclue entre les trois paliers de gouvernement en 1983 stipule que le mandat du conseil tribal consiste à faciliter le transfert du contrôle et de la responsabilité des programmes et des services aux bandes qui en

sont membres, que le conseil tribal doit donner aux bandes les compétences en administration et en gestion qui leur sont nécessaires pour dispenser les services localement. Ce même document stipule plus loin : «notre but est de veiller à ce que les services soient dispensés par les collectivités et les programmes contrôlés localement».

Il semble donc, selon le rapport, que chaque collectivité exercerait un contrôle total sur ses propres services à l'enfance et à la famille; il pourrait donc y avoir 61 organismes autonomes au Manitoba. Le rapport reste ambigu à propos des collectivités des Premières nations ou des *groupes de collectivités*, laissant la porte ouverte au maintien d'une structure régionale; toutefois, il est très clair en ce qui a trait à la place où doit se situer l'autorité suprême dans une structure gouvernementale autonome — au niveau de la collectivité. Malheureusement, les auteurs du rapport ne suggèrent pas de mesures pour atteindre ce but et ils ne mentionnent pas non plus les difficultés qui pourraient surgir si on y parvenait. Sur cette question, les auteurs n'ont fait qu'évoquer de nouveau la question et ils ont pris position en faveur du contrôle local d'une façon qui suggère quelque chose de plus qu'une simple décentralisation de la structure.

Le rôle central des comités locaux

Pour terminer, il y a la question du rôle central qui est assigné aux comités locaux et de leur capacité de l'exercer. Dans son rapport, le groupe de travail reconnaît que les comités locaux des services à l'enfant et à la famille des Premières nations du Manitoba sont à la fois la force et la faiblesse du système. Ils constituent la force du système en ce sens qu'ils représentent une tentative réelle pour maintenir la prise de décision au niveau de la collectivité. À titre d'exemple, dans le document d'information adressé aux membres des comités locaux, les SECFS les considèrent comme faisant partie intégrante de l'équipe; les deux autres composantes de l'équipe étant les agents locaux et les agents régionaux. Les comités locaux constituent aussi la faiblesse du système à cause du rôle exigeant et important qui est assigné à cette entité purement bénévole; un groupe bénévole est-il en mesure d'assumer un tel rôle? Cette faiblesse est reconnue implicitement dans le rapport du groupe de travail, qui préconise que l'on redonne aux comités locaux le rôle qui avait été envisagé à l'origine.

Les données dont on dispose sur les SECFS révèlent que cet organisme n'est pas à l'abri des difficultés. À trois reprises, le comité régional a mentionné dans ses procès-verbaux que certains comités locaux ont un nombre très limité de membres. D'autres remarques ont été formulées sur la faible participation des membres aux réunions. Outre la demande presque universelle d'une formation accrue, sept des personnes interrogées ont mentionné plusieurs difficultés associées au fonctionnement des comités locaux :

- difficultés découlant de la rotation fréquente des membres,
- difficultés découlant des relations personnelles qu'entretiennent les membres avec les clients,
- difficultés associées au fait que les membres veulent trouver des solutions à leurs propres problèmes ou aux problèmes de leur famille au cours des réunions,
- difficulté de prendre des décisions qui risquent d'être désapprouvées par la collectivité,
- faibles niveaux d'instruction et de compréhension générale des services à l'enfant et à la famille,
- difficulté d'organiser des réunions et d'obtenir une bonne participation.

Ainsi, les préoccupations concernant le fonctionnement des comités locaux sont à la fois de nature quantitative et de nature qualitative. Cette question est liée à celle de la responsabilité tout en demeurant un problème distinct. Que les comités locaux jouent un rôle consultatif ou un rôle plus important, ce rôle est considéré comme étant central et la question du fonctionnement général des comités devient une préoccupation vitale pour l'organisme. Cette question est également liée à celle de la décentralisation dans la mesure où lorsque l'organisme décentralise le processus décisionnel, les comités locaux occupent une place encore plus centrale dans le système.

Gestion de ces questions par l'organisme

Communications

L'organisme et le SERDC ont essayé de trouver des solutions aux problèmes de communication en mettant en place des liens structurels entre les différentes composantes du système :

- Le chef du portefeuille du conseil tribal établit la liaison entre l'instance politique et l'organe de service au niveau régional.
- Un représentant de chaque comité local siège au comité régional, établissant ainsi un lien entre les deux instances.
- Le conseiller chargé du dossier établit la liaison entre le comité local et le conseil de bande.
- Les superviseurs et les spécialistes régionaux sont responsables de plusieurs collectivités et ils rencontrent les agents locaux et les comités locaux.

Il semble que ces mesures soient parvenues à améliorer un peu les communications. Tous les répondants de l'organisme ont mentionné une augmentation de la compréhension et de la sensibilisation dans l'ensemble du système. Huit d'entre eux attribuent ces améliorations directement à ces mesures.

Formation

En ce qui concerne la formation, nous nous concentrerons ici sur les élus et les comités locaux. Pour ce qui est des élus, même si le terme formation est le plus souvent utilisé, il serait plus opportun de parler d'orientation. Il n'est pas nécessaire que ces personnes possèdent une formation intensive dans le domaine des services à l'enfant et à la famille. On doit plutôt leur donner un aperçu général des principes, du rôle et des fonctions de l'organisme, de ses structures, en particulier la prise de décision, et des relations qui existent entre l'organisme en tant qu'organisme de prestation de services et le gouvernement indien. Dans l'ensemble, l'organisme a tenté d'apporter des solutions à ce problème en cherchant à clarifier les relations hiérarchiques, comme nous l'avons mentionné dans la section sur les communications. Rien dans les données recueillies ne laisse supposer que d'autres efforts particuliers ont été déployés pour donner une orientation aux élus. Il ne semble pas y avoir de pochette ou de guide que l'on remette aux élus pour compléter les séances d'information verbales. Là encore, les données recueillies lors des entrevues révèlent que les élus comprennent mieux le fonctionnement de l'organisme. On peut attribuer cette situation à l'amélioration des communications plutôt qu'à des efforts structurés et soutenus pour orienter les élus.

L'organisme ne s'est pas penché de façon globale sur les questions de l'orientation et de la formation. Les notes d'information adressées aux membres des comités locaux stipulent que les comités doivent déterminer leurs propres besoins de formation. Dans la plupart des cas, la formation a été dispensée sous forme de courts ateliers d'un ou deux jours, qui ont eu lieu de façon sporadique, selon les demandes reçues, la disponibilité des animateurs et des fonds. La plupart des demandes de formation concernaient la *Loi sur les services à l'enfant et à la famille* du Manitoba. En général, les attentes en matière de formation, comme le montrent les demandes répétées que nous avons relevées dans les documents et lors des entrevues, n'ont pas été satisfaites. Comme on l'a mentionné plus tôt, les comités locaux assument un rôle important qui exige beaucoup de temps. Les réunions, qui ont lieu au moins une fois par mois, peuvent durer un ou plusieurs jours. Les réunions spéciales qui ont lieu entre-temps pour régler les problèmes qui se présentent laissent peu de place pour un programme de formation continu. Ainsi, l'organisme se trouve dans une impasse : d'une part, le rôle de plus en plus important des comités locaux augmente les besoins de formation mais fait qu'on a de moins en moins de temps pour la dispenser.

Responsabilité et autorité

Il n'y a guère plus à dire sur la question de la responsabilité et de l'autorité pour ce qui est de la relation entre le comité régional et le SERDC. Le compromis auquel on en est arrivé entre les pouvoirs du gouvernement indien et la nécessité de garder ses distances par rapport à un organisme important de prestation de services s'avère efficace.

En ce qui concerne la relation entre le comité régional et les comités locaux, l'organisme a toujours considéré que les comités locaux avaient le rôle de prendre les décisions sur les cas et sur les politiques au niveau local et de conseiller le comité régional lorsqu'il s'acquitte de sa responsabilité de superviser le fonctionnement de l'ensemble du programme dans chaque collectivité.

Néanmoins, il reste des tensions et une certaine confusion. Dans les documents examinés, on parle le plus souvent du rôle consultatif des comités locaux auprès du personnel. Toutefois, lors des entrevues, les répondants ont évoqué presque à l'unanimité le pouvoir décisionnel ultime des comités locaux dans les questions liées aux cas. La meilleure

conclusion que l'on puisse tirer de ces données contradictoires est qu'à toutes fins utiles, les comités locaux ont le dernier mot dans tous les dossiers qui concernent la collectivité locale et ses familles. Ce n'est que dans le sens strictement légal que les comités locaux sont considérés comme ayant uniquement un rôle consultatif, puisque la loi provinciale et les ententes tripartites ne reconnaissent pas l'autorité d'un organisme de ce genre. Toutefois, il n'est pas du tout certain, à la lumière des données recueillies, que cette dernière interprétation des pouvoirs des comités locaux soit partagée ou comprise par tous. À titre d'exemple, un des répondants, membre du personnel, a déclaré que les superviscurs devraient prendre et prennent bel et bien la décision finale dans les cas litigieux. D'autres agents voudraient avoir plus d'autonomie et être plus respectés dans ce qu'ils font («nous avons la formation nécessaire»).

Pour ce qui est des relations entre la structure de prestation de services (l'équipe locale) et les élus locaux, et particulièrement en ce qui a trait à la question de l'ingérence politique, tous les chefs (c.-à-d. les membres du SERDC) ont signé une déclaration de non-ingérence. Par cette déclaration, les chefs reconnaissent l'importance des comités locaux au sein du système, ils reconnaissent le comité régional en tant qu'autorité suprême, ils promettent de ne pas s'ingérer dans les décisions concernant les dossiers et ils se réservent le droit de poser des questions et d'être informés en vue des comptes qu'ils doivent rendre à leurs collectivités respectives. Bien entendu, le respect de cette déclaration ne dépend que des chefs eux-mêmes. Toutefois, il s'agit là d'un geste de bonne foi de leur part et d'une affirmation publique de l'indépendance qui existe entre la structure politique et son organisme de services. Cette déclaration a été mise à l'épreuve à au moins une occasion et le chef en question a respecté la déclaration.

Outre ces mesures particulières, l'organisme a réussi en général à régler les litiges à mesure qu'ils se sont présentés. Les conflits ont été résolus par consensus. D'ordinaire, quand il se produit un litige, toutes les parties se rencontrent et en discutent jusqu'à ce qu'on parvienne à une entente. Il semble que ces tentatives se soient avérées un succès, bien qu'il soit difficile d'affirmer dans quelle mesure des réponses du genre «les comités locaux devraient soutenir davantage l'organisme» traduisent de l'animosité. L'élément qui semble

manquer est un organisme neutre qui pourrait agir comme arbitre chaque fois que le besoin s'en fait sentir.

Centralisation et décentralisation

L'organisme a essayé de régler cette question en reconnaissant les aspirations des collectivités locales à exercer un contrôle maximum sur la prise de décisions ainsi que le caractère souhaitable de ce contrôle local. Outre la structure originale de l'organisme qui reflète le principe du contrôle maximum au niveau local, l'organisme a pris récemment plusieurs mesures pour renforcer le contrôle au niveau local. Il a entre autres engagé des agents régionaux. Ces agents doivent demeurer dans les collectivités trois à quatre jours ouvrables par semaine. Ils sont considérés comme faisant partie de l'équipe locale, ce qui transfère ainsi plus de fonctions du niveau régional au niveau local. Malheureusement, les restrictions budgétaires n'ont pas permis d'embaucher des agents régionaux pour toutes les collectivités.

L'organisme a aussi supprimé certaines tensions suscitées par la question de la centralisation et de la décentralisation en demandant aux administrateurs des bandes de gérer les fonds destinés aux salaires et aux avantages sociaux du personnel local. On a procédé ainsi uniquement dans les cas où les salaires et avantages sociaux du personnel des bandes et de l'organisme étaient comparables. Enfin, l'organisme a mis à la disposition de chaque équipe locale certains fonds discrétionnaires qu'elle peut administrer en fonction de ses priorités.

Le rôle central des comités locaux

L'organisme a essayé de donner aux comités locaux le rôle central qui leur revient en leur fournissant un certain soutien. On a déjà mentionné les ateliers d'orientation et de formation. En guise de reconnaissance du temps consacré par les bénévoles, l'organisme s'est donné comme principe de rembourser aux membres tous les frais de garde d'enfant et de déplacement lorsqu'ils assistent à des réunions. En outre, malgré la politique de bénévolat adoptée auparavant, des honoraires sont maintenant versés dans la plupart des cas. C'est là une façon d'inciter les bénévoles à assister aux réunions. Une aide technique est offerte dans certaines situations. En voici deux exemples : l'organisme fournit des guides sur les mesures

à prendre et les choix à faire dans les cas de violence contre les enfants, et il aide les comités locaux pour l'embauche d'agents locaux en leur fournissant des guides d'entrevue et une liste des critères recommandés.

Recommandations

Communications

La question des communications en soi ne nécessite pas de changement structurel important; l'organisme a déjà fait les changements structurels nécessaires. En raison du facteur humain et des nombreuses composantes du système, il ne reste plus à l'organisme qu'à rappeler constamment leurs responsabilités aux intervenants clés, en particulier ceux qui exercent des rôles de liaison. Ce rappel devrait se faire en particulier lorsqu'il y a rotation du personnel, dans le cadre de l'orientation des nouveaux membres. Cette recommandation s'applique surtout dans le cas des nouveaux membres du comité régional et dans le cas du conseiller responsable du dossier, des postes où la rotation est plus fréquente et où les ruptures de communication semblent le plus souvent se produire.

La seule autre mesure qui pourrait être prise est dans le cas où un intermédiaire clé manque constamment à ses responsabilités. Il n'existe aucun mécanisme qui permette de demander à une personne de rendre des comptes ou, en dernier ressort, de la renvoyer. En évoquant cette question, un des informateurs clés a déclaré que la collectivité a déjà pris des mesures lorsqu'un représentant local n'avait pas fait son travail, et que le comité régional ne devrait pas être responsable dans ce cas. Toutefois, il semble que lorsque des problèmes de ce genre se produisent, une partie du fonctionnement de l'organisme est mise en péril et que le comité régional devrait se préoccuper d'une certaine manière de cette rupture de communications.

En ce qui concerne les conseillers responsables, le problème est beaucoup plus délicat parce que l'organisme n'a aucune autorité sur leur comportement ou leur rendement. Ces conseillers sont élus localement et n'ont de comptes à rendre qu'à la population de la collectivité et au chef. De telles éventualités ne peuvent être résolues que par des moyens non officiels et, comme c'est aussi le cas pour les autres composantes du système, selon le bon vouloir de la personne.

Formation

En ce qui concerne les élus, bien qu'il incombe au conseiller responsable du dossier de maintenir la liaison entre les comités locaux et le conseil de bande et que cette personne doive au départ recevoir une orientation sur tous les rouages de l'organisme, on ne peut s'attendre à ce qu'elle soit la seule à transmettre l'information au conseil. Le personnel de supervision, de concert avec le conseiller, devrait prendre la responsabilité de fournir une orientation à tous les nouveaux élus de chaque collectivité le plus tôt possible.

Cette orientation ne devrait toutefois pas être donnée en une seule fois. Le contenu d'une rencontre d'une journée est vite oublié, puisqu'il est habituellement séparé du contexte des activités quotidiennes de l'organisme. Il faudrait aussi qu'il y ait deux autres activités de formation. La première consisterait en des rencontres de compte rendu (nombre, nature des dossiers, décisions et plans, raisons). Ce genre de réunion pourrait être organisée 3 ou 4 fois par an, une fois à l'occasion d'une assemblée générale de la bande.

Deuxièmement, le chef du portefeuille et les superviseurs devraient informer le chef, ou même l'ensemble du conseil, de toute mesure controversée qui vient d'être prise ou qui est sur le point d'être prise. Cette mesure pourrait être de retirer un enfant de sa famille, mais il pourrait également s'agir d'autres sortes de mesures. Il y a bien entendu une question de confidentialité en cause qui nécessiterait d'être approfondie davantage et qui dépasse le cadre du présent document. Toutefois, à la lumière des données recueillies, il semble que ce genre de décision se propage très rapidement dans les petites collectivités et que la question de la confidentialité, même si l'organisme maintient ce principe, relève de la fiction. Le fait de communiquer des informations et des opinions éclairées au chef et au conseil d'une collectivité n'est pas la même chose qu'une violation de la confidentialité résultant de racontars ou de propos malveillants.

De toute façon, les données recueillies révèlent qu'il est nécessaire que les élus locaux reçoivent une orientation permanente et que l'une des façons les plus efficaces de procéder, en dehors de la séance d'orientation unique destinée aux nouveaux membres, consiste à donner une orientation régulière et une orientation ponctuelle liée aux fonctions de l'organisme. Les personnes interrogées ont suggéré que la coopération au niveau local serait améliorée et que les possibilités d'ingérence politique diminueraient si on parvenait à

combiner les liens de communication qui existent déjà (y compris l'information reçue par les chefs en tant que membres du conseil d'administration du SERDC) et l'orientation qui est suggérée ici.

Responsabilité et autorité

La question de la responsabilité et de l'autorité découle des efforts déployés pour préserver l'idéal qu'est la prise de décision communautaire et collective. Cette pratique dérouté l'observateur non autochtone. Celui-ci cherche à trouver la personne ou l'organisme responsable des décisions. Malheureusement, ce besoin est trop souvent ressenti dans les cas où quelqu'un semble avoir manqué de jugement. Le paradoxe du système dont il est question ici est que le responsable est à la fois tout le monde et personne, en dépit des obligations légales qui pourraient laisser croire qu'il n'en est pas ainsi. Pour l'organisme, la question n'est pas tant de trouver le responsable, mais de trouver des moyens d'éviter les désaccords et des moyens de les régler lorsqu'ils se présentent.

Les mesures prises par l'organisme en matière de communications, d'orientation et de formation ont déjà atténué les désaccords. La mise en oeuvre des recommandations formulées dans le présent rapport sur ces deux questions pourrait améliorer davantage la situation. En améliorant les aspects de la communication, de l'orientation et de la formation, on pourrait constituer un ensemble de précédents et avoir une meilleure compréhension des rôles des intervenants clés du système. Il est recommandé que ce genre de précédents soient intégrés à l'élaboration des normes de tout organisme et qu'ils comportent les éléments suivants :

- les circonstances dans lesquelles un enfant peut être retiré de sa famille,
- les manières de procéder pour retirer un enfant de sa famille,
- les conditions régissant les contacts ultérieurs avec la famille,
- les modalités de la planification à long terme pour l'enfant,
- une hiérarchie des priorités pour les plans à long terme.

Ces mesures permettraient tout au moins de discuter des dossiers de façon éclairée et de canaliser les problèmes de manière à les régler plus facilement. Au mieux, on accroîtrait généralement les chances d'en arriver à une entente. La question de la responsabilité ferait

partie intégrante des décisions prises sur les cas, par exemple lorsqu'un agent est chargé de prendre des dispositions pour trouver un traitement spécialisé pour un enfant.

Lorsque des désaccords surgissent malgré les mesures énoncées précédemment, l'organisme doit continuer d'exploiter les forces qu'il possède déjà, la prise de décision fondée sur le consensus. Les décisions qui naissent de ce processus viennent s'ajouter à la liste des précédents dont on a parlé ci-dessus. Le seul élément manquant dans la résolution des différends est la présence d'un organisme indépendant pouvant apporter son soutien. Un organisme de ce genre pourrait probablement être établi au niveau local et être composé de personnes respectées de la collectivité qui ne font absolument pas partie du système. Le rôle de cet organisme au départ serait de faciliter les choses et de faire de la médiation, mais en dernier ressort il pourrait servir de deuxième instance. Tout autre appel serait entendu par le comité régional qui, conformément aux dispositions en place, constitue l'autorité suprême de l'organisme. Même avec une décentralisation accrue des pouvoirs, on envisage de conserver au comité régional un rôle permanent, y compris celui qui est suggéré ici.

Centralisation et décentralisation

Toutes les personnes interrogées ont exprimé en principe leur soutien total à une plus grande décentralisation. Tous ont déclaré qu'il est nécessaire de procéder par étape. Personne n'était prêt à appuyer sans réserve une décentralisation totale et le démantèlement de la structure régionale comme l'avait recommandé le groupe de travail. Voici les réserves qui ont été exprimées :

- La perte probable de ressources, en particulier des compétences de certains membres du personnel, qui ne sont disponibles qu'au moyen d'une structure régionale et qui ne sont pas à la portée de toutes les collectivités. Actuellement, malgré les efforts déployés pour décentraliser le système, les demandes d'aide et de conseils sont le plus souvent adressées directement par les collectivités au comité régional. Cette tendance contredit dans une certaine mesure la notion de contrôle local et met en évidence ses limites.
- Les préoccupations au sujet de la responsabilité : le groupe de travail a recommandé la création d'une Direction générale des services à l'enfant et à la famille des Premières

nations, mais uniquement comme mesure provisoire jusqu'à ce que chaque collectivité assume le contrôle total. On craint qu'en l'absence d'un certain équilibre des pouvoirs, les victimes de violence familiale et de problèmes semblables se trouvent prises au piège dans une collectivité qui refuse de voir le problème. Un des répondants a déclaré que cette situation serait préjudiciable pour les femmes. Selon lui, un contrôle total au niveau local laisserait les femmes et les enfants encore plus vulnérables qu'ils ne le sont actuellement, parce que les hommes y exercent une domination presque totale et ils ne sont généralement pas compatissants face à la violence familiale. La présence d'une structure régionale garantit au moins un certain équilibre.

- Les préoccupations à propos de la préparation de la collectivité : des répondants ont exprimé des réserves à propos du niveau de compétence des agents locaux et ils ont déclaré qu'il serait nécessaire qu'ils poursuivent leur scolarité et leur formation. On n'a pas présumé que ce n'était qu'une question de temps. Certaines collectivités souffrent d'un sérieux «exode des compétences», ce qui nuit aux efforts de développement.

Le dernier commentaire des agents sur le sujet était qu'ils n'ont pas connu dans cet organisme de pressions irrésistibles vers la décentralisation. La question refait surface à l'occasion dans une ou deux collectivités, mais les recommandations du groupe de travail sur l'autonomie totale au niveau local sont considérées comme étant encore au-dessus des aspirations ou des sentiments de la plupart des collectivités.

On ne retrouve dans aucune entrevue ni dans les documents examinés la possibilité que les aspirations à l'autonomie gouvernementale, qui ont servi de cadre aux recommandations du groupe de travail, puissent se réaliser avec la présence d'une structure régionale. David Hawkes a défini six principaux modèles de gouvernement autonome, allant du niveau local au niveau régional (Hawkes, 1986). Ces modèles pourraient s'appliquer tant à une structure de services qu'à une structure politique dominante. Bien que l'unité fondamentale du gouvernement indien et de la prestation de services indiens soit la collectivité, cela n'écarte pas la présence de structures régionales, en particulier aux fins de collaboration en matière de prestation de services.

Le rôle central des comités locaux

L'importance du rôle qu'exercent ces entités essentiellement bénévoles demeure une source de préoccupation. L'opérationnalisation de l'ensemble des principes de l'organisme, sans compter le bien-être de certains enfants et familles, dépend de la capacité de ces comités de jouer leur rôle. Les efforts déployés par l'organisme dans la sélection des membres, dans l'orientation et la formation ainsi que dans certains domaines concrets comme les honoraires, se sont révélés insuffisants. Dans une situation où les attentes ne sont pas satisfaites, une des solutions consiste à diminuer ces attentes. Cette solution irait toutefois complètement à l'encontre de tous les principes de l'organisme et de ses efforts axés sur l'autonomie des collectivités.

Il existe deux approches différentes, qui ne s'excluent pas mutuellement, pour régler ce problème. La première consiste à accroître le soutien donné aux comités locaux. Il serait nécessaire qu'un membre du personnel consacre une partie de son temps au développement et au maintien du comité dans chaque collectivité. Aucun organisme bénévole ne peut bien fonctionner sans cet apport, encore moins un organisme qui se penche sur des questions complexes et souvent controversées. Les faiblesses des comités locaux ont été mentionnées par les répondants. Toutefois, ceux-ci ne semblaient pas conscients que ces faiblesses sont inhérentes aux organismes bénévoles et ils ne voyaient pas la nécessité que le personnel joue un rôle de soutien, peut-être parce que la question n'avait pas été posée directement. Ce rôle devrait probablement être confié à une personne qui possède les compétences adéquates en développement communautaire.

Ce rôle comporterait deux aspects. Le premier consisterait à s'occuper de tout ce qui est nécessaire pour garantir une prise de décision éclairée — travailler de concert avec un président pour établir l'ordre du jour, veiller à la préparation des documents d'information et autres documents, déterminer les solutions possibles, faciliter le consensus, assurer que soit fait le suivi des décisions prises et, de façon générale, offrir ses compétences pour assurer un processus de résolution de problèmes qui soit adapté à la réalité culturelle de la collectivité. Le deuxième aspect consisterait à former les membres du comité en fonction des besoins, afin de réduire la demande d'ateliers pour l'ensemble du comité. L'organisation de ces ateliers nécessite beaucoup de temps, surtout si tout est à recommencer chaque fois qu'il y a une rotation des membres. Prenons comme exemple la situation où le comité doit tenir une

réunion à propos du cas d'un enfant et où il faudra connaître les dispositions de la loi. La moitié des membres du comité possèdent peut-être déjà cette connaissance. La personne-ressource pourrait tenir une petite réunion interne avec les nouveaux membres pour les informer des dispositions de la loi. Cela leur permettrait d'acquérir des connaissances qu'ils pourraient utiliser immédiatement et qui sont liées directement aux décisions qu'ils devront prendre. Cette situation ne se produit pas à l'heure actuelle parce qu'aucun membre du personnel n'a ce rôle inscrit dans sa description de tâches.

La deuxième approche pour assurer le bon fonctionnement des comités locaux consisterait à changer la façon dont ils exercent leur rôle. Les membres du comité devraient consacrer un certain temps, avec l'aide de la personne-ressource, pour décider quelles questions devraient être présentées au comité uniquement à titre d'information et lesquelles devraient lui être soumises en vue d'une décision. Il faut fixer des lignes directrices à l'intention des membres du comité à propos des pouvoirs de décision qu'ils ont lorsqu'il se présente des situations entre les réunions et qu'une décision doit être prise. Chaque collectivité et chaque comité local feront leurs propres accommodements, un des principaux buts étant de protéger les membres contre une charge de travail excessive tout en préservant les droits et les obligations du comité.

On recommande ces approches afin de satisfaire les attentes sans placer des fardeaux irréalistes sur le dos des membres bénévoles. Mentionnons l'importance particulière de la recommandation selon laquelle la formation doit être donnée par un membre du personnel «en fonction des besoins» ou «sur le tas» de sorte que la formation nécessaire soit intégrée efficacement à la fonction décisionnelle plutôt que d'en être séparée. Le rôle et la compétence du membre du personnel agissant comme personne-ressource sont la clé de ces deux approches; il pourrait aussi s'avérer nécessaire de donner une formation à cette personne pour l'aider à accomplir ce travail.

Relations avec le gouvernement provincial du Manitoba

Description des relations

L'entente-cadre originale dont le SERDC était l'un des signataires des Premières nations, ainsi que l'entente auxiliaire subséquente concernant plus particulièrement le SERDC, a défini

dès le début les relations du gouvernement du Manitoba avec les Southeast Child and Family Services. Ces ententes précisent que le gouvernement provincial, en vertu de la Constitution, détient l'autorité dans le domaine de la prestation de services à l'enfant et à la famille. La province a convenu de déléguer cette autorité à l'organisme (SECFS). Plus précisément, l'autorité déléguée par la province est exercée par le comité régional. Ainsi, si l'on interprète les ententes de façon rigoureuse, la relation qui lie le gouvernement provincial et les SECFS est presque identique à celle qui le lie aux autres organismes privés de services à l'enfant et à la famille sans but lucratif de la province.

Il s'agit d'une relation entre supérieur et subalterne. Le texte de loi qui confère l'autorité au gouvernement provincial est la *Loi sur les services à l'enfant et à la famille* (1985), qui a remplacé la *Loi sur la protection de l'enfance* (1974). Les organismes privés sans but lucratif sont permis en vertu de l'article 6 de la *Loi sur les services à l'enfant et à la famille* (Manitoba, 1985). Conformément aux dispositions de cet article, la province choisit de déléguer son autorité constitutionnelle à l'organisme. Elle lui accorde ainsi seulement des pouvoirs exécutifs, les deux autres fonctions majeures — législative et judiciaire — demeurant entre les mains de la province. En outre, même les pouvoirs exécutifs sont limités. La province peut décider de retirer à n'importe quel moment le mandat qu'elle a donné; à cet égard, les organismes indiens sont visés au paragraphe 15. De plus, elle peut décider de modifier les modalités de fonctionnement de l'organisme. Au cours des huit dernières années, deux gouvernements différents ont suspendu des directeurs et modifié radicalement la structure de l'autorité du plus important organisme de la province. Même s'il ne s'agissait pas d'un organisme des Premières nations, la province a bien précisé qu'elle avait les mêmes pouvoirs à l'égard des organismes des Premières nations. Il est vrai que la province du Manitoba a toujours hésité à se servir de ces pouvoirs dans le cas des services à l'enfant et à la famille des Premières nations, même lorsqu'on a exercé des pressions pour qu'elle le fasse. En outre, la relation qu'elle entretient avec les SECFS et l'opinion qu'elle a du rendement de l'organisme ont été suffisamment positives pour qu'elle n'envisage même pas de poser de geste aussi radical. Néanmoins, et de façon régulière, la province exerce une surveillance, fait des évaluations, adopte des règlements en vertu de la loi, émet des directives exécutoires, réglemente les établissements auxiliaires (p. ex. les foyers collectifs), procède à des

vérifications et à des examens de programmes et exécute une série d'autres activités visant à faire observer la loi et à maintenir les normes.

Deux séries de questions sont en jeu dans cette relation; l'une concerne les services et l'autre, l'aspect politique. Pour ce qui est des services, la question fondamentale est la suivante : dans quelle mesure le système provincial, ses lois, ses tribunaux de la famille, ses règlements et normes sont-ils pertinents pour les collectivités des Premières nations, en particulier en ce qui concerne leur culture et leurs conditions socio-économiques? Quant à l'aspect politique, la question en jeu est la contradiction entre le rôle de supérieur de la province et les aspirations des Premières nations à l'autonomie.

Pour commencer à regarder la question des services, citons un article de l'entente auxiliaire :

Les services qui seront dispensés en vertu de la présente entente sont les services qui sont normalement fournis en vertu de la *Loi sur la protection de l'enfance* du Manitoba; ces services devront intégrer les croyances, les valeurs et les coutumes traditionnelles ainsi que les normes des collectivités.

Cet article montre bien la tension créée par l'entente. D'une part, on demande de fournir les services réguliers; d'autre part, on veut que les croyances traditionnelles soient intégrées aux services. Concilier et équilibrer ces deux aspects n'a été facile pour aucune des parties.

Pour sa part, la province s'est montrée disposée à permettre aux SECFS et à d'autres organismes des Premières nations de concevoir les services à leur façon. L'énoncé de principes qui constitue le premier article de la Loi de 1985 stipule que les familles ont le droit de recevoir des services adaptés à leur patrimoine culturel et linguistique. Selon le onzième principe, les bandes indiennes ont le droit de recevoir des services qui respectent leur statut particulier de peuples autochtones. On a apporté un changement très important lorsqu'on a modifié la définition des intérêts de l'enfant — un élément décisif dont les organismes et les tribunaux doivent toujours tenir compte dans leurs décisions — pour y inclure le «patrimoine culturel et linguistique» de l'enfant (Manitoba, 1985). Avant ce changement, on faisait peu de cas de l'argument selon lequel l'attachement et l'identification de l'enfant à la culture autochtone constituaient un aspect important de son bien-être. Les arguments en faveur de l'amélioration des chances pour l'enfant et de la formation de liens affectifs avec la famille d'accueil si l'enfant était déjà dans un milieu non autochtone avaient tendance à l'emporter⁴.

Maintenant, au moins, la question de la conservation de la culture est un des facteurs qui doit être pris en considération.

Le gouvernement provincial a essayé d'être utile d'autres façons. Il a assumé la responsabilité financière de certaines initiatives de l'organisme. Il a payé certains frais et il a donné de la formation, dans le cadre du Programme Carrières nouvelles, à 10 agents locaux des CFS ainsi qu'à quatre membres du personnel de l'organisme inscrits au programme de formation des formateurs du Programme Carrières nouvelles. Il a aussi accepté une certaine responsabilité financière et administrative pour un programme limité de rapatriement des enfants qui avaient été placés à l'extérieur de la collectivité, ainsi que pour le retour des enfants sous la tutelle de la province dans les cas où une adoption s'était avérée un échec. De plus, le gouvernement provincial accepte la responsabilité de rembourser l'organisme pour les services rendus au nom de la province. Ces services concernent habituellement des enfants non inscrits ou des enfants inscrits dont les deux parents vivent hors réserve. Enfin, la province a répondu à l'occasion à des demandes de services consultatifs présentées par les SECFS, la plus récente ayant été une demande d'examen de l'organisme; cet examen s'est avéré utile aux dires de l'organisme.

Malgré ces efforts, les relations entre les SECFS et le gouvernement provincial demeurent problématiques sur le plan des services. La nécessité d'embaucher ou de former et de conserver du personnel qualifié a toujours été une question importante pour l'organisme. Cette question s'avère également importante pour la province qui, si elle prétend détenir l'autorité ultime du bien-être des enfants, doit se préoccuper de la qualité du personnel qui dispense les services. Pourtant, la province a manqué à sa promesse d'offrir de la formation à certains membres du personnel de supervision. Elle a accepté de rembourser les coûts d'entretien des enfants indiens non inscrits vivant en famille d'accueil dans les réserves, mais elle refuse d'apporter son aide dans le cas de services de prévention qui seraient importants pour les familles. Autre point négatif, la province a refusé d'apporter son soutien à une importante initiative de l'organisme visant à élaborer ses propres normes, codes et méthodes. Cette initiative était la première tentative sérieuse de la part de l'organisme pour mettre en application la partie de l'entente auxiliaire qui porte sur l'intégration des croyances traditionnelles. Le projet n'est pas entièrement terminé, mais il est actuellement en suspens.

Ce qui est le plus important peut-être, c'est que l'application de la loi elle-même continue d'entraver dans une certaine mesure l'intégration de «croyances, valeurs et coutumes traditionnelles et de normes communautaires». Dix des onze répondants ont déclaré que les exigences légales et autres exigences provinciales posaient problème, et cette question revient fréquemment dans les documents de l'organisme. Comme le dit un des répondants :

Nous sommes coincés entre deux systèmes de valeurs différents. En tant qu'employé, j'estime devoir respecter le mandat, mais je sais que ça ne marchera pas. Je me sens tiraillé. J'essaie de faire du mieux que je peux à l'intérieur du système tout en respectant les valeurs de la collectivité.

Voici quelques exemples qui illustrent ce commentaire général :

- L'obligation ultime que le lien parental soit coupé : par exemple, quand un parent signe un abandon volontaire de tutelle, il renonce à tout jamais à tous les droits qu'il a sur l'enfant et à toutes les obligations qu'il a envers lui. Les répondants affirment que cette pratique n'est pas reconnue ni acceptée dans les collectivités, car on a toujours cru, par tradition, à l'importance des liens familiaux et on y croit encore fortement aujourd'hui.
- Un autre exemple, qui est lié au précédent, est que la loi ne prévoit pas suffisamment de temps pour la guérison des parents des Premières nations. La brièveté de la durée des contrats de placement temporaire en est un bon exemple. Un autre exemple, très souvent mentionné, est que la province hésite à accepter pour les enfants des séjours prolongés en famille d'accueil. Cet arrangement ouvre la voie à une réunion éventuelle des parents avec l'enfant, une solution qui est beaucoup plus valorisée dans les collectivités autochtones qu'ailleurs. En outre, en adoptant cet arrangement, on reconnaît la gravité des difficultés que rencontrent de nombreux parents autochtones dans leur vie en général et dans leur rôle parental en particulier, des difficultés qui ne se règlent parfois qu'au bout de nombreuses années.
- Les règlements, directives et protocoles qu'il faut respecter dans les enquêtes sur les cas de violence faite aux enfants empêchent de trouver des solutions adaptées à la réalité culturelle des autochtones. À Hollow Water, on fait actuellement l'expérience de cercles de guérison; il s'agit entre autres de rencontres au cours desquelles sont divulgués des actes de violence commis dans le passé ou actuellement. Souvent, les

victimes de ces actes sont des enfants. En vertu des lois provinciales, ces actes doivent faire l'objet d'une enquête et des poursuites sont parfois intentées devant les tribunaux. Toutefois, à Hollow Water, on valorise les notions fondamentales de la restitution et de la réconciliation, la nécessité de restaurer et de maintenir l'équilibre et l'harmonie dans la collectivité. Ce processus ne fait pas appel aux tribunaux. Il a fallu de longues négociations et la signature d'ententes complexes avant de réussir à mettre sur pied ces cercles de guérison (Taylor-Henley et Hill, 1990).

- Les procédures judiciaires sont également considérées comme inappropriées lorsqu'on retire à des parents la garde de leur enfant. Les tribunaux sont éloignés des collectivités, tant géographiquement que culturellement. Culturellement, à cause du processus décisionnel fondé sur l'antagonisme. La plupart des collectivités sont beaucoup plus à l'aise avec un processus décisionnel fondé sur le consensus; de cette manière, chacun a son mot à dire jusqu'à ce qu'un plan soit établi. Dans le processus fondé sur l'antagonisme, chaque partie défend ses droits de façon partisane et exagérée. Il en résulte une polarisation plutôt qu'une harmonisation. «Je dois dire plein de méchancetés sur les gens. Et cela renforce l'image négative qu'ils ont d'eux-mêmes en tant que parents.»
- Les normes irréalistes qui sont fixées pour les foyers collectifs, les garderies, etc.
- D'autres répondants ont parlé des exigences trop sévères quant aux comptes à rendre, d'autres encore avaient l'impression que les organismes des Premières nations étaient plus étroitement surveillés que les organismes non autochtones.

L'aspect politique des relations entre le gouvernement provincial et les SECFS a aussi posé des problèmes. Les Premières nations prétendent essentiellement qu'aucun gouvernement n'a jamais détenu de droits sur les enfants indiens. Le gouvernement provincial peut choisir de reconnaître le droit inhérent du gouvernement des Premières nations dans ce domaine, comme dans tout autre domaine, mais il ne peut accorder une autorité que, selon les Premières nations, il n'a jamais détenue. Cette question a été au coeur de l'évolution des relations entre la province et tous les services à l'enfant et à la famille des Premières nations, y compris les SECFS. Un répondant qui travaille à l'organisme depuis le début a déclaré sans hésitation que les parties des Premières nations qui ont signé les ententes originales ne les ont

pas comprises de la même façon que le gouvernement provincial. Elles voyaient la relation entre la province et l'organisme comme une mesure temporaire. Il est vrai que les termes utilisés dans certains documents de l'organisme confirment cette affirmation. Les rapports annuels de 1990 et 1992 contiennent des termes qui constituent une déclaration d'autonomie gouvernementale :

Les nations ojibway du Sud-Est sont des sociétés distinctes qui ont des droits inhérents, y compris le droit à l'autonomie gouvernementale [...] Les SECFS sont une institution du gouvernement indien du Sud-Est. Leurs pouvoirs et leur mandat leur sont donnés par les bandes et par les chefs du Sud-Est autorisés à superviser leurs activités. Le conseil d'administration du SERDC a délégué la responsabilité de l'orientation et de la gestion de l'organisme au comité régional des Southeast Child and Family Services.

On ne parle pas ici de pouvoirs qui seraient délégués à l'organisme par la province.

Une concession importante qu'a faite le gouvernement provincial a été d'établir, en 1984, une politique qui oblige tous les organismes non autochtones à consulter l'organisme des Premières nations intéressé dans les cas où un enfant est pris en charge à l'extérieur des réserves (Manitoba, 1984). On s'est plaint du fait que cette politique n'a pas toujours été respectée et on s'est montré déçu que la politique ne soit pas intégrée dans la loi.

Sauf dans le cas de cette initiative, le langage utilisé par les dirigeants des Premières nations pour décrire les relations est clairement en contradiction avec le langage des fonctionnaires provinciaux, comme le révèlent les entrevues et les documents examinés. «L'organisme doit rendre des comptes à la province en vertu de la loi. La Direction générale de la province a les pouvoirs de fournir une orientation législative.» Certaines décisions concernant les services, comme le paiement d'un montant supplémentaire à une famille qui accueille un enfant ayant des besoins particuliers, doivent être approuvées par la province, même si c'est le gouvernement fédéral qui verse l'argent. En général, l'organisme est considéré comme autonome par la province; il a le droit d'«élaborer sa propre structure et ses propres politiques», mais toujours «à condition qu'elles respectent les politiques et les lois provinciales.» En ce qui concerne les plans à long terme pour les enfants pris en charge, «l'organisme doit respecter les normes établies dans le manuel des normes».

Une autre question majeure de compétence concerne les services hors réserve. Le SERDC et les SECFS prétendent qu'un membre est un membre, quel que soit son lieu de

résidence, et que les services et la planification des cas à l'égard des enfants et des familles qui demeurent à l'extérieur des réserves devraient relever de l'organisme des Premières nations. Les ententes originales prévoient que les services aux membres des collectivités du Sud-Est et des autres collectivités qui demeurent hors réserve, même si ce n'est que temporairement, relèvent de la province. Un document de l'organisme daté de 1988 indique que 27 % de la population habitent parfois dans la réserve et parfois dans la ville (de Winnipeg). Ainsi, cette question concerne une proportion importante de la population des Premières nations.

Le SERDC a accepté cette clause litigieuse parce qu'il était impatient de commencer à fournir un éventail complet de services à la population des réserves. Quant à la province, elle a accepté à la condition que soient reprises les négociations sur les coûts d'entretien des enfants pris en charge à l'extérieur des réserves. Ces négociations n'ont jamais repris. Actuellement, le gouvernement fédéral rembourse à la province le coût des services fournis aux Indiens inscrits vivant à l'extérieur des réserves, mais seulement dans la proportion de 50 % que prévoit le Régime d'assistance publique du Canada. On ne sait pas dans quelle mesure les négociateurs du gouvernement fédéral ont insisté pour que soit acceptée la clause concernant les Indiens hors réserve, mais les économies qui en résultent pour le Trésor fédéral sont évidentes. La clause en question est également compatible avec la politique que le gouvernement fédéral adopte depuis longtemps à l'égard des Indiens inscrits vivant hors réserve, une politique selon laquelle on a tendance à rejeter toute responsabilité (voir par exemple Boldt et Long 1988). Ce genre de politique réduit la responsabilité financière du gouvernement fédéral à l'égard des Indiens, responsabilité qui est prévue dans la *Loi constitutionnelle*; il est donc très tentant pour le fédéral de suivre une telle politique.

Nous avons établi une distinction entre les questions qui touchent les services et les questions politiques pour les fins de notre examen; en réalité, ces questions sont intimement liées. Sur le plan politique, les SECFS ont seulement le pouvoir exécutif sur la prestation des services dans les réserves. Ils n'ont pas de pouvoir judiciaire (pas de tribunaux communautaires ou tribaux) ni de pouvoir législatif. Cette limitation de leur pouvoir politique restreint, comme nous l'avons vu, la qualité et la pertinence des services et des programmes. Les restrictions imposées à la prestation des services et les exigences relatives à la

responsabilité rappellent constamment que l'autonomie gouvernementale indienne n'est reconnue ni en théorie ni en pratique par les gouvernements non autochtones.

De façon générale, le personnel du gouvernement provincial a tendance à entretenir le statu quo à l'égard de l'organisme. On a toujours répondu aux demandes d'aide de l'organisme, sauf lorsqu'il s'agissait de demandes de fonds (nécessitant l'approbation du Conseil du Trésor) comme pour le projet sur les normes. La réalité omniprésente de la compétence provinciale refait surface dans les cas entourés de beaucoup de publicité, comme la mort d'un enfant. Autrement, les fonctionnaires provinciaux, sensibles aux questions politiques, tentent d'être le plus souples et le moins gênants possible en ce qui concerne les exigences relatives à l'inspection, à la surveillance, aux règlements et aux rapports. La plupart des répondants ont mentionné qu'il y avait eu une amélioration des relations entre l'organisme et le gouvernement provincial, au niveau du personnel, grâce à l'établissement de bonnes relations de travail.

Par ailleurs, malgré plusieurs initiatives des SECFS, le gouvernement provincial, au niveau du Cabinet, n'a tout simplement rien fait pour réduire les restrictions de nature politique imposées à la prestation des services tant dans les réserves qu'à l'extérieur. Le gouvernement provincial n'a pas non plus donné suite à la recommandation du groupe de travail qu'il avait coparrainé, à savoir que l'autorité provinciale soit remplacée par une autorité indienne équivalant à la Direction générale des services à l'enfant et à la famille. En l'absence d'initiatives stratégiques soutenues par le gouvernement actuel, le personnel des deux parties ne peut qu'essayer de trouver un équilibre entre le désir de l'organisme d'en arriver à un modèle plus autonome et les exigences juridiques provinciales. Au niveau du personnel, on a essayé véritablement de gérer la relation d'une manière coopérative. La relation politique de supérieur à subalterne restreint considérablement les résultats positifs qui pourraient découler de cette bonne volonté.

Dans le rapport Geisbrecht (Manitoba 1992), on a critiqué le gouvernement provincial pour sa position de non-intervention à l'égard de tous les organismes indiens et on lui a conseillé vivement de prendre l'exercice de son pouvoir plus au sérieux. Nous croyons que le juge Geisbrecht et le gouvernement provincial ne comprennent pas bien la situation. Osciller entre une position de non-intervention et une position d'intervention n'apporte rien d'utile. Si

le gouvernement n'intervient pas, il maintient la relation politique actuelle tout en laissant l'organisme s'occuper seul de certaines situations désespérées dans les collectivités. S'il intervient, il accorde une grande attention aux fonctions de réglementation et de surveillance, ce qui brime les aspirations à l'autonomie gouvernementale et rend la coopération plus difficile sur le plan des services.

Bref, les relations entre les SECFS et la province ont été caractérisées par la nécessité de gérer de façon quotidienne les tensions créées par les compromis qui ont été faits dans les ententes originales. Les ententes n'ont pas été modifiées malgré l'occasion qu'on a eue de les renégocier lorsqu'elles sont arrivées à échéance en 1987. Elles ont simplement été renouvelées tacitement chaque année de façon à ce que les fonds continuent d'être versés et que les activités de l'organisme se poursuivent. Il n'y a eu aucune négociation sérieuse visant à améliorer les relations.

Pour que les relations se modifient, il faudrait que la province adopte une position plus proactive et dynamique, qu'elle essaie de diminuer les tensions, sur le plan politique, et qu'elle réponde aux invitations déjà lancées par les SECFS. La question la plus importante est la question de la compétence. Une deuxième question est la mesure dans laquelle la province, malgré l'autonomie gouvernementale ou les responsabilités fédérales, se doit de financer certains programmes et fonctions.

La question de la compétence

Dans le domaine de la compétence, la clé est la reconceptualisation des relations (voir figure 2).

Le modèle actuellement appliqué est le modèle de la délégation de pouvoirs. Si le modèle de l'autonomie était appliqué seulement aux SECFS, le mandat de l'organisme proviendrait du SERDC, comme l'organisme le prétend actuellement, et le personnel régional devrait rendre des comptes au comité régional, qui assumerait la plupart des rôles joués actuellement par la Direction générale de la province. Si ce modèle était appliqué à tous les organismes des Premières nations de la province, il y aurait une Direction générale des Premières nations qui serait intégrée à une entité plus large du gouvernement indien. C'est là

le modèle proposé par le groupe de travail. Cette reconceptualisation a déjà été réalisée par le SERDC et les SECFS. Il faut maintenant que le gouvernement provincial fasse de même.

Figure 2

/ DÉLÉGATION DE POUVOIRS ET AUTONOMIE : DEUX MODÈLES

LE MODÈLE DE L'AUTONOMIE

gouvernement(s) autochtone(s)

relation politique

gouvernement provincial

organismes autochtones de services à l'enfant et à la famille

coordination des cas

relation de consultation

système des services à l'enfant et à la famille

autochtones et collectivités autochtones

particuliers et collectivités non autochtones

LE MODÈLE DE LA DÉLÉGATION DE POUVOIRS

pouvoirs exécutifs

autorité provinciale

lois et tribunaux

responsabilité

familles et collectivités autochtones

organisme autochtone

organisme d'aide à l'enfant

Essentiellement, la relation évoluerait vers un partenariat entre deux parties égales. La province pourrait offrir une gamme de services de consultation et de formation à l'organisme au besoin. Quant à l'organisme, il assumerait l'entière responsabilité de la prestation de services à une population qui est extrêmement difficile à servir (voir aussi Taylor-Henley et Hudson 1992). Ce partenariat serait l'opposé de la relation supérieur-subalterne qui existe actuellement. Comme le dit un répondant de l'organisme :

Il faut que la province soit un partenaire actif, mais en jouant un rôle de soutien et de consultation. Nous avons besoin de fonds pour la formation du personnel et des parents des familles d'accueil par exemple. Mais il n'est pas nécessaire que la province exerce et proclame continuellement son autorité.

Ce genre de relation ne peut être réalisée que par le dialogue et la négociation au niveau politique; cependant, comme nous l'avons dit, il n'y a eu aucune discussion de ce genre durant la plus grande partie de la durée des ententes.

La prestation de services à l'extérieur des réserves est plus compliquée parce que la compétence des SECFS dans ce domaine devra être reconnue dans le cadre d'ententes négociées. La population vivant hors réserve est concentrée dans la ville de Winnipeg, mais elle est aussi dispersée dans d'autres centres de la province. Il pourrait bien s'avérer impossible de dispenser des services complets à la population urbaine, et encore plus d'établir des postes de services dans d'autres régions. Dans ce cas, l'organisme pourrait conclure des contrats de services, par exemple avec le gouvernement provincial, avec les services à l'enfant et à la famille non autochtones, avec l'organisme autochtone de Winnipeg et avec une foule d'autres intervenants.

La question du financement

Sur la question du financement, la position extrême pourrait être que le gouvernement provincial n'a aucune responsabilité dans ce domaine. Bien que la province ait toujours fourni certains services aux Indiens inscrits, elle prétend que le gouvernement fédéral devrait en assumer l'entière responsabilité financière. Dans l'ensemble, le gouvernement fédéral a accepté cette position, sauf dans un cas important que nous avons déjà mentionné; il n'accepte pas de payer les services fournis aux Indiens inscrits qui vivent hors réserve

(cependant, il partage les coûts en vertu des dispositions du Régime d'assistance publique du Canada, comme il le ferait à l'égard de toute autre personne).

Toutefois, on peut soutenir à juste titre que le gouvernement provincial devrait avoir une certaine responsabilité financière; il y a d'ailleurs des précédents dans ce domaine. Lorsqu'on examine ces précédents, on s'aperçoit qu'il y a trois raisons qui justifient que le gouvernement provincial accorde des fonds. La première est que la province devrait accepter de rembourser l'organisme des Premières nations pour les services rendus par lui au nom de la province. Exemple : les services fournis aux Indiens non inscrits vivant dans les collectivités des Premières nations ou à proximité. Ces personnes font partie intégrante de la communauté. En outre, la province devrait rembourser tous les services rendus, et pas seulement une partie. Il faudrait négocier une formule de remboursement qui tienne compte du coût de tous les services nécessaires qui sont fournis à ces familles et non seulement du coût d'entretien des enfants non inscrits qui sont pris en charge par l'organisme.

La deuxième raison est que le gouvernement provincial devrait accorder un soutien financier pour les fonctions pour lesquelles il assume normalement la responsabilité à l'égard de toute la population, y compris les Indiens inscrits. Exemple : l'enseignement postsecondaire. Bien que le gouvernement fédéral accorde une allocation de subsistance et rembourse les frais de scolarité aux Indiens inscrits qui étudient dans un établissement postsecondaire, ce financement ne couvre pas la plus grande partie des coûts de l'éducation. La situation particulière des SECFS et d'autres organismes des Premières nations nécessite que l'on offre aussi des programmes de formation spéciaux et sur mesure (surtout pour les agents locaux). Ces programmes ont des objectifs et des avantages identiques à ceux de tout autre programme postsecondaire et il serait opportun qu'une partie des coûts soit payée par la province.

Enfin, on peut avancer que le gouvernement provincial devrait aider à financer les programmes et les services que l'organisme doit offrir pour réparer les erreurs passées dont la province est en partie coupable. Cette catégorie pourrait englober un grand nombre de programmes étant donné l'histoire de la colonisation et de la dépossession, mais on pourrait la limiter aux programmes qui ne sont pas normalement dispensés par les organismes réguliers de services à l'enfant et à la famille. Exemple : un programme de rapatriement. Ces dernières

années, un grand nombre d'enfants indiens inscrits ont été placés, sous l'autorité provinciale, dans des familles demeurant loin de leur collectivité; quelques-uns ont même été adoptés aux États-Unis. Certains témoignages donnent à penser qu'une grande proportion de ces enfants ne se sont pas bien adaptés au milieu non autochtone. Un programme de rapatriement qui viserait les jeunes adultes, qui serait soigneusement planifié selon chaque cas et qui fournirait tout un éventail de ressources communautaires, donnerait la possibilité à ces personnes de guérir et permettrait en même temps de ramener dans la collectivité les membres perdus. L'argument de la compensation avancé dans la théorie des droits de la personne s'appliquerait ici pour justifier le financement de ces programmes par le gouvernement provincial.

Relations avec le gouvernement fédéral

Ententes de financement

Dans le système général des services à l'enfant et à la famille, ce sont les provinces qui fournissent les fonds. Les gouvernements provinciaux choisissent, pour certains bassins démographiques de la province (surtout au Manitoba et en Ontario), de financer des organismes privés sans but lucratif qui dispenseront les services en leur nom. Dans la plupart des autres provinces et dans le nord du Manitoba, le gouvernement provincial assume également la responsabilité de la prestation des services. Il s'agit donc en majeure partie d'un système unitaire auquel ne participe qu'un palier de gouvernement.

En vertu des ententes tripartites signées avec les SECFS et d'autres organismes des Premières nations, le ministère des Affaires indiennes et du Nord canadien a accepté d'être le bailleur de fonds principal et d'accorder des subventions directes pour les coûts d'entretien des enfants et les coûts de fonctionnement de l'organisme. Le système des Premières nations est par conséquent unique : l'organisme qui détient le pouvoir législatif et le pouvoir de réglementation, soit la province, n'est pas le principal bailleur de fonds. Comme nous l'avons vu dans la section sur les relations entre les SECFS et le gouvernement provincial, la province revendique la compétence et l'autorité en matière de services à l'enfant et à la famille, y compris l'établissement et le maintien des normes. La capacité de l'organisme de se conformer à ces normes dépend dans une grande mesure des subventions reçues. Ces sommes sont versées par le MAINC, donc par un palier de gouvernement autre que l'organisme de

réglementation, celui-ci ayant très peu d'influence ou ayant choisi de ne pas exercer d'influence sur le mode de financement prévu par le ministère fédéral.

Les questions les plus importantes pour l'organisme restent cependant le niveau de financement qui est prévu dans les ententes chaque année et la capacité de l'organisme de prévoir approximativement ce niveau de façon à pouvoir effectuer une planification à long terme. La façon dont le niveau de financement a été déterminé, ainsi que les montants octroyés ont changé au fil des ans. En 1986, le MAINC a commencé à s'inquiéter de l'augmentation rapide des coûts des services à l'enfant et à la famille dispensés par les organismes des Premières nations au pays. Il a donc imposé un moratoire sur les nouvelles ententes jusqu'à ce que le rapport du Groupe de travail sur les services à l'enfance et à la famille (commandé par le MAINC en 1987 et qu'il ne faut pas confondre avec le groupe de travail du Manitoba de 1993) qu'il avait institué soit terminé. Ce groupe de travail devait effectuer un examen des ententes, des services et des «coûts qui leur sont associés». Le groupe de travail (MAINC 1987) a déposé son rapport l'année suivante.

Tout en analysant les conclusions du groupe de travail, on a continué de conclure des ententes de financement annuelles, qui contenaient une provision pour l'inflation et l'expansion. Enfin, en 1991, le MAINC a élaboré un mécanisme de financement pour déterminer les allocations annuelles à verser aux organismes de services à l'enfant et à la famille des Premières nations dans tout le pays (MAINC 1991). Les deux principaux objectifs visés par le Ministère étaient de pouvoir faire certaines prévisions et de traiter tous les organismes sur le même pied. Avant, le montant des allocations était parfois fixé en fonction des compétences dont faisaient preuve les négociateurs des organismes des Premières nations, plutôt que selon la demande ou les besoins de services.

Le mécanisme de financement comporte deux éléments. Le premier reste inchangé; il s'agit d'un engagement non limitatif à payer par anticipation ou à rembourser à l'organisme les coûts d'entretien et les coûts de services de surveillance pour les enfants pris en charge. Les taux des coûts d'entretien sont ceux qui sont autorisés par la province pour les enfants qu'elle prend en charge et dont elle a la garde.

Le deuxième élément du mécanisme consiste en l'utilisation d'une formule qui contient six facteurs servant à établir le budget de fonctionnement :

1. Les données démographiques fournies par les bandes. Le montant versé en fonction de ce facteur équivaut à un montant par habitant (pour les SECFS, 655 \$ en 1991) multiplié par le nombre d'enfants de 18 ans et moins vivant dans les réserves. Il s'agit d'un calcul peu sophistiqué, mais dont le résultat fournit un indicateur raisonnable de l'ampleur de la demande et des besoins de services futurs.
2. Une somme préétablie pour chaque bande desservie par l'organisme pour payer les frais de déplacement et les coûts administratifs supplémentaires. En 1991, cette somme était égale à 9 651 \$ multiplié par 9 (le nombre de bandes desservies par les SECFS).
3. Une somme préétablie (128 960 \$ en 1991) pour tous les autres coûts administratifs. Cette somme ne varie pas en fonction de la population ou de tout autre facteur.
4. Un facteur d'éloignement. Les SECFS dispensent des services à cinq collectivités éloignées; l'organisme a donc pu profiter de l'application de ce facteur.
5. Des facteurs socio-économiques. Ce facteur représente le degré de difficulté des tâches assignées à l'organisme dans une ou plusieurs des collectivités desservies. Il s'agit d'un autre indicateur du niveau des besoins.
6. Un rajustement annuel en fonction de l'inflation.

On n'a jamais établi de critères de financement des services à l'enfant et à la famille qui soient logiques et fondés sur une mesure objective des besoins. On a plutôt eu tendance à établir les niveaux de financement de façon assez arbitraire, habituellement en majorant le montant des allocations accordées l'année précédente. Le mécanisme actuellement utilisé par le gouvernement fédéral constitue un outil valable. L'application de ce mécanisme n'a pas désavantagé les SECFS, ni les autres organismes, si on compare les sommes versées avec celles des années antérieures. Le budget de fonctionnement global de l'année où le mécanisme a été mis en place (1992-1993) a en fait augmenté par rapport à celui de l'année précédente.

Ce mécanisme est toutefois imparfait et il faudra y apporter des améliorations. D'abord, le budget global est le produit des quatre premiers facteurs du budget de fonctionnement auquel on ajoute les coûts d'entretien. On ne s'est pas encore entendu sur les cinquième et sixième facteurs, qui sont pourtant essentiels. Les conditions socio-économiques d'une collectivité constituent un important indicateur des besoins de services, beaucoup plus que le nombre d'enfants, qui est le seul autre indicateur utilisé. Les conditions

socio-économiques ne doivent pas être déterminées uniquement en fonction de l'emploi ou des revenus, mais aussi en fonction des problèmes sociaux. Il y a évidemment une relation entre ces facteurs, mais il ne s'agit pas d'une relation univoque directe. Parmi les mesures des problèmes sociaux, mentionnons le nombre de familles qui ont reçu des services, certaines indications de l'intensité des services, les taux de suicide, les démêlés avec la justice, le nombre de divulgations et une estimation de la prévalence de la violence familiale. Ces mesures ne sont pas précises, et il faudrait idéalement qu'elles s'appuient sur des données autodéclarées, mais elles constituent une indication assez juste des besoins de services sur lesquels le calcul des allocations devrait être fondé. Quant à l'organisme, il lui faudrait démontrer qu'il a mis en place ou qu'il compte mettre en place des programmes en vue de répondre à ces besoins.

La question du facteur inflation n'est pas encore réglée. Il semble que le MAINC se soit engagé verbalement à tenir compte de l'inflation, mais le Ministère n'a encore annoncé aucun chiffre. Ce facteur peut donc être modifié, et nous perdons un élément de la prévisibilité souhaitable pour les fins de la planification.

Le plus grand problème ne provient cependant pas tant du mécanisme de financement proprement dit que de la philosophie qui le sous-tend. Dans la description du mécanisme, on soutient que des subventions directes ne seront nécessaires que dans le cas des activités axées sur les enfants, comme la prévention de la négligence et des mauvais traitements. Au sujet de cette clause, un conseiller déclare ce qui suit dans son rapport :

Il est au-dessus de la capacité de ces organismes d'éliminer les causes de la négligence et des mauvais traitements à l'égard des enfants. [...] Compte tenu de l'importance du rôle que ces organismes jouent au sein des collectivités, il est essentiel que les services soient complets et dispensés de façon hautement compétente. Ces organismes doivent nécessairement couvrir un plus large éventail d'activités que les organismes en milieu urbain qui ont à leur disposition un grand nombre de services parallèles (BDO Ward Mallette 1991, p. 10).

On trouve dans un autre exposé de principe des propos plus détaillés à ce sujet. Les auteurs soutiennent que les mécanismes de financement qui ne tiennent pas compte du degré de difficulté de la tâche assumée par les Premières nations — le déséquilibre qui existe dans bon nombre de collectivités entre les personnes capables de fournir de l'aide et celles qui en

ont besoin — limitent grandement la capacité d'expansion des organismes. Les auteurs affirment aussi que les ententes de financement trop limitées sont fondées sur l'hypothèse que les problèmes sociaux sont exceptionnels, tandis qu'ils sont au contraire répandus et qu'ils atteignent même dans certains cas des proportions endémiques. Par conséquent, ces ententes s'appuient aussi sur l'hypothèse que les interventions exceptionnelles prévues en réponse à ces problèmes conviennent mieux que les efforts de guérison qui s'appliquent à l'ensemble de la collectivité et qui en sont encore en grande partie à leurs débuts. Des collectivités entières ont été exploitées par des forces extérieures, d'où la violence intracommunautaire. Cette situation nécessite d'autres réponses que les interventions limitées prévues dans le mécanisme de financement (Hudson et Taylor-Henley 1993).

Parmi les 13 répondants de l'organisme, huit personnes ont déclaré qu'il fallait insister davantage sur la prévention et sur la guérison. Six d'entre elles ont associé ces deux éléments en particulier à ce qu'elles considèrent comme un déséquilibre entre les ressources affectées aux enfants pris en charge et les ressources qui devraient, selon elles, être affectées aux programmes de prévention de la violence familiale, à des programmes plus énergiques de lutte contre l'alcoolisme et la toxicomanie et au développement communautaire.

Le contenu et l'application du mécanisme de financement reflètent l'approche du traitement exceptionnel plutôt que l'approche de la guérison communautaire. Sur le plan du contenu, il y a un poste qui représente actuellement une sous-catégorie du budget d'entretien et qui s'appelle «services aux familles». Parmi ces services sont inclus le temps de travail du personnel et les services de soutien proprement dits, comme les services d'aide familiale ou de garde. En 1992, on a imposé un plafond aux sommes affectées à ce poste, même si ces services de prévention essentiels offerts à un grand nombre de familles représentaient déjà un très faible pourcentage du budget global. (En 1992, cette somme était de 278 000 \$, ce qui représentait environ 6 % du budget global.) On n'a pas tenu compte du facteur des conditions socio-économiques; voilà un autre exemple qui montre que le contenu du mécanisme de financement ne répond pas aux besoins réels de la collectivité.

L'application du mécanisme ne permet pas non plus le financement de toute une série d'activités qui, dans le système non autochtone, sont déjà en place ou sont beaucoup moins nécessaires. Mentionnons entre autres l'élaboration d'un plan à long terme pour la formation

du personnel, le développement communautaire et d'autres formes de soutien pour les bénévoles du système, un salaire suffisant pour les employés (aux SECFS, le salaire initial des agents locaux est inférieur à celui du concierge du bureau), des taux suffisants pour les familles d'accueil, qui sont actuellement les mêmes que les taux provinciaux (pourtant, la nourriture à elle seule dans le Nord coûte jusqu'à quatre fois plus cher que dans les villes du Sud), et les sommes élevées à déboursier pour traiter les enfants qui sont gravement handicapés. En outre, le mécanisme ne prévoit pas de fonds pour les activités d'expansion pourtant essentielles dans les collectivités des Premières nations, pour des projets de développement que l'organisme pourrait vouloir entreprendre comme le projet d'élaboration de normes, ou pour des activités connexes de développement communautaire, par exemple la création de programmes de guérison comme celui qui est présentement à l'essai à Hollow Water.

Bref, il faudra apporter diverses modifications au mécanisme de financement :

- Le budget d'entretien devrait être majoré afin de tenir compte des coûts réels des soins aux enfants pris en charge dans les collectivités éloignées⁵.
- Le poste «Services aux familles» de ce qui constitue actuellement le budget d'entretien ne devrait plus être plafonné et on devrait y affecter des sommes plus généreuses.
- Le facteur des conditions socio-économiques du mécanisme devrait être mis en application. Les chiffres utilisés dans le calcul devraient être révisés pour pallier les lacunes déjà mentionnées.
- Il faudrait ajouter un troisième élément au mécanisme pour les tâches liées à l'expansion. Le mécanisme actuel est fondé sur le statu quo et c'est là son plus grand défaut. On suppose que la mise sur pied et le développement de l'organisme sont terminés et que la seule tâche quotidienne à l'ordre du jour est la protection des enfants, tandis qu'il lui reste encore en réalité à régler un certain nombre de problèmes importants sur les plans de la politique et de la prestation des services.

La politique fédérale en matière de compétence

Dans les ententes avec les SECFS, le partenaire fédéral joue principalement un rôle de bailleur de fonds. Le gouvernement fédéral a toutefois pris activement position sur une autre question importante et il importe que nous examinions cette position.

Tout au long des négociations qui ont mené à la signature des premières ententes et, par la suite, dans des documents d'orientation, le gouvernement fédéral a insisté sur deux points. Premièrement, toutes les ententes devaient être tripartites. Deuxièmement, les organismes des Premières nations devaient être assujettis au pouvoir du gouvernement provincial. La première condition est positive. En effet, bien que les organismes des Premières nations se soient souvent montrés réticents à s'engager dans une relation avec les provinces, par peur des conséquences sur leur relation avec le gouvernement fédéral, on croit qu'une certaine forme de relation est nécessaire. Il est légitime que les provinces participent aux ententes avec les Premières nations; elles seront en effet touchées par les résultats de tout mouvement vers l'autonomie gouvernementale, y compris le contrôle de la prestation des services comme les services à l'enfant et à la famille. Comme nous l'avons vu précédemment, les provinces peuvent choisir de favoriser ou d'entraver ce mouvement, mais elles sont néanmoins des participants légitimes au processus.

Le problème que pose la politique fédérale, c'est que le gouvernement insiste pour associer la politique du tripartisme à l'assujettissement des organismes de services à l'enfant et à la famille des Premières nations à l'autorité provinciale. Cette position n'a pas changé depuis la première circulaire sur la question (MAINC, 1982). La dernière déclaration sur ce sujet a été faite dans un document d'orientation : «les principes qui sous-tendront les ententes visant les services à l'enfant et à la famille [...] seront en accord avec les lois provinciales» (MAINC 1989c). Il semble évident qu'il n'y a pas de raison de lier les deux éléments. Il est assez logique de considérer les provinces comme des parties intéressées et de demander des ententes tripartites. Il n'est toutefois pas logique de présumer de l'un des résultats importants des négociations tripartites, soit la nature de la relation qui s'établira entre le gouvernement indien et ses organismes, et entre les gouvernements provinciaux et leurs organismes.

Comme nous l'avons vu précédemment, les relations qui existent entre la province du Manitoba et les SECFS sont problématiques, non seulement sur le plan politique, mais aussi sur le plan de la prestation des services, une question qui devrait intéresser toutes les parties.

Ces mauvaises relations nuisent à la conception et à la mise en place de méthodes de guérison qui sont mieux adaptées à la culture et aux conditions socio-économiques des collectivités. Il est clair que le gouvernement fédéral se sert de son avantage financier pour appuyer les ententes actuelles. Curieusement, il défend les droits des gouvernements provinciaux au lieu de faciliter la redéfinition de la relation entre les gouvernements provinciaux et les organismes des Premières nations.

Les entrevues et l'examen des documents ont seulement révélé que la question des relations entre l'organisme et le gouvernement provincial, ainsi que le soutien accordé par le gouvernement fédéral à ce genre de relation, représente l'un des plus importants problèmes de gestion et de structure pour l'organisme. Ils n'ont pas révélé cependant les motifs qui justifient la position stratégique du gouvernement fédéral, et nous ne pouvons que faire des suppositions à cet égard. De façon générale, toutefois, on constate qu'un palier de gouvernement revendique des compétences lorsqu'il est susceptible d'obtenir un gain de ressources, et qu'il nie avoir des compétences lorsqu'il risque de perdre des ressources. Dans le domaine des services à l'enfant et à la famille, la province, bien que ne voulant rien dire ou faire qui remette en question sa compétence constitutionnelle en matière de services sociaux, a hésité à invoquer cette compétence à l'égard des Premières nations, parce qu'il en découle un engagement important sur le plan des ressources. Le gouvernement provincial a accepté cependant d'être partie aux ententes actuelles, car les responsabilités financières étaient minimales et que cette participation ne créait aucun précédent quant à sa compétence constitutionnelle. Par ailleurs, la province du Manitoba n'a eu aucune réticence à invoquer sa compétence en matière de jeu lorsque certaines collectivités des Premières nations ont tenté d'utiliser ce type d'activité pour générer des revenus. En fait, on a même eu recours à une intervention policière pour faire cesser les activités dans l'une de ces collectivités. La position du gouvernement fédéral ne peut pas s'expliquer avec les mêmes arguments, puisque celui-ci a accepté de remplir la plupart de ses obligations financières en matière de prestation de services. Le seul domaine important où cela n'a pas été le cas — et qui nous permettrait d'expliquer sa position — est celui des services hors réserve. Dans ce domaine, il est clair que le gouvernement fédéral se décharge de ses responsabilités en invoquant la compétence provinciale.

Quels que soient ses motifs, le gouvernement fédéral soutient que sa relation avec les SECFS est purement une relation financière, qu'elle n'a aucune conséquence sur l'exécution des programmes. Cependant, en insistant pour que les programmes relèvent de la compétence provinciale, il exerce une influence indirecte sur l'exécution des programmes et la prestation des services.

Une solution possible à ce problème serait l'adoption d'une loi qui éclaircirait la question des compétences. Il y a deux possibilités. Les SECFS pourraient prendre l'initiative d'élaborer leur propre loi, dans laquelle seraient définis les principes des services à l'enfant et à la famille, les bénéficiaires, les conditions pour recevoir ces services et la façon de les fournir, et qui prévoirait une structure de mise en oeuvre, dont l'établissement de comités locaux, et des mesures de responsabilisation. Le SERDC, comme chacune des collectivités, devrait entériner cette loi. Étant donné la politique fédérale actuelle, on peut raisonnablement supposer que cette longue démarche ne servirait à rien.

La deuxième possibilité serait que le gouvernement fédéral adopte une loi spéciale sur les services à l'enfant et à la famille. Cette solution a fait l'objet d'une recommandation dans le rapport du groupe de travail de 1993 (Manitoba 1993). Malheureusement, ce rapport ne contient aucun détail sur la nature et le contenu d'une loi de ce genre. On peut supposer que le groupe de travail suggère la création d'une loi habilitante se limitant à reconnaître les compétences des Premières nations en la matière, ce qui permettrait alors aux SECFS d'élaborer leur propre loi sans risque de litige ou de contestation.

Dès 1986, dans les documents que nous avons examinés, l'organisme fait mention de la nécessité d'élaborer sa propre loi et expose des plans pour y arriver. Les SECFS mentionnent aussi la possibilité de collaborer avec d'autres organismes de services à l'enfant et à la famille des Premières nations. Ce projet semble être lié, dans l'esprit des gens, au projet sur l'élaboration de normes. D'après les entrevues réalisées avec les employés, on constate que ceux-ci sont en faveur de la création d'une loi par les Premières nations; deux employés n'avaient pas d'opinion sur la question. Ces employés, comme d'autres personnes interrogées, avaient certaines réserves; entre autres, ils estimaient qu'il était bon qu'il y ait un équilibre des pouvoirs, et cet équilibre est actuellement assuré par le gouvernement provincial.

Les solutions que nous venons d'exposer pourraient toutes deux être mises en pratique. La solution de l'élaboration d'une loi fédérale serait plus lente, mais plus sûre. Aucune des deux solutions ne pourrait être unilatérale; dans les deux cas, il faudrait que les deux autres paliers de gouvernement prennent certaines décisions de principe. D'après les entrevues réalisées, il se pourrait que la province du Manitoba ne s'oppose pas activement à une telle loi, bien qu'elle ne se soit pas prononcée officiellement sur le sujet. Le gouvernement fédéral, quant à lui, se verrait obligé d'abandonner une politique à laquelle il s'est accroché fermement jusqu'à présent. Selon les entrevues et les documents que nous avons examinés, le raisonnement du gouvernement fédéral tient dans quelques déclarations laconiques au sujet de la compétence constitutionnelle des provinces. Cependant, cette compétence est loin d'être claire dans le cas des Premières nations. L'interprétation du paragraphe 91(24) de la *Loi constitutionnelle de 1867*, qui établit la responsabilité fédérale à l'égard des Indiens et des terres réservées pour les Indiens, et de l'article 88 de la *Loi sur les Indiens*, selon lequel la responsabilité provinciale subsiste à moins de mention spéciale dans cette loi (les services sociaux ne sont pas mentionnés), ainsi que d'autres controverses au sujet des droits issus de traités et des droits ancestraux, nourrissent un débat continu. Il n'y a aucun élément décisif ni aucune certitude absolue sur cette question. L'argument constitutionnel dont se sert le gouvernement fédéral pour justifier sa politique sur les compétences provinciales est faible. La résolution du problème est plutôt une question de volonté politique.

La Direction générale des services médicaux

En examinant la question des relations actuelles entre l'organisme et le gouvernement fédéral, et les améliorations qui pourraient y être apportées, nous avons constaté que le rôle de la Direction générale des services médicaux est considéré comme problématique. La DGSM s'est vu confier le rôle de fournir des services de santé aux Indiens inscrits. Nous avons décelé deux problèmes d'après les documents de l'organisme et nos entrevues avec les employés.

Le premier problème est d'ordre administratif. Dans un procès-verbal de réunion, l'organisme s'inquiète à la perspective d'avoir à gaspiller des ressources déjà rares pour se conformer à des politiques gênantes de la DGSM formulées pour des individus et non pour

les organismes [indiens de services à l'enfant et à la famille]. Les employés ont parlé des fréquents différends entre le MAINC et la DGSM au sujet de la facturation de services pour les enfants indiens inscrits qui ont été pris en charge. Dans le compte rendu d'une réunion du comité régional de 1992, il est fait mention des pertes financières subies par l'organisme à cause d'un différend de cette nature. Un seul organisme devrait être responsable; logiquement, ce devrait être le MAINC, qui pourrait récupérer les sommes de la DGSM au besoin. À défaut de retenir cette solution, il faudra établir des critères beaucoup plus précis pour déterminer les responsabilités de chacun de ces organismes.

Le deuxième problème concerne le contrôle des décisions. En bout de ligne, c'est la DGSM qui décide qui recevra des services. Son autorisation dépend de la recommandation d'un médecin autorisé. Même si le processus d'autorisation est assez simple, le personnel de l'organisme n'a pas le pouvoir de contrôler les décisions médicales dans l'intérêt des enfants pris en charge. Pis encore, la DGSM décide aussi qui fournira les services. Ainsi, la Direction générale n'autorise pas la facturation de services fournis par un travailleur social, mais elle autorise celle des services d'un psychologue. La plupart des professionnels des Premières nations sont des travailleurs sociaux. Par conséquent, cette politique exclut pratiquement la facturation des services reçus d'un travailleur des Premières nations.

Il ne semble y avoir eu aucun progrès sur ces questions, ni aucune volonté de la part de la DGSM ou du MAINC de participer à des discussions sur ces sujets.

Une question en suspens : la formation du personnel

La question de la formation du personnel ne devait pas faire partie de notre recherche. Cependant, cette question est revenue si souvent dans les documents examinés et au cours des entrevues que le rapport serait incomplet si nous ne faisons pas quelques commentaires à ce sujet. Si nous en parlons à la fin du rapport, c'est que cette question, plus que toute autre, recoupe les trois paliers de gouvernement dont il a été question. Elle concerne les responsabilités financières du gouvernement fédéral et les responsabilités financières et constitutionnelles du gouvernement provincial. Avant tout, l'orientation future de l'organisme, en particulier son autonomie et ses efforts de décentralisation, dépend des solutions qui seront trouvées à cette question. Il est difficile, sinon impossible, de transférer des responsabilités

aux collectivités s'il n'y a pas de personnel qualifié dans la collectivité pour la mettre en oeuvre. Prenons seulement comme exemple les habiletés requises du personnel pour bien soutenir le fonctionnement des comités locaux.

Les organismes de service social, comme d'autres employeurs, recrutent habituellement leur personnel parmi les diplômés des programmes d'enseignement postsecondaire offerts à l'extérieur du lieu de travail et payés en grande partie par les revenus généraux. Tel n'est pas le cas pour les employeurs des Premières nations et autres employeurs autochtones. D'abord, parce qu'ils désirent à juste titre engager des membres des Premières nations dans la mesure du possible. Ensuite, parce que dans les collectivités locales, même en l'absence de politiques d'embauche discriminatoires, les seules personnes disponibles sont des membres des Premières nations. Il est reconnu que les non-autochtones n'ont jamais travaillé à long terme dans les collectivités autochtones. Étant donné ces deux premières considérations, ajoutons seulement qu'il y a très peu d'étudiants des Premières nations qui sont diplômés des programmes dans lesquels les employeurs non autochtones viennent puiser leur personnel. Ce fait a été bien documenté ailleurs et nous n'en donnerons pas d'autre explication ici. (Voir par exemple MAINC 1989a et 1989b; Hull 1987.)

Pour remédier à cette situation, il faudra prendre diverses mesures et les appliquer sur un grand nombre d'années. Les membres des Premières nations pourraient par exemple suivre une formation en milieu de travail, suivre des cours dans un collège communautaire afin d'obtenir un certificat, suivre un programme menant à l'obtention d'un diplôme ou encore suivre un programme de formation spécialement conçu pour eux. Certaines de ces solutions peuvent exiger que les étudiants quittent la collectivité pour une certaine période; d'autres programmes peuvent être plus décentralisés et permettre aux étudiants d'étudier dans la collectivité et à temps partiel. Le contenu et la durée de ces études pourraient varier selon les besoins des individus et de l'organisme.

Nous n'allons pas regarder ces diverses solutions en détail ici. Notre intention est de signaler quelques éléments de planification de la formation qui ont été quelque peu négligés jusqu'ici. Ces commentaires ne sont pas fondés sur les données recueillies pour le présent rapport, puisque ces données ne faisaient que révéler l'importance de la question de la formation du personnel, et rien de plus. L'auteur s'appuie plutôt sur son expérience

personnelle de deux programmes d'action positive menant à l'obtention d'un diplôme, d'un programme de certificat qui a été offert à du personnel de certains organismes de services à l'enfant et à la famille des Premières nations et d'un programme d'enseignement à distance.

D'abord, nous constatons qu'il y a des attentes tout à fait irréalistes à l'égard de ce que peuvent accomplir les programmes des établissements postsecondaires dans un laps de temps défini. Par exemple, un étudiant non autochtone typique de classe moyenne qui détient tous les préalables nécessaires et qui commence un baccalauréat en travail social a quatre années d'études à temps plein devant lui, en supposant qu'aucune difficulté financière ou autre ne vienne perturber ses études. Par ailleurs, les organismes des Premières nations ont besoin, au moins pour la plus grande partie de leur personnel local, de programmes (diplôme ou autre attestation) auxquels peuvent s'inscrire les personnes qui travaillent déjà. En d'autres termes, en supposant qu'un employé travaille à temps partiel et étudie à temps partiel, il lui faudrait huit ans pour terminer le baccalauréat dont nous avons parlé. Il est vrai que les programmes menant à l'obtention d'un diplôme se trouvent au sommet de l'échelle des programmes de formation et qu'il peut y avoir là aussi des accommodements (des stages en milieu de travail par exemple), mais il reste que la durée des études et la participation soutenue exigée de l'organisme, de l'employé et des organismes qui financent la formation excèdent de beaucoup tout ce que l'auteur a entendu ou vu sur la question de la formation.

En outre, l'étudiant typique dont nous avons parlé n'existe pratiquement pas dans les collectivités des Premières nations. D'autres facteurs particuliers viennent augmenter la difficulté de suivre un programme de formation. Premièrement, si l'on prend encore comme exemple le programme menant à l'obtention d'un diplôme, très peu des employés locaux possèdent les préalables nécessaires. L'obtention de ces préalables augmenterait encore la durée des études.

Deuxièmement, de nombreux étudiants autochtones inscrits à des programmes offerts dans les établissements réguliers parlent des difficultés qu'ils rencontrent à cause des différences culturelles, à la fois dans le contenu de la formation et dans les méthodes d'enseignement. Ces difficultés amènent souvent les étudiants à abandonner leurs études ou, au mieux, à manquer fréquemment les cours afin de se remettre en question.

On pourrait prétendre que tous les problèmes que nous venons de décrire sont ceux des établissements d'enseignement de la culture dominante, et non des étudiants. Cela est vrai en partie, malgré les faibles changements et accommodements que ces établissements commencent à faire. Mais dans un avenir prévisible, les Premières nations continueront de compter fortement sur les établissements réguliers pour donner la formation à leur personnel. Il faudra tenir compte de ce fait dans la planification de la durée des études, des conditions d'emploi et du financement.

Par ailleurs, ce ne sont pas toutes les difficultés associées à la planification et au financement des programmes de formation qui sont attribuables à l'inflexibilité des établissements postsecondaires. Même si les membres des Premières nations suivaient une période d'apprentissage avec les anciens ou un programme plus adapté à la culture autochtone dans un établissement postsecondaire dirigé par des autochtones (il y en a quelques-uns), d'autres situations viendraient perturber la continuité des études. Le contenu de la formation en service social est susceptible de déclencher chez les étudiants autochtones, plus que chez les autres, des souvenirs de mauvais traitements ou d'autres expériences difficiles dont ils ont été victimes. Pour certains étudiants, l'éducation et la formation peuvent et doivent constituer autant une thérapie qu'une démarche intellectuelle.

Et même si ces étudiants se sentent bien et qu'ils n'ont pas de problème d'identité, ils sont rarement à l'abri des crises que vivent leurs proches. Les décès, les naissances, la violence familiale, les suicides, la maladie, les pertes d'emploi et les difficultés financières d'autres sortes sont des événements de la vie — la plupart stressants — qui sont vécus plus souvent par les autochtones que par l'étudiant de classe moyenne typique dont nous avons parlé. On s'attend à ce que l'individu s'acquitte de son obligation d'aider la famille dans ces circonstances, et l'étudiant répond à cette attente.

Si l'on ajoute à tous ces éléments le profil habituel d'une personne mûre (habituellement une femme) qui a beaucoup de responsabilités familiales en plus de travailler et d'étudier, on comprend mieux à quel point les études représentent un lourd fardeau pour l'individu, l'employeur et l'établissement d'enseignement.

Tous ces éléments sont confirmés par l'expérience. Dans l'entente tripartite originale, le MAINC a accepté de subventionner un programme de formation en milieu de travail d'une

durée de deux ans pour tous les Services à l'enfant et à la famille des Premières nations. Pour étonnant que cela paraisse, toutes les parties semblaient croire que cette mesure satisferait les besoins en travailleurs qualifiés et que cette partie du financement serait une contribution unique. Dans les SECFS, comme dans d'autres organismes, il y a eu un roulement de près de 100 % des stagiaires au cours des deux premières années du programme de formation, ce qui a jeté une douche d'eau froide sur l'optimisme initial.

On a alors fait des ajustements. Le programme a été prolongé. Les cours ont été modifiés et répétés pour les nouveaux employés. Certains ont obtenu leur diplôme et quelques-uns ont continué d'occuper leur emploi. D'autres modifications ont été apportées après le premier cycle de formation et d'autres programmes de formation semblables ont été offerts de temps en temps.

Nous terminons la présente section par deux réflexions. La première est que malgré la souplesse et les ajustements dont nous avons parlé dans le paragraphe précédent, aucune des trois parties n'a élaboré de plan de formation sérieux à long terme qui serait proportionné à l'importance que l'on attache à la question. La deuxième est qu'aucun des programmes de formation offerts jusqu'à maintenant n'a prévu des moyens de surmonter la plupart des obstacles au succès que nous avons énumérés. Il faut prévoir des périodes d'études plus réalistes, il faut modifier les modalités d'emploi de façon à accorder à certains employés des congés d'études tout en continuant à fournir les services, et il faut offrir aux étudiants diverses formes de soutien. Lorsqu'on retrouve au moins quelques-uns de ces éléments, les taux de réussite s'améliorent sensiblement. (Voir par exemple Hull 1987; McKenzie et Mitchinson 1989.)

Conclusion

Application de l'étude

Le présent rapport est fondé sur une étude de cas des Southeast Child and Family Services. Il comporte les limites qui sont toujours inhérentes aux études de cas, c'est-à-dire que quand vient le moment de formuler des politiques, on doute toujours de l'applicabilité de ces études à d'autres organismes semblables des Premières nations et à d'autres régions du pays. Voici quelques commentaires à cet égard :

- La plupart des organismes de services à l'enfant et à la famille des Premières nations ont été fondés sur des principes similaires et défendent des principes semblables à ceux que défendent les SECFS. Au centre de ces principes se trouvent le respect de l'autonomie de la collectivité et les programmes communautaires. Tous ces organismes, par exemple, comprennent un comité local comme ceux des SECFS, ce comité ayant un rôle décisionnel important. Certains organismes desservent une seule collectivité, comme la bande des Spallumcheen en Colombie-Britannique et la bande des Sagseng au Manitoba. Les questions qui sont propres à une structure fédérée ne s'appliquent pas à ces organismes, mais les questions qui concernent les relations au sein de la collectivité, comme la relation entre la structure politique de la bande et l'organisme de services, s'appliquent. La plupart des organismes du pays sont organisés comme un conseil tribal, d'une façon très semblable aux SECFS.
- Certains organismes d'autres régions du Canada ont une organisation très semblable à celle des SECFS, sauf pour un aspect important : on ne leur a pas accordé les pleins pouvoirs en vertu des lois provinciales. Ils ne peuvent prendre des enfants en charge, s'occuper d'adoptions ou exécuter les fonctions normalement prévues par la loi. Ils fournissent du counselling familial et des services de supervision pour les enfants pris en charge, et ils élaborent des ressources locales pour soutenir les familles et les enfants. Bien que ces organismes puissent avoir échappé à certains problèmes que rencontrent les organismes qui ont un mandat, à certains égards ils ont encore moins de souplesse et de possibilités d'élaborer des moyens adaptés à leur culture pour s'occuper de leurs enfants. Par exemple, ils ne peuvent exercer de pouvoirs discrétionnaires lorsqu'il s'agit de juger s'il faut retirer à des parents la garde de leur enfant. Cette décision revient aux autorités provinciales et aux fonctionnaires provinciaux.
- À tous les autres égards, les questions des relations avec les gouvernements fédéral et provincial sont très semblables dans tout le Manitoba et, en fait, dans tout le pays. Il faut souligner que certains des documents examinés pour les sections portant sur les relations avec les gouvernements provincial et fédéral peuvent s'appliquer à d'autres organismes que les SECFS, et parfois à d'autres provinces que le Manitoba. Les

différences se situent au niveau de la qualité des relations plutôt qu'au niveau de leur structure. À cet égard, les SECFS et leur association mère, le SERDC, ont choisi un mode de coopération plutôt qu'un mode d'affrontement. Le personnel du gouvernement non autochtone a répondu aux demandes non financières de l'organisme, permettant aux activités quotidiennes liées à l'exécution des programmes et à la prestation des services à l'enfant et à la famille de se poursuivre. Néanmoins, les difficultés structurelles sont toujours latentes et nous sommes persuadés qu'elles peuvent être généralisées.

La question de la compétence

Dans toutes les sections du présent rapport qui portent sur les relations intragouvernementales et intergouvernementales, on retrouve la question de la compétence. Cette question concerne le maintien de l'autorité provinciale en général, et en particulier dans la prestation de services à l'extérieur des réserves. Nous nous sommes limités à étudier les questions liées à la gestion plutôt que les questions liées aux programmes, et ce n'est que dans ce contexte que la question de la compétence prend une grande importance. Cela ne veut pas dire que la résolution de cette question est une panacée pour tous les problèmes liés aux services et aux programmes que rencontrent les SECFS ou les autres organismes. Il aurait fallu faire une étude beaucoup plus exhaustive pour examiner toutes ces questions.

Néanmoins, nous concluons que les questions de compétence examinées ici ne sont pas seulement une question de principe politique, bien que cela soit important en soi. Il existe un lien intime entre la question de la compétence, d'une part, et l'exécution des programmes et l'évolution des programmes et de la fonction gouvernementale de l'organisme, d'autre part. Par exemple, la difficulté de gérer les tensions naturelles qui existent au sein de la structure de l'organisme est compliquée par le fait que le gouvernement provincial transfère les pouvoirs exécutifs au comité régional sans reconnaître officiellement l'autonomie des collectivités membres. En outre, cette situation a influé considérablement sur l'élaboration de programmes. L'acceptation par la province de sa compétence a été renforcée par la politique fédérale, et les deux paliers de gouvernement ont contribué de façon égale à la stagnation des SECFS.

Le financement

Les mécanismes de financement fédéraux ont permis de réaliser une certaine équité entre les organismes. Par comparaison avec le financement provincial accordé aux organismes non autochtones, on pourrait même dire que le financement fédéral est généreux. Les mécanismes de financement et les résultats de leur application sont encore loin de tenir compte des réalités culturelles, politiques et socio-économiques des collectivités. Encore une fois, les répercussions de ces lacunes se font sentir sur les programmes dans la collectivité, ou peut-être plutôt sur l'élaboration de programmes. Le financement provincial représente encore un très faible élément des budgets des organismes et il est négocié au cas par cas. Des critères comme ceux qui ont été suggérés plus haut s'imposent pour clarifier le rôle de la province.

La structure tripartite

Le système actuel est suffisamment souple pour que les SECFS puissent amorcer des changements. Il a été question de cette possibilité dans le présent rapport. Pour reprendre un exemple tiré d'une autre section du rapport, les SECFS devraient aller de l'avant avec leur projet sur les normes. S'ils réussissent à mener ce projet à terme, ils se trouveront dans une meilleure position pour examiner les possibilités de changer le système existant et pour proposer des changements aux autres paliers de gouvernement. En fait, un des fonctionnaires gouvernementaux interrogés a déclaré que les attentes de l'organisme n'étaient pas toujours claires. Par conséquent, si les positions de chaque partie étaient plus clairement définies, on serait ouvert à changer les arrangements actuels.

Toutefois, lorsque l'organisme a tenté de prendre des initiatives, il a toujours été laissé à lui-même, mis à part quelques gestes de bonne volonté de la part du personnel provincial. Malgré la souplesse qui existe dans le système, il y a tout de même des obstacles qui empêchent l'organisme de prendre des initiatives importantes et de changer son orientation. Ces obstacles sont en partie liés au financement, mais aussi à d'autres contrôles externes — règlements provinciaux, tribunaux non autochtones, etc. C'est là la caractéristique principale des relations entre les autochtones et les gouvernements non autochtones. Les récents pourparlers constitutionnels laissaient présager un avenir différent. Bien que ces pourparlers aient échoué, aucun obstacle n'empêche de modifier les relations au niveau de la prestation

des services, dans les secteurs qui ne relèvent pas de la Constitution. L'amélioration des relations dépend de la volonté des gouvernements fédéral et provincial — mais en particulier du fédéral à cause de la relation de confiance qu'il a établie — de mettre en place des politiques plus souples. Ce mouvement vers l'avant ne pourra se produire qu'à la suite de discussions et de négociations entre les trois parties aux ententes originales. Bien que le gouvernement fédéral ait insisté sur la conclusion d'ententes tripartites, aucun mécanisme permettant de mettre en application ce principe, soit au niveau politique, soit au niveau des employés, n'a jamais été prévu. Toutes les discussions ont lieu sur une base bipartite, habituellement entre l'organisme et l'un des autres paliers de gouvernement. Les fonctionnaires fédéraux et les fonctionnaires provinciaux se rencontrent rarement.

Il faut établir un mécanisme tripartite au niveau politique et au niveau des employés afin que les questions examinées dans le présent rapport se retrouvent à la table de négociation. Il se présente une bonne occasion de le faire, avec le démantèlement proposé du MAINC au Manitoba. Il ne faudrait pas manquer cette chance, car les familles et les collectivités desservies par les SECFS et d'autres organismes semblables des Premières nations ont des besoins urgents.

Notes

1. Le Groupe de travail sur les services à l'enfant et à la famille des Premières nations a été institué en novembre 1991 pour trouver des solutions à diverses questions litigieuses touchant les services à l'enfant et à la famille autochtones au Manitoba. Les membres du groupe provenaient de l'Assemblée des chefs du Manitoba et des gouvernements fédéral et provincial. Le groupe a été créé en vue de renforcer la qualité et la gestion des services à l'enfant et à la famille des Premières nations.
2. Ces chiffres sont tous des prévisions budgétaires qui avaient été préparées au début de l'exercice. Les réalisations de fin d'exercice, qui étaient peut-être différentes des prévisions en raison de modifications apportées en cours d'année, n'étaient pas disponibles. Tout écart s'appliquerait en particulier à la partie du budget consacré à l'entretien des enfants pris en charge.
3. Toutes les citations anonymes (y compris celle-ci) sont tirées des entrevues réalisées par l'auteur pour la présente étude.

4. Il y a eu plusieurs affaires judiciaires au cours des années 80 dans lesquelles on a tenté d'établir si les liens de l'enfant avec sa famille d'accueil étaient plus importants ou moins importants qu'une réintégration de son milieu culturel. Dans toutes ces affaires, ce sont les liens avec la famille d'accueil qui l'ont emporté. L'un des cas qui a eu la plus grande visibilité a été l'affaire *Woods v. Racine*, tribunal de comté de Killarney, province du Manitoba, mai 1982. Cette affaire a même été portée devant la Cour d'appel du Manitoba, où elle a encore été rejetée en décembre 1982.
5. Juste avant que le présent rapport soit terminé, le ministre manitobain des Services à la famille a annoncé une réduction de 83 % des taux accordés aux familles d'accueil, lorsque l'enfant est placé chez des membres de sa famille élargie. Il reste à voir comment le gouvernement fédéral réagira à cette mesure; s'il continue sa politique actuelle de se guider sur les taux provinciaux pour déterminer les allocations qu'il verse aux organismes des Premières nations, il suivra la décision du gouvernement provincial. Les SECFS et les autres organismes des Premières nations comptent beaucoup sur les familles élargies pour fournir des soins substitutifs aux enfants, tant par nécessité que parce qu'ils croient fortement que cette mesure est la plus appropriée à la culture autochtone.

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