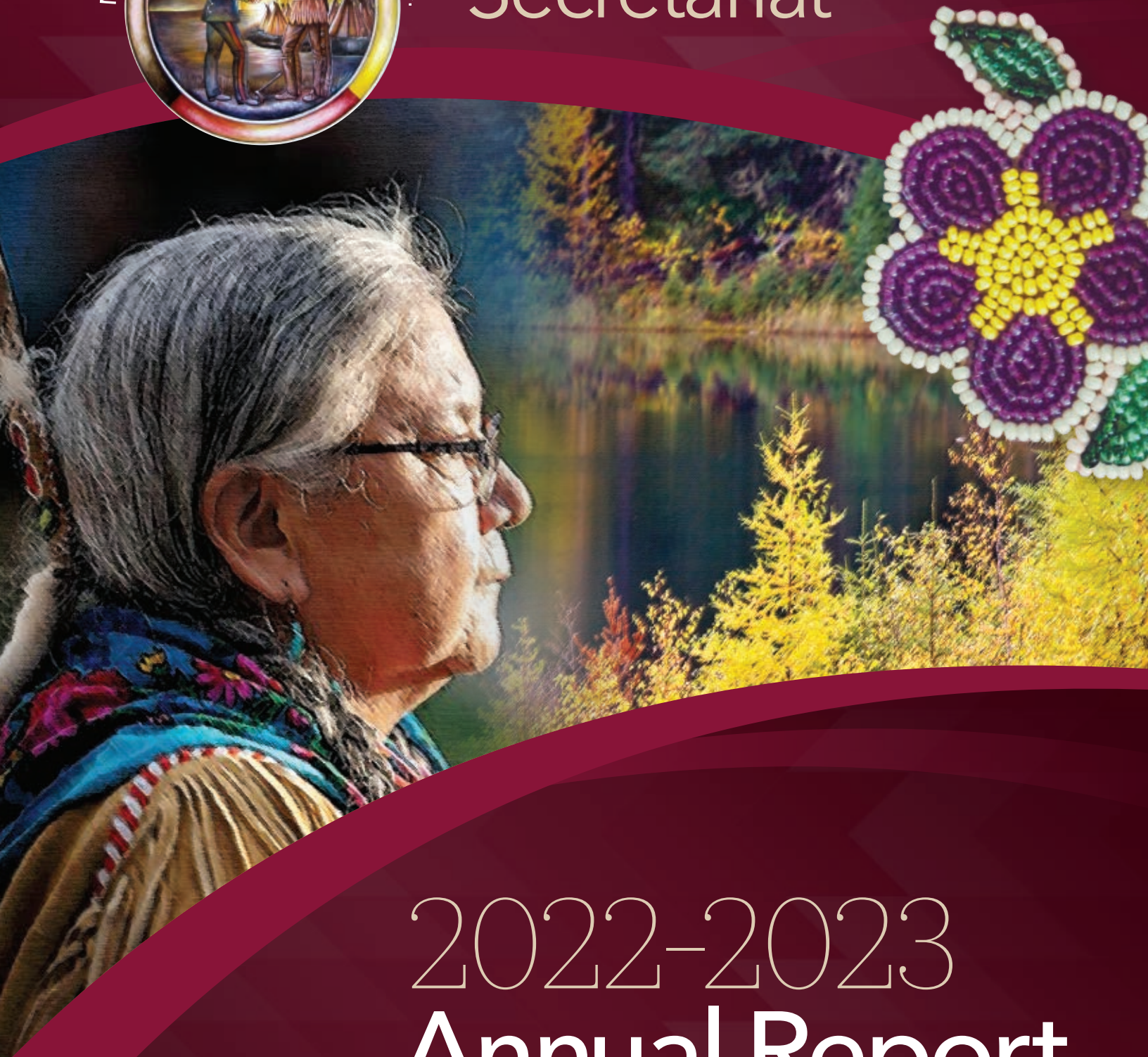
MANITOBA KEEWATINOWI OKIMAKANAK Inc.

Family First Nation Secretariat



2022-2023 Annual Report

FOR THE YEAR ENDING
MARCH 31ST, 2023

INTRODUCTION

MESSAGE FROM THE DIRECTOR – ANNUAL YEAR-IN-REVIEW REPORT

This Annual Report for the 2022 -2023 year has been prepared by the Manitoba Keewatinowi Okimakanak, Inc. Family First Nation Secretariat. The theme for the report is It-To-Ta-Maso-Wak – Doing It our Way. This was the vision of the Chiefs when they formed Manitoba Keewatinowi Okimakanak, Inc. (MKO), a northern Chiefs organization of Manitoba.

MKO was created to provide a voice for First Nations in northern Manitoba that felt they were not being heard. It is meant to create opportunities by advocating, lobbying and protecting the powers and authority of the MKO member First Nation governments and their inherent Treaty and Aboriginal rights.

The MKO Family First Nation Secretariat was established through a resolution by the MKO Chiefs-in-Assembly in 1992 to address concerns about the CFS system and to pursue self-governing child welfare family law.

The federal law, *An Act Respecting First Nations, Inuit and Metis Children, Youth and Families* came into effect in January 2020. Since then, the MKO Family First Nation Secretariat has been assisting MKO leadership on child and family services reform. The federal Act gives Indigenous peoples the opportunity to choose their own solutions for their children and families. The MKO Family First Nation Secretariat has focused on the prevention, safety and rights of First Nation children. The Secretariat provides advocacy, guidance and support to children, youth and families. It works to ensure the unique, customary care practices of each First Nation are recognized and respected by the federal and provincial governments.

One of the policy areas that MKO championed and continues to lead is supporting children and families. It-To-Ta-Maso-Wak – Doing It our Way, is again calling us to move forward and carry the legacy of our past. The introduction of the federal Act establishes national standards for Indigenous children in child welfare. The law also provides affirmation of inherent rights in section 35 for self-government over children and families.

Through the mission of MKO the focus is to maintain, strengthen, enhance, lobby for and defend the interests and rights of First Nations people within their jurisdiction and to promote, develop and secure a standard quality of life deemed desirable and acceptable by its First Nations.

Shirley Allarie
Director, Family First Nation Secretariat

MKO Secretariat staff

Back row: Shirley Allarie, Glenn Tssessaze, Colin Kinsella, Janine Spence and Rena Stevenson

Front row: Paige Clemons

Missing: Corine Spence, Maryssa Oniske, Sheri Schweder and Diane Genaille

TABLE OF CONTENTS

Role of the Family First Nation Secretariat **4**

MKO Chiefs Task Force on Child Welfare Transformation **5**

Provincial Child Welfare Reform **5**

The Child and Family Services Amendment Act (Information Sharing) 5

The Hospitality Sector Customer Registry Act and Amendments to the Child and Family Services Act and the Child Sexual Exploitation and Human Trafficking Act 6

Bill 32 – An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments) 7

Agreements with Young Adults 8

Leadership Council 8

First Nations of Northern Manitoba Child and Family Services Authority 9

Manitoba Advocate for Children and Youth 9

Children's Special Allowance – Lawsuit Against Government of Manitoba 10

Off-Reserve Manitoba First Nations Child and Family Services Proposed Class Action 10

Overrepresentation of Indigenous Children in Care in Manitoba 11

Federal Child Welfare Reform **11**

Federal Legislation on Indigenous Child Welfare 11

Summit on First Nations Exercising Jurisdiction Over Child Welfare 11

First Nations Exercising Jurisdiction Over Child Welfare 12

MKO Executive Council Endorses Governance Process 13

Capacity-Building Funding 13

Community Well-Being and Jurisdiction Initiatives Program 13

First Nations Child and Family Services – Compensation and Long-Term Reform 14

Compensation 14

Long-Term Reform 16

Proposed Class Action Seeks Compensation for Damages Caused by Federal Child Welfare System 17

Regional Advisory Committee on First Nations Child and Family Services 17

MKO Family Law Template **18**

Advocacy and Support to First Nations Children, Youth and Families **19**

Chart 1: MKO Family First Nation Secretariat Yearly Intake 19

Chart 2: MKO Family First Nation Secretariat Intakes of Manitoba CFS Authorities 20

Chart 3: Resource Intake Calls 21

Chart 4: Shamattawa First Nation Indigenous Governing Body Section 12 22

FFNS Staff **23**

The Year in Photos **24**

The MKO Family First Nation Secretariat (FFNS) wishes to acknowledge the MKO leadership for their continued guidance and support over the past year. As well, the FFNS commends the MKO leadership and community representatives for their commitment and dedication in serving their members.

The FFNS is pleased to provide the following report on activities and key issues for the period April 1, 2022 to March 31, 2023.

ROLE OF THE FAMILY FIRST NATION SECRETARIAT

As directed by the MKO Chiefs-in-Assembly, the primary role of the FFNS is to provide advocacy and technical support to the MKO leadership and communities in child welfare, including exercising jurisdiction and legislative authority. The FFNS also provides advocacy and support to First Nations children, youth and families in Manitoba, as well as other provinces and territories.

The key functions of the FFNS include:

- Working closely with Chiefs Task Force on Child Welfare
- Providing advocacy and technical support to the MKO leadership and communities
- Providing support to MKO First Nations in exercising jurisdiction
- Research and analysis
- Policy and proposal development
- Advocacy and support to First Nations children, youth and families
- Community consultation and engagement
- Participation on advisory and technical committees representing northern Manitoba

MKO CHIEFS TASK FORCE ON CHILD WELFARE TRANSFORMATION

In October 2021, the MKO Executive Council adopted the motion that MKO establish a Task Force on Child Welfare Transformation comprised of Chiefs with support from FFNS staff.

In November 2021, the MKO Chiefs-in-Assembly established the MKO Chiefs Task Force on Child Welfare Transformation through the appointment of Chiefs (Resolution #2021-11-09). The mandate of the Task Force is to assert self-determination of sovereign First Nations and affirm their inherent right of self-government in relation to child and family services.

The members of the Task Force include:

- Chief Larson Anderson, Norway House Cree Nation
- Chief Shirley Ducharme, O-Pipon-Na-Piwin Cree Nation
- Chief Betsy Kennedy, War Lake First Nation
- Chief Simon Denechezhe, Northlands Denesuline First Nation
- Chief Jordna Hill, Shamattawa First Nation
- Grand Chief Garrison Settee (ex-officio member)

On January 17, 2023, Chief Simon Denechezhe and Chief Jordna Hill were appointed to the Task Force by the MKO Executive Council. The FFNS extends its gratitude to Councillor Doreen Spence of Tataskweyak Cree Nation and Evan Yassie (former Chief) of Sayisi Dene First Nation, past members of the Task Force. The Chiefs Task Force and the FFNS recognize these two strong advocates, who are not afraid to speak up and voice their opinions on child welfare issues. Their guidance and leadership are recognized by all.

PROVINCIAL CHILD WELFARE REFORM

In 2017, the Government of Manitoba announced its child welfare reform plan, which included four major pillars: Community-Based Prevention; Lifelong Connections Through Reunification and Permanence; Funding for Results; and Legislative Reform.

In 2022-2023, under the pillar of Legislative Reform, the government introduced new legislation in child welfare.

The Child and Family Services Amendment Act (Information Sharing)

Bill 41 – The Child and Family Services Amendment Act was introduced by the Minister of Families Rochelle Squires in the Legislative Assembly on May 24, 2022. The Bill received royal assent and came into force on June 1, 2022.

The federal law, *An Act respecting First Nations, Inuit and Metis children, youth and families* came into force on January 1, 2020. The federal Act formally affirms the jurisdiction of an Indigenous group, community or people to pass and enforce laws related to the provision of child and family services to their members and citizens.

Indigenous leadership attending the Manitoba Legislature for the Introduction of Bill 32 on March 14, 2023.

According to the provincial government, the amendments to *The Child and Family Services Act* were required to authorize information sharing with Indigenous Governing Bodies (IGBs) exercising jurisdiction over child and family services and to ensure the seamless transition of services from provincial responsibility to that of an IGB, ongoing province-wide service coordination and the continued safety of children.

These amendments are intended to provide IGBs and their service providers, referred to as Indigenous Service Providers, with access to information about children and families receiving child and family services, authorize the transfer of service responsibility, enable the use of the provincial electronic information system and the Child Abuse Registry, and protect certain information shared under this law.

MKO expressed concerns about the legislative process related to Bill 41 as it was rushed through the Manitoba Legislature by the Minister of Families Rochelle Squires and there was no opportunity for the public to provide input. Typically, there is a period for the public to express any concerns and provide feedback.

On June 2, 2022, Grand Chief Settee sent a letter to the Minister of Families indicating he would not be participating in the webinar on Bill 41 scheduled for June 2nd because MKO was not properly consulted on the bill prior to it receiving royal assent and coming into force. MKO Chiefs were advised to boycott the webinar.

In response, the Minister indicated these amendments were brought into force quickly to address urgent matters required to support the realization of Indigenous jurisdiction for child and family services. The Minister noted, while the government was pleased to bring forward these critical amendments, they acknowledge the concerns about the lack of engagement and, as a result, are striving to enhance this activity in future phases of the legislative amendment work.

On June 13, 2022, Grand Chief Settee and the MKO Chiefs Task Force on Child Welfare met with the Minister of Families to discuss the implications of Bill 41. At this meeting, the Grand Chief and the Task Force expressed their concerns about the legislative process related to Bill 41 as it was rushed through the Manitoba Legislature by the Minister and there was no opportunity for the public to provide input.

The Minister indicated that Bill 41 was introduced quickly to accommodate IGBs in Manitoba. She noted the government didn't have the legislative authority to share relevant child and family services (CFS) information with IGBs. As a result, this meant amendments were required to *The Child and Family Services Act*. At this meeting, the Minister agreed to ensure that MKO is included in all future discussions regarding First Nations exercising jurisdiction over child welfare.

The Hospitality Sector Customer Registry Act and Amendments to the Child and Family Services Act and the Child Sexual Exploitation and Human Trafficking Act

Bill 40 – The Hospitality Sector Customer Registry Act and Amendments to the *Child and Family Services Act* and the *Child Sexual Exploitation and Human Trafficking Act* was introduced by the Minister of Families in the Legislative Assembly on May 12, 2022. The Bill received royal assent and came into effect on November 3, 2022.

The Hospitality Sector Customer Registry Act is meant to improve the ability of law enforcement to investigate suspected instances of human trafficking by requiring hotels and temporary accommodations, including online accommodation platforms, to keep a register of guests, including their names and addresses, and make the registers available to investigators by order or without a warrant on an emergency demand basis.

The amendments to *The Child Sexual Exploitation and Human Trafficking Act* will require hotels, temporary accommodations and operators of taxis and online ride sharing platforms such as Uber to immediately report suspected human trafficking to police.

The Child and Family Services Act currently includes provisions for non-contact orders to protect children in care from a person who has subjected a child to abuse or is likely to subject a child to abuse. However, these provisions require an agency to produce strong evidence that interference has already occurred and require a higher threshold that abuse has occurred and likely to reoccur, which has been a challenge in preventing and prosecuting individuals who place children in need of protection. The amendments to the Act are intended to address these concerns with legislation that can apply a protective order for both children in care and children not in care for children who need protection from contact with someone.

Bill 32 – An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)

In August 2022, in response to pressure from Indigenous organizations, including MKO, the Minister of Families Rochelle Squires established the Technician Table on Provincial Child Welfare Legislative Amendments to help inform and align provincial child welfare legislation with the federal law, *An Act respecting First Nations, Inuit and Métis children, youth and families*, which came into effect in January 2020.

The Technician Table is comprised of government staff and representatives of First Nations political organizations, including MKO. The Technician Table began meeting weekly in August 2022 and completed a review of the proposed amendments at the end of December 2022. In January 2023, the group began meeting on a monthly basis to continue discussions on proposed amendments to child welfare legislation.

The Leadership Council, which is comprised of representatives of the provincial government and Indigenous political organizations, including MKO, held a meeting on January 12, 2023, to discuss the proposed amendments. Grand Chief Settee is a member of the Leadership Council.

In response to the Leadership Council meeting, Grand Chief Settee called an emergency meeting of the MKO Executive Council to seek direction on the proposed amendments. On January 17, 2023, the MKO Executive Council met and adopted the following motion.

- *To support in principle the proposed amendments to provincial child welfare legislation and to direct the Grand Chief, the Chiefs Task Force on Child Welfare and the FFNS to lobby the provincial government to ensure there is adequate funding to support child welfare agencies in implementing the new service arrangements, and that appropriate consultation occurs.*

On March 14, 2023, the Minister of Families introduced Bill 32, An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments). This Bill amends several provincial laws to recognize Indigenous jurisdiction and support the implementation of the federal Act.

The Child and Family Services Act is to be amended to incorporate national standards established in the federal Act for the welfare of Indigenous children. In most cases, these standards apply to all children and families in Manitoba.

The interpretation and administration of Bill 32 is subject to an expanded principle of the best interests of the child, as well as the principles of substantive equality and Indigenous cultural continuity. New service delivery principles are provided, including principles about preventive care, prenatal care and placement priority.

Other key amendments to the CFS Act would include:

- Critical incident reporting is expanded to include reporting about young adults. Critical incident reports must be made by persons with responsibilities under the various type of agreements that may be entered into under the Act.
- An agency may enter into agreements with parents and guardians to support children, including kinship care and customary care agreements.
- An agency may confirm who is responsible for decision-making respecting a child.
- A child over the age of 12 is no longer required to attend court if the judge or master is satisfied that the child's rights have been explained to the child and the child's views and preferences are known.
- The total period of temporary guardianship is repealed, and temporary guardianship orders may now last for up to 24 months, regardless of the age of the child. There is no limit to the number of times a temporary guardianship order can be renewed.
- The right of a foster parent to an independent appeal about a decision to remove a child from the foster home is repealed. A foster parent is still entitled to seek reconsideration by a Child and Family Services Authority of a decision to remove a child from the foster home.

Bill 32 is expected to proceed to Second Reading in early April 2023. According to the Minister of Families, if Bill 32 passes all the stages of the legislative process, it is anticipated the Bill will receive royal assent and come into effect in June 2023.

Agreements with Young Adults

Currently, in Manitoba's child and family services system, under the government policy called Agreements with Young Adults (AYAs), the maximum age a young adult can receive provincial benefits and supports is up to the age of 21.

As of April 1, 2022, Indigenous Services Canada, which is responsible of managing the First Nations Child and Family Services Program, began funding cases for the actual costs of post majority care to former children in care up to and including the age of 25.

The MKO Chiefs Task Force on Child Welfare continues to urge the Government of Manitoba to amend the existing legislation to extend the maximum age for young adults to receive government sponsored benefits and supports from 21 up to and including the age of 25, to align with the federal Post Majority Support Services.

On June 29, 2022, in a letter to the Minister of Families, Grand Chief Settee recommended to the government that section 50(2) of *The Child and Family Services Act* be amended to indicate:

- *The director, or an agency with the written approval of the director, may continue to provide care and maintenance for a former permanent ward for the purpose of assisting the ward to complete the transition to independence, but not beyond the date when the former permanent ward attains the age of 26 years.*

As of March 31, 2023, while no immediate action has been taken, the government maintains a change in this policy may be considered as part of the legislative amendments for 2024/25.

Leadership Council

In Manitoba the Leadership Council was established by proclamation of *The Child and Family Services Authorities Act* in 2003. Its membership includes representatives of the Government of Manitoba and Indigenous political organizations, including MKO. Grand Chief Settee is a member of the Leadership Council. During the past year, the Leadership Council met in December 2022 and January 2023 to discuss child welfare issues, including the proposed amendments to provincial child welfare legislation. The next meeting is expected to be held in early April 2023.

First Nations of Northern Manitoba Child and Family Services Authority

Under *The Child and Family Services Authorities Act,* MKO is responsible for appointing the board of directors to the First Nations of Northern Manitoba Child and Family Services Authority (Northern Authority). As of March 31, 2023, the board included the following members.

- Sydney Garrioch – Nikan Board member
- Theresa Yetman – NCN Board member
- Denise Packo – Cree Nation Board member
- William Lathlin – OCN Board member
- Gilbert Andrews – MKO Representative
- Vacant – Awasis Board member
- Vacant – KSMA Board member

In 2022, as per Resolution #2022-08-06, the MKO Chiefs in Assembly direct the MKO FFNS and the Northern Authority to continue to work collaboratively in child welfare.

The Northern Authority held its 18th Annual General Meeting on February 7, 2023 in Winnipeg.

Manitoba Advocate for Children and Youth

The Office of the Children's Advocate was established in 1992. In March 2018, *The Advocate for Children and Youth Act (ACYA)* was proclaimed. The Child Advocate became known as the Manitoba Advocate for Children and Youth (the Manitoba Advocate) and the powers of the office were expanded. The first phase of ACYA came into force in 2018, which enabled the Manitoba Advocate to investigate child welfare and adoption services for children, and transitional child and family services for young adults.

Effective June 1, 2021, the Manitoba Advocate was given the authority to review and investigate serious injuries and deaths of children who were receiving services or whose families were receiving services related to mental health, addiction or youth justice in the year before their death or serious injury.

In November 2022, Sherry Gott, a member of Sapotaweyak Cree Nation, was appointed the new Manitoba Advocate. On January 11, 2023, Grand Chief Settee and Shirley Allarie, the Director of the FFNS, met with the Manitoba Advocate to discuss current issues in Manitoba's child welfare system, including the proposed amendments to provincial child welfare legislation, which are expected to be introduced in spring 2023. The Grand Chief and the Director of the FFNS will continue to meet with the Manitoba Advocate on a regular basis.

On January 17, 2023, the office of the Manitoba Advocate released its yearly Government of Manitoba compliance report, which acts as a report card, summarizing the progress made by the government in response to the Manitoba Advocate's public recommendations made between 2018 and 2022. In the report, the Manitoba Advocate recommends immediate action be taken by the government to:

- address capacity inequalities for Indigenous child welfare authorities and outstanding Phoenix Sinclair Inquiry recommendations,
- implement recommendations on infant sleep safety, and
- create a child-specific mental health and addictions strategy.

The Manitoba Advocate is urging the government to prioritize these issues and commit to ongoing collaboration towards best outcomes for children, youth, young adults, and their families.

During the past year, the FFNS reviewed the Manitoba Advocate reports and advocated strongly on the recommendations that need to be in place to better address ongoing issues pertaining to child and family services.

Children's Special Allowance – Lawsuit Against Government of Manitoba

The Children's Special Allowance (CSA) is a federal monthly benefit paid to a child welfare agency for a child who is in their care. In November 2020, a law firm launched a legal challenge on behalf of 19 Indigenous child welfare agencies, authorities and organizations, arguing the Government of Manitoba misappropriated the CSA payments, from 2005 to 2019, which rightfully should have been provided directly to children in care.

The child welfare agencies and Authorities involved in the case associated with First Nations in northern Manitoba include: Awasis Agency of Northern Manitoba; Cree Nation Child and Family Caring Agency; Island Lake First Nations Family Services; Kinosao Sipi Minisowin Agency; Opaskwayak Cree Nation Child and Family Services; Nikan Awasisak; and the Northern Authority.

On October 25, 2021, the civil trial between the law firm and the Government of Manitoba began in the Manitoba Court of Queen's Bench. The civil trial ended on October 29th. The law firm sought to recover $250 million in benefits for Indigenous children in care.

On May 18, 2022, in the Manitoba Court of Queen's Bench, Judge James Edmond ruled that the actions of the Government of Manitoba in relation to the management of the CSA were unconstitutional and discriminated against children in care in Manitoba. This means that the lawsuits can now move forward and determine the financial liability of the government. The law firm expects that, as a result of the decision, children in care and former children in care will be paid all the CSA money they should have received between 2006-2019.

On May 25, 2022, Grand Chief Settee sent a letter to Premier Heather Stefanson urging the government to **not** appeal the court decision.

On May 26, 2022, the MKO Executive Council adopted the following motions regarding the CSA.

- *Following further court proceedings, any restitution should flow directly to the affected children. The purpose of the remedies should be to compensate the children not just for the loss of benefits but for the terrible loss of opportunities the CSA was intended to offer.*
- *As well, a trust fund ought to be established on behalf of children in care to use for their independent living when they transition out of the CFS system. A portion of the restitution could be allocated to the trust fund.*

In August 2022, the government announced it would not appeal the court decision. As of March 31, 2023, no court date had been set to begin discussions on reparations.

Off-Reserve Manitoba First Nations Child and Family Services Proposed Class Action

On October 6, 2022, the Assembly of Manitoba Chiefs (AMC) announced that it and other plaintiffs filed a $1 billion lawsuit against the Manitoba Government and the Attorney General of Canada on behalf of First Nations children in care, their families and First Nation communities. This legal action has not yet been certified as a class proceeding by the court.

This case is specific to children residing off-reserve, dating back from 1992 to the present day, who were apprehended by Child and Family Services and placed into foster care. AMC indicates, during this period, most of the children in care were apprehended off-reserve.

- 61% of the children in care under the Northern Authority and 75% of the children in care under the Southern Authority were apprehended off reserve.

The plaintiffs are seeking the following reparations:

- an immediate stop to the discriminatory practices that result in the apprehension of so many First Nations children;
- properly funded services for First Nations children to be implemented immediately;
- $1 billion dollars in compensation to First Nations children, families and First Nations for the damage caused by the child welfare system since 1992; and

- recognition that the wellbeing of First Nation children must be entrenched in First Nations laws relating to the wellbeing of First Nations children and families.

In addition to AMC, the plaintiffs include: Chief Heidi Cook on behalf of Misipawistik Cree Nation and on behalf of all the members of Misipawistik Cree Nation; and Chief David Monias on behalf of Pimicikamak Cree Nation and on behalf of all the members of Pimicikamak Cree Nation.

Overrepresentation of Indigenous Children in Care in Manitoba

Despite the Government of Manitoba's child welfare reform plan introduced in 2017, there continues to be an overrepresentation of Indigenous children in care in Manitoba. As of March 31, 2022, there were close to 10,000 children in care.[1] Indigenous children make up about 27% of the child population in Manitoba (2016 Census), but they account for 91% of the children in care. Clearly the system needs to do better.

Similarly, across Canada, Indigenous children continue to be overrepresented in the child welfare system. Indigenous children make up about 8% of the child population, but they account for about 54% of the children in care in Canada.[2]

FEDERAL CHILD WELFARE REFORM

Federal Legislation on Indigenous Child Welfare

The federal law, *An Act respecting First Nations, Inuit and Métis children, youth and families*, (the federal Act), formerly known as Bill C-92, came into effect on January 1, 2020. The purpose of the federal Act is to:

- Affirm the inherent right of self-government for Indigenous peoples, which includes jurisdiction in relation to child and family services.
- Contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.
- Set out principles, as well as minimum national standards that must be adhered to in the delivery of child and family services for all Indigenous children in Canada regardless of their residence.
- Provide a framework and pathway for Indigenous peoples to establish their own laws for child welfare.

Summit on First Nations Exercising Jurisdiction Over Child Welfare

As directed by the MKO Chiefs Task Force and the MKO Chiefs in Assembly, the FFNS initiated plans to host a Summit on child welfare. Through federal funding provided by ISC, the FFNS hosted the Summit on First Nations Exercising Jurisdiction Over Child Welfare on October 17 and 18, 2022, in Winnipeg. Participants at the event included: representatives from MKO First Nations, including youth and Elders; and staff from the First Nations Child and Family Services Agencies, the Northern Authority, Tribal Councils, and ISC. The summit was also streamed live with many viewers tuning in nationwide.

The summit was also streamed live with many viewers tuning in nationwide.

Presentations at the Summit focused on: the history of child welfare in Manitoba; the federal Act; implications of Bill 41; reform of the First Nations Child and Family

[1] Manitoba Families Annual Report 2021-2022.

[2] Statistics Canada: Census 2021

Services Program; and Camp Hope, a land-based therapeutic treatment program initiated by Montreal Lake Cree Nation.

The Summit included a panel discussion on exercising jurisdiction led by representatives of MKO communities. As well, one morning was devoted for participants to engage in breakout sessions to discuss key issues in child welfare.

First Nations Exercising Jurisdiction Over Child Welfare

Under the Act, an Indigenous Governing Body (IGB) is defined as a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act,* 1982.

Under section 20 of the Act, there are two options for an IGB to exercise their jurisdiction over child and family services: 1) give notice of intention to exercise legislative authority; and 2) request to enter into a coordination agreement with Canada.

As of March 31, 2023, according to ISC, 63 IGBs across Canada have either given their notice of intention to exercise legislative authority or requested to enter into a coordination agreement. (some First Nations are not on the government website list yet)

In Manitoba:

- Seven IGBs have given their notice of intention to exercise legislative authority.
    - o Sioux Valley Dakota Nation
    - o Fisher River Cree Nation
    - o Pimicikamak Okimawin
    - o Misipawistik Cree Nation
    - o Poplar River First Nation
    - o Lake Manitoba First Nation
    - o Tataskweyak Cree Nation
- Five IGBs have requested to enter into a coordination agreement.
    - o Manitoba Métis Federation
    - o Island Lake Anishininew Okimawin
    - o First Nations in Treaty 2 Territory
    - o Opaskwayak Cree Nation
    - o Peguis First Nation

To date, five coordination agreements have been signed by First Nations and Canada. The First Nations include the following.

- Cowessess First Nation (Saskatchewan)
- Wabaseemoong Independent Nations (Ontario)
- Peguis First Nation[3] (Manitoba)
- Louis Bull Tribe[4] (Maskwacis, Alberta)
- Splatsin (British Columbia)

Through the federal Act, six Indigenous communities have passed their own laws for child and family services.

- Cowessess First Nation (Saskatchewan)
- Wabaseemoong Independent Nations (Ontario)
- Inuvialuit Regional Corporation (Northwest Territories)
- Louis Bull Tribe (Maskwacis, Alberta)
- Peguis First Nation[5] (Manitoba)
- Atikamekw of Opitciwan (Quebec)

The FFNS continues to inform the MKO leadership and communities on the federal Act, as well as advocate for funding and resources provided by ISC to support the implementation of the Act. Using the MKO Family Law Template, the FFNS is available to support and assist MKO First Nations in developing their own laws for child and family services at their request.

[3] Peguis First Nation signed a coordination agreement with Canada and Manitoba on January 31, 2023.

[4] Louis Bull Tribe (Treaty 6 Territory, Alberta) signed a bilateral agreement with the federal government on February 1, 2023. The agreement will support the implementation of *Louis Bull Tribe's Asikiw Mostos O'Pikinawasiwin law.*

[5] Peguis First Nation became the first Indigenous community in Manitoba to implement a law for child and family services, enacting the *Honouring Our Children, Families and Nation Act*, on January 21, 2022.

MKO Executive Council Endorses Governance Process

On October 9, 2020, for the purposes of the federal Act, Shamattawa First Nation authorized the FFNS to act as the IGB on behalf of the community. This means, under section 12 of the Act, all Notices of Significant Measure (including child apprehension) for Shamattawa First Nations children must be sent by a service provider to the FFNS.

On February 4, 2021, the MKO Executive Council adopted the following motion regarding IGBs.

> *The MKO Executive Council supports MKO's Family First Nation Secretariat ("FFNS") being named the Indigenous governing body ("IGB"), as this term is defined in An Act respecting First Nations, Inuit and Métis children, youth and families ("Act"), for any MKO First Nation that chooses to do so under the Act.*

On May 17, 2022, under new leadership, Shamattawa First Nation reaffirmed its authorization of the FFNS to act as the IGB on behalf of the community.

Capacity-Building Funding

In July 2020, the Government of Canada announced a funding commitment of $542 million over five years, starting in 2020-21, to support the implementation of the Act. This includes:

- $425 million over five years for capacity-building funding for Indigenous jurisdictions
- Nearly $73 million over five years for coordination agreement discussions
- Over $35 million for internal services
- Nearly $10 million over two years for governance engagement mechanisms

In March 2021, as part of the $542 million, ISC announced funding is available through a proposal process for Indigenous communities to build capacity in preparation for exercising jurisdiction over child and family services.

In January 2023, the federal government announced that over $115 million in capacity-building funding has been provided to more than 230 IGBs who are preparing to start coordination agreement discussions.

In 2022-2023, and over the next three years, under the ISC criteria (based on community population) up to $650,000 may be available to a remote community and up to $550,000 may be available to an urban (non-remote) community. There is currently no deadline to apply for this funding. The FFNS is available to assist the MKO leadership and communities in developing a proposal for Capacity-Building Funding at their request.

To date, the FFNS has been working with the Chief and Council of seven MKO communities to develop a proposal and secure funding.

- Shamattawa First Nation
- Northlands Denesuline First Nation
- Tastaskweyak Cree Nation
- Barren Lands First Nation
- O-Pipon-Na-Piwin Cree Nation
- Sapotaweyak Cree Nation
- Nisichawayasihk Cree Nation

The FFNS continues to provide support and assistance to these communities in the implementation of their proposals.

Chief Michael Sewap Barren Lands First Nation meeting

Community Well-Being and Jurisdiction Initiatives Program

The Community Well-Being and Jurisdiction Initiatives Program (CWJI) provides contribution funds to First Nation communities for the provision of culturally appropriate prevention and well-being services for First Nation children and families on reserve.

In Manitoba since 2018, the CWJI allocation for First Nations communities has been $15.3M annually until March 31, 2023. In 2022-2023, the FFNS continued to work with ISC in the allocation of CWJI funds to the MKO communities.

Overall, the CWJI program had a huge impact on our First Nations. When the CWJI was first introduced funding could be accessed on a proposal basis. In early 2019, only two First Nations completed their proposals to access this funding. The FFNS worked to have an extension put in place to ensure all our 26 First Nation communities submitted a proposal. It was learnt that many of our communities did not have the resources or means to hire a contractor to write the proposal. The FFNS worked alongside band employees and leaderships to ensure all proposals were written and submitted prior to the deadline for multi-year funding (5 years).

The FFNS ensured all funds went directly to the First Nation communities. The FFNS also worked to advocate that the funding formula was reviewed. Through advocacy by all the Indigenous Regional Organizations representatives, including the FFNS, we were successful in ensuring more funding was provided to our First Nation communities.

The FFNS ensured that the leadership was informed about all information pertaining to ISC funding. The MKO leadership began to see the importance of the CWJI program and the FFNS is pleased they had the resources to assist their members to prevent children from coming into care. The leadership valued the program and over the past five years and it allowed them to understand they can take back control of their own children and assist families. Through the CWJI program, the leadership pushed for short- and long-term resources. The leadership began to learn about the new law to create their own family law. Many of the 26 MKO First Nations are exercising their inherent right in jurisdiction.

First Nations Child and Family Services – Compensation and Long-Term Reform[6]

In 2007, the Assembly of First Nations (the AFN) and the First Nations Child and Family Caring Society of Canada (Caring Society) filed a complaint under the Canadian Human Rights Act stating the Government of Canada was discriminating against First Nations children and families by underfunding the First Nations Child and Family Services (FNCFS) Program on reserve and in the Yukon, and by applying a narrow interpretation of Jordan's Principle.

In 2016, the Canadian Human Rights Tribunal (the Tribunal) found the Government of Canada to be discriminating against First Nations children by failing to properly fund child welfare services on reserve. The Tribunal also said the government failed to properly implement Jordan's Principle, a child-first principle to ensure First Nations children get the services they need when they need them.

Compensation

In 2019, the Tribunal ordered the federal government to pay maximum compensation ($40,000) to First Nations children and their families who were negatively impacted by Canada's discriminatory practices. The federal government challenged the ruling in Federal Court. At the same time, in addition to the Tribunal case, separate class-action lawsuits were filed on behalf of First Nations children affected by child welfare on reserve (from 1991 – to present) and Canada's failure to implement Jordan's Principle (from 1991-2017).

On September 29, 2021, the Federal Court ruled against Canada and upheld the Tribunal compensation order. Canada then filed an appeal of the Federal Court decision.

In December 2021, an agreement-in-principle on compensation was signed between the federal government and the class-action groups. The federal government explained that it wanted to proceed with the class-action to potentially provide victims

[6] Source: Assembly of First Nations; and Indigenous Services Canada

with more than the $40,000 minimum guaranteed by the Tribunal proceedings. The Caring Society agreed to let the class-action groups take the lead with the understanding that the final agreement would be in keeping with the Tribunal decision.

When the negotiations for the settlement agreement began, Shirley Allarie, Director of the FFNS, was one of the chosen representatives to advocate as part of the AFN team. It was very long process and many hours for the AFN team to negotiate and advocate for the families and children. Shirley's frontline experience in CFS and working knowledge in all areas of child welfare helped to assist and bring forward the voices of the children, families, and other CFS workers to that table.

The Final Settlement Agreement (FSA) on compensation was signed by the AFN, class action parties and the federal government on June 30, 2022. There is a requirement the FSA must be approved by the Tribunal and the Federal Court of Canada before compensation can be disbursed.

On October 25, 2022, the Tribunal issued a letter to the parties explaining its decision not to approve the FSA on compensation regarding First Nations child welfare that had been approved by the AFN Chiefs in June 2022.

In the letter, the Tribunal stated the FSA substantially, but not completely, satisfies its orders related to compensation of certain groups of individuals. The Agreement disentitles some victims, including children who had been removed from their home, families and communities, while reducing the compensation amounts for others or making their entitlements unclear. The Agreement does not meet the criteria of the Tribunal orders in four categories.

1) Entitlement for First Nations children removed and placed in non-federally funded placements
2) Estates of deceased caregiving parents and grandparents are not entitled to compensation
3) Certain caregiving parents and grandparents will receive less compensation
4) Some Jordan's Principle victims/survivors may receive less compensation

The Tribunal recommends that Canada negotiates with the class action and Tribunal parties and allocates funds to cover all victims entitled to compensation under the Tribunal decisions.

Alternatively, the Tribunal recommends removing the Tribunal approval requirement from the FSA and make the necessary amendments to settle all three class actions and move forward at the Federal Court for approval and pay compensation in early 2023 to victims covered in the class actions.

On November 23, 2022, the Government of Canada announced it would file a court challenge in response to the Tribunals' decision in October 2022, to reject the FSA on First Nations child welfare compensation. On November 23, 2022, the AFN Executive Committee passed a motion supporting the government's intent to file a court challenge.

On December 20, 2022, the Tribunal issued its ruling (2022 CHRT 41), which explains in detail its reasons for rejecting the FSA on First Nations child welfare compensation. The ruling also includes recommendations to resolve the matter. The ruling expands on the Tribunal's letter issued in October 2022, which outlined its reasons for rejecting the FSA.

The Tribunal ruled the FSA does not fully satisfy the Tribunal's orders. However, the ruling indicates the FSA can potentially fully satisfy the Tribunal's orders if it is amended to include all the categories of victims/survivors and the compensation amounts included in the Tribunal's orders and to include the possibility for them to opt-out of the FSA.

On February 7 and 8, 2023, the federal government, the AFN, and the Caring Society held discussions to amend the FSA. On February 10th, according to Federal Court records, the parties had made substantial progress in amending the FSA. The parties are expected to report back to the Federal Court on their progress by the end of March 2023.

According to the AFN, independent third-party experts estimated that over 300,000 First Nations children, youth and caregivers were impacted by Canada's discrimination in the FNCFS Program and Jordan's Principle, and would therefore be eligible for compensation.

MKO's Position:

In 2022, as per Resolution #2022-03-01, the MKO Chiefs in Assembly direct the MKO Chiefs Task Force on Child Welfare to provide ongoing oversight and ongoing direction regarding the northern Manitoba regional approach to providing compensation to victims and their families; and the MKO Chiefs in Assembly direct the MKO Grand Chiefs Office to lobby AFN, Canada and other Indigenous representative organizations throughout Canada, to ensure there are no deadlines for applications from claimants to meet.

In 2022, as per Resolution #2022-11-11, the MKO Chiefs in Assembly support the Tribunal's decision and its recommendations and call on the Government of Canada to act on the agreement. The Chiefs also direct the MKO Grand Chief to urge the federal government to extend the deadline from December 31, 2022, to March 31, 2023, if it is determined more time is necessary to amend the agreement.

Long-Term Reform

On December 31, 2021, the AFN, Canada and other parties to the CHRT and related class action processes endorsed an agreement-in-principle on long-term reform. The Government of Canada has committed $19.807 billion over five years to long-term reform of the FNCFS Program and to fully implement Jordan's Principle.

Long-term reform is intended to ensure that First Nations have the funding that they need to support their children and families to thrive. It will address critical funding gaps that the existing FNCFS Program has entrenched, such as prevention services, remoteness, emergency funds, capital and infrastructure, and more. Addressing these gaps will enable First Nations to control the delivery of the programs and services for children and families.

The goal of long-term reform for Jordan's Principle is to ensure that it is implemented in its full meaning and scope, in accordance with the CHRT's orders, and that First Nations children do not face delays, denials or gaps in accessing services and supports. Long-term reform of Jordan's Principle further seeks to identify and close the systemic gaps that adversely impact First Nations children. This includes addressing the long-standing and known gaps in services and supports for First Nations children, including for youth reaching the age of majority, and supporting First Nations to have a greater role in the coordination and delivery of supports for children.

On April 1, 2022, in response to the CHRT orders, Canada implemented immediate measures, including new funding in the following areas.

- Prevention Services:
  - $2,500 per First Nations person resident on-reserve or in the Yukon, allocated to First Nations and FNCFS agencies to deliver an array of early intervention services that support the safety and well-being of families.
- Post-Majority Support Services:
  - Funding at actual costs to support youth aging out of care and young adults formerly in care across all provinces and in the Yukon, from the age of majority up to and including the age of 25.
- First Nations Representative Services:
  - Funding across the country (rather than only in Ontario) at $283 per resident on reserve outside Ontario and in the Yukon to support First Nations in having a voice when children and families from their communities are involved or at risk of involvement with child and family services.

In addition, since February 2022, the FNCFS program has been funding the purchase and construction of capital assets needed to support the delivery of child and family services to First Nations on-reserve and in the Yukon; and for spaces needed to support the delivery of Jordan's Principle services.

Canada and the parties to the agreement-in-principle will continue to work together to reach a final settlement agreement on long-term reform. Once a final settlement is reached, other reforms will be implemented more fully starting in April 2023.

Proposed Class Action Seeks Compensation for Damages Caused by Federal Child Welfare System

On behalf of 10 First Nations in Manitoba and Alberta, a Manitoba law firm filed a statement of claim in Federal Court on January 31, 2023. The proposed class action is seeking collective compensation for community-level harms, including loss of language, culture and tradition caused by the federal government's First Nations Child and Family Services (FNCFS) Program during the period 1991 to present.

This statement of claim is in addition to existing class actions in child welfare. The law firm asserts the proposed claim is distinguished from the ongoing cases by its focus on nation-level impacts, including the loss of culture, spirituality and traditions. These are elements missing in existing class actions.

The plaintiffs in the lawsuit, led by Chief David Crate on behalf of Fisher River Cree Nation, include nine other First Nations in Manitoba and Alberta, including Chief Michael Yellowback on behalf of Manto Sipi Cree Nation.

The class action proposes to include any First Nation that chooses to join and would cover the period between 1991 (when the FNCFS program was created) to present. The claim does not identify a dollar amount being sought for damages and it remains untested and must be certified by a judge before it can proceed.

Regional Advisory Committee on First Nations Child and Family Services

In Manitoba, the Regional Advisory Committee on First Nations Child and Family Services (RAC) was established in 2001. It is comprised of representatives from the provincial and federal governments, the First Nations CFS Authorities and Agencies, as well as the Assembly of Manitoba Chiefs, the Southern Chiefs' Organization, Sioux Valley Dakota Nation, and MKO. Two FFNS staff participate at this table.

The RAC meets at least six times during the year and is responsible for hosting the Annual North/South Gathering on First Nations Child and Family Services in Manitoba. The RAC hosted the 10th Annual Gathering on September 27-29, 2022 in Winnipeg. This event is an opportunity for key stakeholders in child welfare to share and discuss innovative best practices in child and family services.

MKO FAMILY LAW TEMPLATE

In 1998, the MKO Chiefs called for the development of a legislative framework for First Nations child and family services. In 1999, following a consultation process, the draft MKO Family Law called Minisiwin Winiswaywin was created by the MKO communities and endorsed by the MKO Chiefs in Assembly.

Between 2000 and 2019, the FFNS continued to develop the draft MKO Family Law Template in consultation with the MKO leadership.

On June 21, 2019, Bill C-92, An Act respecting First Nations, Inuit, and Metis children, youth and families became law. In November 2019, the FFNS was directed to update the draft MKO Family Law Template in relation to Bill C-92.

On January 1, 2020, the federal law, An Act respecting First Nations, Inuit, and Metis children, youth and families, came into effect. The federal Act enables First Nations to develop their own laws for child welfare.

Since 2020, as directed by the MKO leadership, the FFNS continued to develop the draft MKO Family Law Template in relation to the federal Act and create a template law for all MKO communities to adopt if they choose. The FFNS worked with Mack Law Corp to develop the MKO Family Law Template and to align it with the federal Act.

On May 27, 2021, the MKO Executive Council adopted the motion for the FFNS to move forward with the MKO Family Law template, remove the "Draft," and circulate it to the MKO communities.

In 2022-2023, the FFNS continued to make the Template available to MKO First Nations and assisted communities in exercising jurisdiction over child welfare at their request. The Template can be customized by a community to reflect the local values and beliefs on child and family matters.

Northlands Dene Drummers at opening ceremony of Summit on First Nations Exercising Jurisdiction over Child Welfare (October 17, 2022)

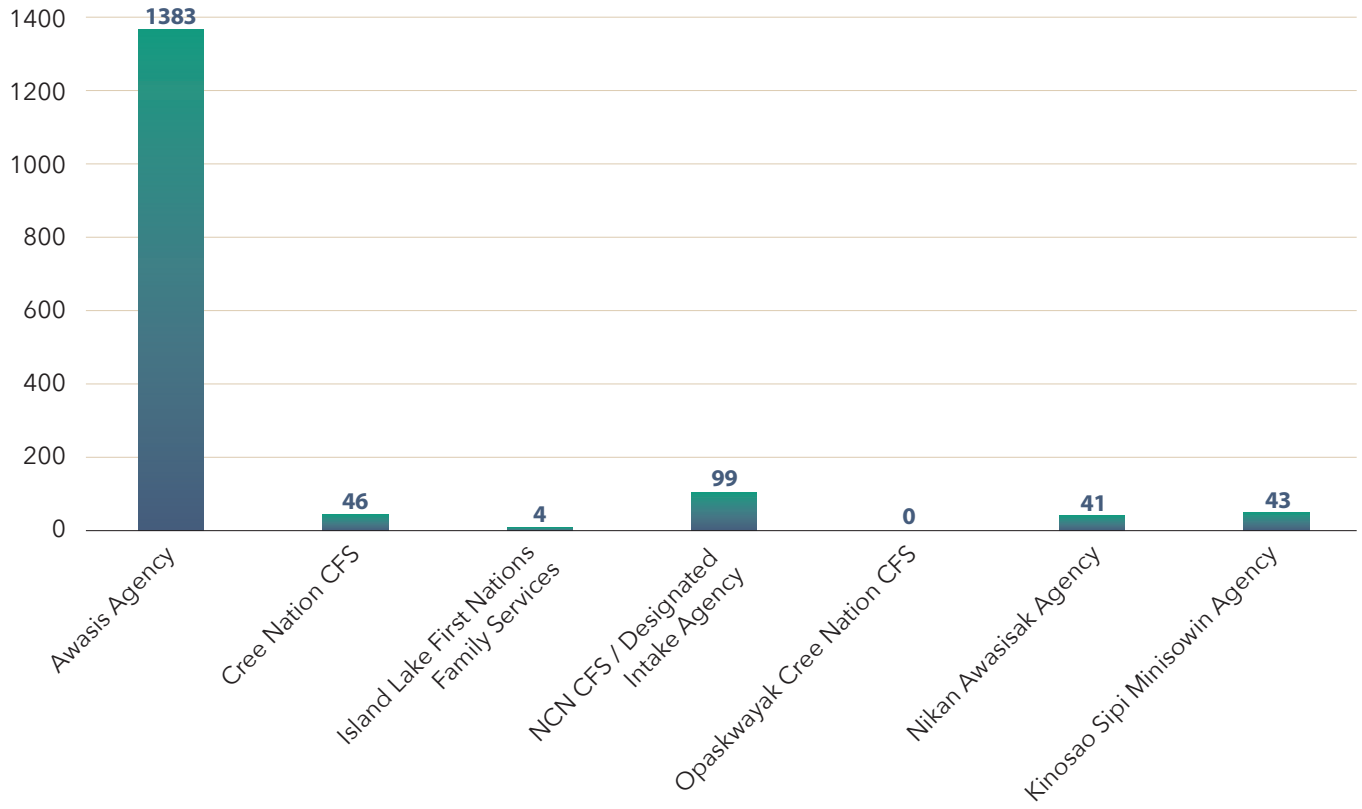
ADVOCACY AND SUPPORT TO FIRST NATIONS CHILDREN, YOUTH AND FAMILIES

A key function of the FFNS is to provide advocacy, guidance, and support to First Nations children, youth and families in Manitoba, as well as other provinces and territories.

Resources and supports provided by the FFNS to clients included working with landlords, Employment and Income Assistance, Jordan's Principle, Post-Majority Support Services, and helping members fill out documents to receive supports.

In 2022/23, as reflected in Chart 1, the FFNS received a total of 1,616 intakes, which included phone calls, emails, and faxes, as well as walk-ins at the Thompson and Winnipeg Offices. Most of these intakes were phone calls.

Chart 1: MKO Family First Nation Secretariat Yearly Intake

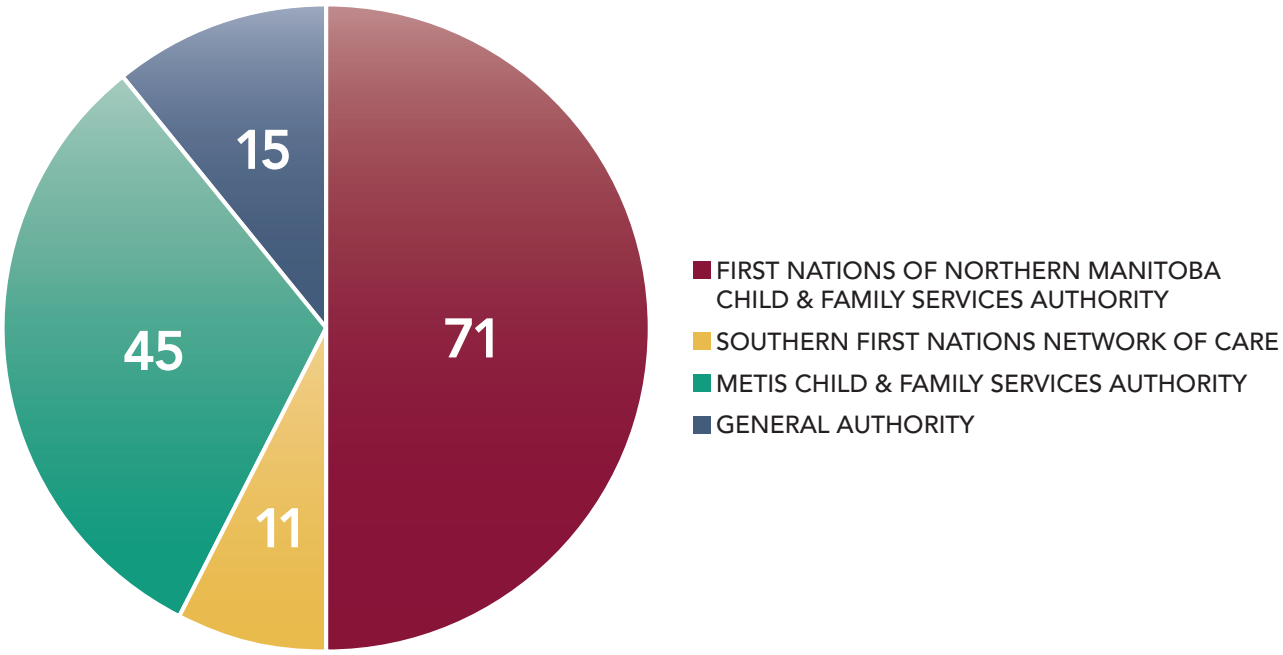


The First Nations of Northern Manitoba Child and Family Services Authority oversees seven northern First Nations child and family services agencies, as reflected in Chart 1.

Awasis Agency provides service delivery to 11 First Nation communities which include: Barren Lands First Nation, Bunibonibee Cree Nation, Fox Lake First Nation, God's Lake Narrows First Nation, Manto Sipi Cree Nation, Northlands Denesuline First Nation, Sayisi Dene First Nation, Shamattawa First Nation, Tataskweyak Cree Nation, War Lake First Nation and York Factory Cree Nation. This accounts for the high volume of intakes for Awasis Agency compared to the other agencies, which serve fewer communities.

In 2022/23, as reflected in Chart 2, the FFNS responded to a total of 142 intakes from a CFS Authority.

Chart 2: MKO Family First Nation Secretariat Intakes of Manitoba CFS Authorities

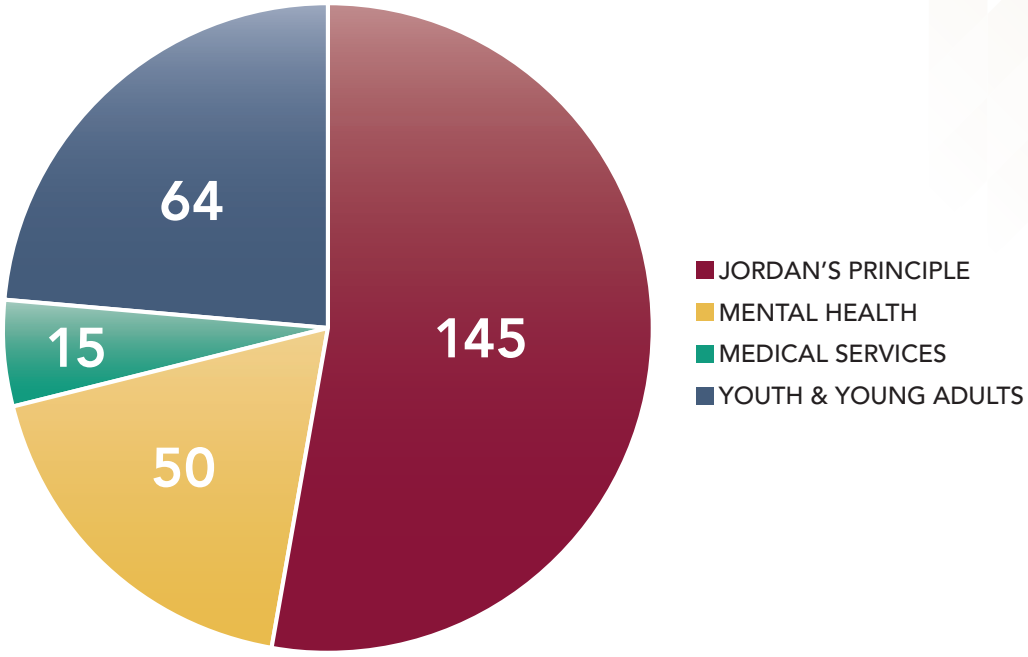


In 2022/23, as reflected in Chart 3, the FFNS responded to a total of 274 intakes seeking resources in urban or remote communities. In addition to child and family services, the FFNS intakes focused on individuals and families seeking supports and services related to Jordan's Principle, Mental Health, Medical Services, and Post-Majority Support Services.

As well, the FFNS provided mediation services between parents and CFS Agencies at the community level. Sometimes parents may become frustrated with the services they are receiving through a CFS Agency.

In some cases, parents are unwilling to take part in discussions regarding case plan programming with Health Services and the local CFS Agency. This may lead to a breakdown in communication and parents may become discouraged. In response, the FFNS helps to bridge the gap for families who are needing support and assistance.

Chart 3: Resource Intake Calls



In October 2020, for the purposes of the federal law, *An Act respecting First Nations, Inuit, and Metis children, youth and families* (the Act), Shamattawa First Nation authorized the FFNS to act as the IGB on behalf of the community. This means, under section 12 of the Act, all notices of significant measure regarding Shamattawa First Nations children must be sent by a service provider to the FFNS.

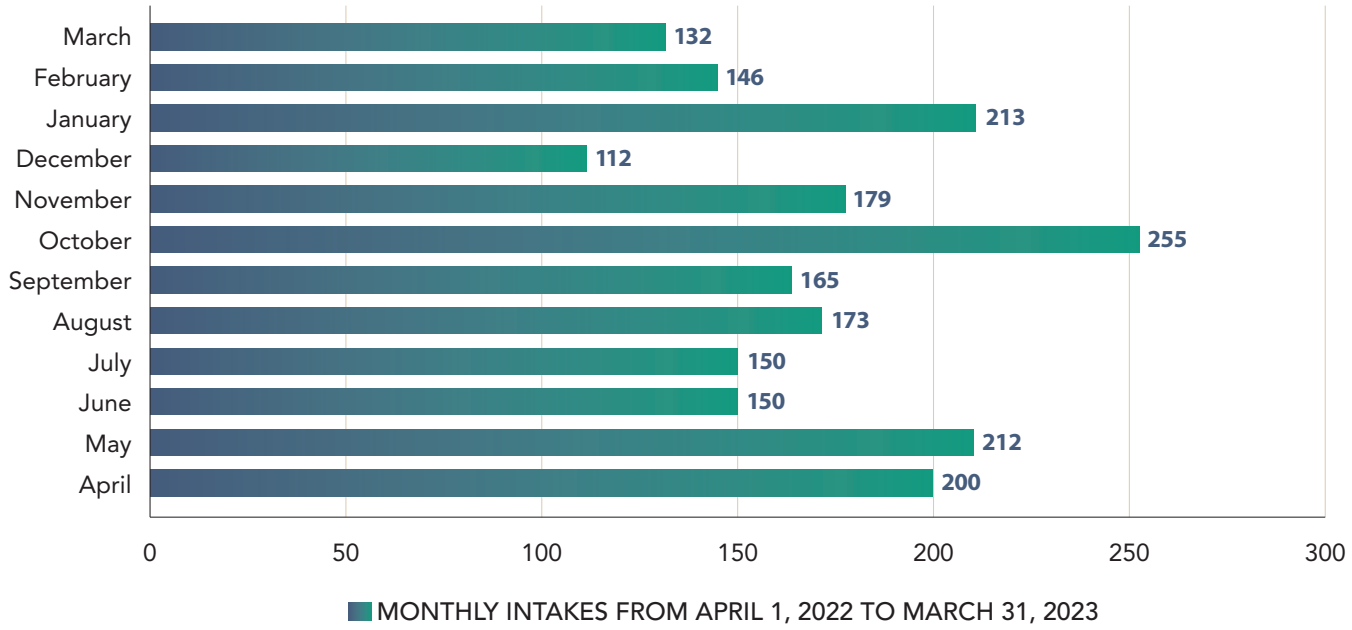
Section 12 notice of significant measure is defined as follows.

- Apprehension or removal of a child (planned or unplanned apprehensions)
- Any court proceedings (apprehensions, temporary, permanent and supervisory orders)
- Change of placement, non-culturally appropriate placement
- Return of children back to family
- Incarceration of child in care

In 2022/23, as reflected in Chart 4, the FFNS responded to a total of 2,087 intakes specific to Shamattawa First Nation, which consisted of phone calls, emails, court proceedings, family visits, and walk-ins.

Awasis Agency is the service provider for Shamattawa First Nation, which has offices in Shamattawa First Nation, Thompson and Winnipeg.

Chart 4: Shamattawa First Nation Indigenous Governing Body Section 12



Shamattawa First Nation leadership, elders and community members engaging in discussions on exercising jurisdiction over child welfare (March 22 and 23, 2023).

FFNS STAFF

The FFNS staff include the following members.

- Shirley Allarie, Director
- Rena Stevenson, Senior Advisor
- Colin Kinsella, Senior Policy Analyst
- Janine Spence, Research Assistant
- Maryssa Oniske, Engagement Coordinator
- Corine Spence, Research Analyst
- Glenn Tssessaze, Community Jurisdiction Worker, Northlands
- Diane Genaille, Community Wellness Coordinator, Sapotaweyak
- Sheri Schweder, Community Wellness Worker, Shamattawa
- Paige Clemons, Electronic file Clerk
- Contract workers were also hired in some of the communities

During the past year, the FFNS completed activities in the areas of advocacy and support. We look forward to continuing this work in the coming year, under the guidance and direction of the MKO leadership.

Please note, effective April 1, 2023, as directed by the MKO Chiefs Task Force on Child Welfare, the name of the MKO Child Welfare Secretariat is now changed to the MKO Family First Nation Secretariat. The reason for the change in name is based partly on the stigma associated with the words "Child Welfare." As well, the role of the Secretariat is intended to be broader. It is meant to serve all First Nations children and families who are members of the MKO communities. Therefore, the Chiefs Task Force believe the name "Family First Nation Secretariat" is more fitting.

THE YEAR IN PHOTOS

Jordan's Principle First Nation Caring Society Gala

Chief Doreen Spence, TCN recipient of Queen Elizabeth II Jubilee Medal for 25 years outstanding social services

Elder Ruba Thibeault (passed November 2022, honour her contribution to FFNS)

Sherridon First Nation community visit with Santa GC & CNS

TCN youth, Elders, leadership and MKO staff at Treaty 5 Gathering in Cumberland House Cree Nation

TCN Leadership Elders Meeting

TCN Elders Meeting

Northlands meetings

NOTES:

NOTES:

Manitoba
Keewatinowi
Okimakanak Inc.

HEAD OFFICE
Nisichawayasihk Cree Nation
Nelson House, MB R0B 1A0
Phone: (204) 927-7500
Toll Free: 1-800-442-0488

WINNIPEG SUB OFFICE
102-1700 Ellice Avenue
Winnipeg, MB R3H 0B1
Phone: (204) 927-7500
Fax: (204) 927-7509
Toll Free: 1-800-442-0488

THOMPSON SUB OFFICE
206-55 Selkirk Avenue
Thompson MB R8N 0M5
Phone: (204) 677-1600
Fax: (204) 778-7655
Toll Free: 1-800-442-0488