

**APPLICATION OF THE FAMILY GROUP CONFERENCE  
TO THE PRE-DISPOSITION REPORT PROCESS  
IN YOUTH COURTS IN MANITOBA**

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**BY**

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**A Practicum Report  
Submitted to the Faculty of Graduate Studies  
in Partial Fulfilment of the Requirements  
for the Degree of**

**MASTER OF SOCIAL WORK**

**Faculty of Social Work  
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General ..... 0578

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Medieval ..... 0581  
Modern ..... 0582  
Black ..... 0328  
African ..... 0331  
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European ..... 0335  
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Cell ..... 0379  
Ecology ..... 0329  
Entomology ..... 0353  
Genetics ..... 0369  
Limnology ..... 0793  
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Molecular ..... 0307  
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Organic ..... 0490  
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Physical ..... 0494  
Polymer ..... 0495  
Radiation ..... 0754  
Mathematics ..... 0405  
Physics  
General ..... 0605  
Acoustics ..... 0986  
Astronomy and  
Astrophysics ..... 0606  
Atmospheric Science ..... 0608  
Atomic ..... 0748  
Electronics and Electricity ..... 0607  
Elementary Particles and  
High Energy ..... 0798  
Fluid and Plasma ..... 0759  
Molecular ..... 0609  
Nuclear ..... 0610  
Optics ..... 0752  
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Solid State ..... 0611  
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General ..... 0537  
Aerospace ..... 0538  
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## TABLE OF CONTENTS

	Page
ABSTRACT .....	iv
ACKNOWLEDGEMENTS .....	vi
LISTS OF TABLES .....	viii
1. INTRODUCTION .....	1
1.1 Purpose of The Practicum .....	4
1.2 Importance of the Practicum.....	5
2. REVIEW OF THE LITERATURE	
2.0 Introduction .....	9
2.1 New Zealand Model	
2.1.1 Policy and Practice .....	10
2.1.2 New Zealand Research on FGC .....	14
2.2 North American Aboriginal Perspective .....	16
2.3 Victim Participation .....	22
2.4 The Canadian System .....	24

3.	PRACTICUM METHODS	
3.0	Introduction .....	32
3.1	Objectives .....	32
3.2	Design For Family Group Conference .....	35
3.3	Criteria For Case Selection .....	40
3.4	Planning For Implementation of Practicum .....	42
4.	RESULTS	
4.0	Introduction .....	46
4.1	Families and Youth .....	46
4.2	Initial Meetings and Planning For The Conference ....	50
4.3	Family Group Conference	
4.3.1	Venue .....	52
4.3.2	Who Participated .....	54
4.3.3	FGC Process .....	59
4.4	Plans Developed and Presented to Court .....	65
4.5	Court Outcomes .....	71
5.	DISCUSSION AND RECOMMENDATIONS	
5.1	Feasibility of Replicating New Zealand FGCs .....	74
5.2	How Families Arrive at Decisions .....	78
5.3	Culturally Appropriateness for Aboriginal People.....	81
5.4	Recommendations .....	83
5.5	Conclusion.....	87

## 6. REFERENCES

6.1 Glossary of Terms .....	90
6.2 Bibliography .....	94

APPENDICES	A: Recommendations and Court Dispositions ....	100
	B: Case Study A .....	108
	C: Case Study B .....	118
	D: Case Study C .....	124
	E: Case Study D .....	133
	F: Case Study E .....	134
	G: Case Study F .....	142
	H: Case Study G .....	148
	I: Case Study H .....	156
	J: New Zealand Youth Justice: Flowchart .....	157
	K: Manitoba Youth Justice: Flowchart .....	158
	L: Victim Impact Statement Form .....	159
	M: Pre Disposition Report Form (PDR) .....	160
	N: Police Statement Form (P6) .....	163

## ABSTRACT

This practicum explores the feasibility of applying the New Zealand Family Group Conference model for youths 12 to 17 charged under the Young Offenders Act in Manitoba. Since 1989 in New Zealand, when a young person has committed a criminal offense, the youth is responsible to resolve delinquent behaviour concerns with the participation of their family. The Family Group Conference is a forum for consensus decision-making and has been found to be adaptable to the different cultural practices of the Maori and Pacific Islanders. The reported effects were reduction of institutionalization of youth, increased involvement of victims, a more culturally appropriate approach and strengthening families by enabling them to be more involved with children in conflict with the law.

Eight youths pending before the courts were referred for this practicum. This report details the changes required for replication within Manitoba, and describes how conferences were held in a manner culturally appropriate for youth of Aboriginal ancestry. The results indicate that families and youth could engage in this type of forum and provide realistic plans that deal with delinquent behaviour and satisfy the courts. All of these plans contained a



component which recognized the strengths of Aboriginal cultural practices and these were incorporated into the recommendations. Victims' views were also reflected in the plans.

The results indicate that the court dispositions rarely incorporated the cultural component and in no case was restitution to the victims ordered, neither was community service work ever required as part of the disposition. Only one youth received a custody sentence whereas all others received a community-based sentence. As in New Zealand post-conference services were not always made available to the youths due to resource limitations.

Conclusions are that the model could be viable in the Canadian context for both Aboriginal and non-Aboriginal youths and families. Recommendations are made as to how the model could be improved.

## ACKNOWLEDGEMENTS

I would like to commence by saying "Kitchie Meegwetch" to my advisory committee: Dr. Burt Galaway, my advisor and committee chair; Professor Esther Blum, committee member; Mr. Lawrence Barkwell, committee member and practicum supervisor. Their words of encouragement, constructive criticism and editing advice were deeply appreciated. Thanks also to my friend Ralph Friesen who provided editorial expertise.

I want to take this opportunity to acknowledge the Waywayseecappo Education Authority for their financial support through a First Nations student grant and the Laidlaw Foundation for two scholarships. I also wish to thank North Winnipeg Youth Probation Unit for their assistance and for allowing me to use their facilities.

I want to thank the Health Science Centre's Child Protection Centre, specifically Ms. Margo Buck the Associate Director, for their support and allowing me to arrange my work schedule so that I was able to complete this practicum.

I am grateful and forever in debt to my family, Brenda, my best friend, daughters Seneca and Shannon and my son Sage for being understanding and supportive throughout my studies.

Finally, I want to make special mention of the youth and families who participated in this practicum. This experience has strengthened and enriched my personal and professional life.

## LIST OF TABLES

	PAGE
1. Youth Descriptors .....	49
2. Conference Attendance .....	56
3. Recommendations Made to Court And Subsequent Court Dispositions .....	68

## CHAPTER 1

### INTRODUCTION

Injustice, pain and suffering, restitution and healing: this cycle occurred in traditional North American Aboriginal societies whenever a wrong was committed against another. The emphasis always was on achieving harmony through restitution and healing. That cycle was interrupted with the colonization of North America by a foreign culture. Over the last century the effects of colonization have been felt in Aboriginal communities. I am an Ojibway (Saulteaux) treaty/status Indian who has witnessed the disruptive and destabilizing effects of the suppression of Aboriginal culture in my First Nation community and family.

After seventeen years working as a social worker within Aboriginal communities it became apparent to me that there needed to be an integration of mainstream social work practice and traditional Aboriginal healing methods. My reading of the literature led me to believe the New Zealand Family Group Conference model could be a vehicle to achieve this integration. The model incorporates respect for culture and emphasizes family self-determination in an environment that has meaning to Aboriginal people.

Prior to undertaking this practicum I obtained a BA and a BSW and for a number of years have been an Honourary Volunteer Probation Officer appointed by the Attorney General of Manitoba.

Over the last decade there has been a movement within North American Aboriginal communities towards self-determination and ownership of the institutions which provide human service delivery programs within a framework of more culturally appropriate models. Education along with Child and Family Services are two of the first human service institutions to be wrested from mainstream control as a result of this movement. In North America there are several Tribal Court justice initiatives in the United States of which the Navajo Tribal Court is the best known system of codified tribal law. In Canada there are no major initiatives of this magnitude within either the adult or the youth justice system. New Zealand has moved in the direction of integrating cultural sensitivity and practices into the country's legal system rather than developing separate parallel systems.

The New Zealand model of Family Group Conferences is a culturally appropriate mechanism for responding to delinquent behaviour within a family and clan context. This model, when implemented within a mainstream system, diverts resolution of delinquent behaviour from court and is congruent with traditional Aboriginal healing practices. My experience in developing child welfare service agencies which were integrated within the existing legislation and

policy leads me to believe that a similar approach with Aboriginal contextual differences is workable.

This practicum report provides an account of the preparation and application of a demonstration of the New Zealand model of Family Group Conference (herein referred to as FGC) at the intake level of the Canadian Youth Justice system. The FGC was used to derive plans to be presented to court for youths referred for predisposition reports (see Glossary) prior to sentencing under the Young Offenders Act.

Chapter one states the objectives and emphasizes the importance of this practicum.

The second chapter outlines a literature review which provides the knowledge base for the practicum, a description of the New Zealand FGC and a description of the current system in Canada.

Chapter three focuses on the objectives, modifications made for implementation in Manitoba, and the referral process.

Chapter four describes the initial planning and meetings necessary to the FGC model and discusses the results in terms of venue, participants, the plans developed and presented to court as well as the actual court outcomes.

Chapter five deals with the feasibility of replication, and documents the extent to which families participated in developing culturally relevant recommendations and the extent to which these recommendations were incorporated in court dispositions.

## 1.1 Purpose of The Practicum

The objectives of this practicum are to:

1. Replicate the New Zealand Family Group Conference model within Manitoba, as a method for responding to delinquent behaviour in the Aboriginal community at the pre-disposition level.

2. Re-empower families of Aboriginal youth in decisions that are made with regard to the delinquent behaviour of youth and demonstrate that families, whatever their particular socio-economic situation might be, are capable of making good decisions.

3. Demonstrate that the involvement of Aboriginal families at this level increases the options for diversion from the formal correctional system.

4. Demonstrate that if given a choice families and youths will choose a more culturally appropriate process.



This final report from the practicum describes the planned application, in Manitoba, of the New Zealand FGC model for disposition/intervention with youths from an Aboriginal culture. The report describes the method of intervention and explains how the actual intervention proceeded. Where the steps planned for the replication differed from the New Zealand model, the differences are described in depth, analyzed, and linked to either contextual differences between New Zealand and Canada, or differences in the supporting legislation, or explained by way of the underlying paradigms or alternate theoretical models.

## 1.2 Importance of The Practicum

The Aboriginal Justice Inquiry in Manitoba (Hamilton & Sinclair, 1991) reported that the Justice system had failed Aboriginal people in general, and Aboriginal youth in particular, in a massive way.

While Aboriginal people comprise 11.8% of Manitoba's population, they represent at least 50% of the province's prison population. Recidivism is common and there are few signs that rehabilitation programs are producing the desired result... The need for change was becoming increasingly apparent (pg. 2).

...But we find even higher proportions of young Aboriginal people in the youth justice system. We found that, in a count

of inmates on October 1, 1990, Aboriginal youth accounted for 64% of the inmates at the Manitoba Youth Centre and 78% of the inmates at the Agassiz Youth Centre (pg. 549).

They indicated that the justice system also failed to recognize that Aboriginal language, customs, beliefs and values were important factors to consider in responding to criminal activity. The factors which contribute to this over-representation of Aboriginal people in the justice system, one of which is the devaluation of minorities, have been extensively discussed in Barkwell, Gray, Chartrand, Longclaws and Richard (1991):

The lack of recognition of the social viability of Native communities - and a corresponding failure to permit Native people to address their own needs and to manage their own affairs - is rooted in the history of Manitoba... The devaluation of a people and their culture renders it more acceptable to the colonizing group in its rationalization of the exploitation, for when people are seen as less than human, interference with their lives is seen as more palatable. We contend that the effects of the dehumanization are translated to the present day situation where Native people are over-represented as victims, witnesses and of course the accused of the justice system. This then becomes a self-perpetuating cycle because the dehumanizing treatment received from the justice system further erodes self-esteem (p. 74).

These authors contend that there is a risk for people who are different from the norm, to experience low status within the larger group. They will remain low status unless they can draw upon the strength and support derived from traditional practices, shared spiritual resources, and strong family and community networks found within the context of a common language and culture.

The final report of the Aboriginal Justice Inquiry recommended a separate parallel justice system for Aboriginal communities. The Inquiry also made interim recommendations for an integrated system that would reflect Aboriginal culture and practice. These recommendations were followed up to some extent while the separate parallel system concept appears to have been rejected by the Provincial and Federal governments. To date there has been no conceptualization of how an integrated system would be implemented. The New Zealand model is one way this could be achieved, and has the benefit of a research component that was put in place along with the legislative change. This model holds traditional cultural practices to be both viable and relevant. The implementation of traditional cultural practices will counter the historical devaluation of Aboriginal people and their traditional healing practices.

This practicum exercise is the first comprehensive attempt to replicate the New Zealand model in Canada. Some aspects have been implemented by non-Aboriginal practitioners; however, this is the

first attempt by a treaty/status Indian in Canada. In this practicum Maori and Pacific Island cultural practice and beliefs are replaced with traditional Anishinabe (Ojibway) practices and beliefs. Greater effort was made to ensure that the process was traditional and culturally appropriate, such as on-reserve venues (where applicable), pipe ceremonies, elders present, use of Ojibway language, sharing circles, consensus and extended family. (Refer to Glossary for definitions of these terms.)

## CHAPTER 2

### REVIEW OF THE LITERATURE

#### 2.0 Introduction

Since 1989 New Zealand has completely re-examined the practice of removing large numbers of children from their families and placing them at a distance from their families, their communities and their culture in institutions either "for their own good" or for punishment.

In Canada, up until the last decade, we removed large numbers of Aboriginal children from their families and communities for education. This is now known to be damaging to them and their families and the use of these residential schools has been largely discontinued. Similarly, the practice of removing neglected or abused children, labelled "cultural genocide" by a Chief Judge of the Manitoba Family Court, has been largely discontinued. The practice of removal of delinquent youth has continued however.

The new approach in New Zealand under the Children, Young Persons and Their Families Act 1989, emphasises keeping children and young people with their families, in their communities and in contact with their culture. The philosophy underlying the approach is

family centred and culturally based, the vehicle for implementation is the Family Group Conference. The emphasis is on the central role of families in caring for young children and youth, the families role in providing the young person with a sense of identity, and the process ensures that the family is centrally involved in making decisions about what will happen and ensuring that youth are held accountable for their offenses.

## 2.1 New Zealand Model

### 2.1.1 Policy and Practice

The New Zealand government rationale for the re-empowerment of families within its Child Welfare and Justice system's decision making process recognizes the following principles:

1. The people who understand specific family dynamics best are blood relatives.
2. Families hold information that workers can never access.
3. Given good information, families, even if in need of healing at the time of referral, are capable of good decisions.
4. Families can provide a variety of alternative solutions greater than anything an outside professional individual or group could imagine or offer.

5. With support and help families in need of healing will become whole and more functional.
6. Families generally take responsibility for themselves ("Whakapakari Whanau: Family Decision Making," New Zealand, 1989: pp.4-7), resulting in lower cost to the system.

The reform process in New Zealand led to new legislation which supported the following policy and principles:

1. Legal proceedings should not be instituted against a young person if there was alternative means of dealing with the matter.

2. Measures taken should be designed to strengthen families and foster their own means of dealing with their misbehaving youth.

3. Young offenders should be kept within the community wherever practicable.

The vehicle for implementing these principles became known as the "family group conference." As Doolan (1990; p.83) explains:

The result is the family group conference, convened and facilitated by a new statutory official, known as the youth justice coordinator. The family group is defined in law to recognize different cultural understandings of family. It

includes whanau, hapu, and iwi for Maori and equivalents in the various Pacific Island cultures. Basically, it means extended family, something more than the nuclear caregiver family. A family group conference is a meeting of the culturally-defined family group with officials.

The mandate of the FGC is to find an alternative to prosecution and court disposition of the young offender who is admitting guilt. The youth and their families decide who should be invited to participate in the FGC. The families are allowed to deliberate in private in order to arrive at decisions and plans. These plans are then negotiated with the officials who are present (police and department of social welfare). If an acceptable plan is developed no court hearing is necessary. Victims are encouraged to attend or to provide written statements as to the effects of the offender's behaviour. When the family group conference members agree upon an alternative measure, the youth justice coordinator; mandated to advocate for the alternative measure with the prosecuting authorities; either accepts, rejects or suggests modification of the plan. Where there is not final agreement within the FGC as to an alternative, the matter proceeds to adjudication, but the court is informed of the wishes of the family group. Thus, the conference has a role in terms of advising the courts on appropriate sanctions for the young offender in cases where it is not deemed possible to avoid a court hearing of the matter (Doolan, 1990; p. 84).



The validity of the FGC model is supported by the "Children, Young Persons and Their Families Act" (1989). The following objectives can be derived from the model and the Act:

- diversion of youth from the formal justice system;
- young persons to be held accountable for their delinquent behaviour;
- the wellbeing and strength of the families of delinquent youth must be enhanced;
- due process must occur, that is, the rights of the young persons must be observed;
- family participation in the process to be encouraged and supported;
- victims must be given the opportunity to meaningfully participate, and their wishes for restorative measures must be considered;
- the process should involve consensus decision-making; and,
- the process should be culturally appropriate for the delinquent youth and his/her family.

### 2.1.2 New Zealand Research on FGC

In 1992 Laurie Gabites (1991) came to the University of Manitoba and introduced the New Zealand model by way of several lectures under the auspices of the Faculty of Social Work. In reporting on the outcome of the New Zealand research, he noted that 73% of all referrals were diverted to FGC, agreement was reached in 94% of these conferences, only 8% had to go to court hearing and less than 3% had a custodial outcome.

Maxwell and Morris (1993) report that when a FGC was held, usually the young person and the parent(s) attended along with the police and the Youth Justice Co-ordinator. In two out of three cases, a social worker also attended and so did other relatives, whanau (clan members) or friends of the family and the young person. Victims, however, attended in less than one half the cases (41%). In the one year studied, sentences of imprisonment were reduced from 262 cases to 112 and the number of youths sentenced to Department of Social Work homes was reduced by one half. In Canada, Social Work home placement would be equivalent to an Open Custody disposition and imprisonment would be similar to a sentence of Secure custody.

FGCs resulted in moderately severe penalties. In 94% of the cases the FGCs decided on some form of consequence. This decision or consequence usually involved an apology, payment for damages or

community service work. Sometimes arrangements were made for the young person and the family to receive services through a social service program. In a few cases there was an arrangement for the youth to go to live with another family member who could provide more adequate supervision.

The most serious cases appeared in Youth Court. In about one half of these cases the judge accepted the recommendations of the FGC. Families were strengthened by receiving services such as addictions counselling, job training, and defensive driving. However, Maxwell and Morris (1993) note that appropriate programs to meet the specific needs of youth were not always available.

One weakness they observed was a lack of advocacy for youths. Only 59% of the court-ordered FGCs were attended by the young person's lawyer. This suggested that there was some resistance to FGCs on the part of justice officials. They also report that due to time constraints victims were not always included. Despite this problem about one-half of the victims who attended FGCs were satisfied with the process and one-third said they went away feeling better.

Maxwell and Morris (1993) reported that 95% of the FGCs resulted in a consensus decision. They found that the cultural component of the process was not fully implemented due to the fact that the Maori cultural authorities are not funded or fully recognized. The researchers felt that families were vulnerable through a lack of

information about the process and its possibilities. Nonetheless, 84% of the youths and families expressed high levels of satisfaction with the process. However, the researchers expressed concern over the extent to which decisions were "coerced" by the professionals. They also point to the time demands of the legal system and the difficulty in coordinating meetings for large groups of diverse individuals as problematic factors in implementation.

A secondary result of implementation of the New Zealand FGC model and supporting legislation is its attempt to impact upon the regulatory and brokerage roles of social workers by changing the authorized procedures, process and expectations so that the Aboriginal cultural minority has a place. That is, their cultures are ascribed the validity, integrity, and coherence they deserve. This secondary effect would find high priority within most Canadian Aboriginal communities, and in fact was the subject of numerous recommendations of the Aboriginal Justice Inquiry in Manitoba.

## 2.2 North American Aboriginal Perspective

Connors (1993) points out that although acculturation may have affected First Nation communities to a degree, even the most assimilated individuals and groups maintain a connection with tribal roots and continue to be influenced by traditional beliefs. The North American First Nations worldview has been holistic for centuries as symbolized by the Sacred Circle, Medicine Wheel and

other beliefs, which teach the interconnection, coexistence and harmony among all living things in creation (Longclaws, 1994). While this cultural and spiritual wholeness has been fractured by the colonization experience it remains a powerful force and reference point for the regeneration of Aboriginal communities.

Currently, non-tribal societies have started to reapply holistic concepts from their tribal pasts. The healing process has been enlarged to include the larger natural environment. First Nations ceremonies involve the healing of Mother Earth as integral to the healing of the individual and the community. These practices also involve integration of the physical, emotional, mental and spiritual components of the individual.

For Aboriginal people it is essential that social work interventions are designed to incorporate the belief systems of the individual and the community. The FGC assessment and planning method as developed in New Zealand is an attempt to select healing practices that will match with the belief systems of Aboriginal people and transform the intervention process into one which is more meaningful to this group.

Similar conclusions have been drawn in other jurisdictions where Aboriginal people experienced the colonization process. Michael Doolan (1990) reports on the New Zealand justice system:

Juvenile justice systems work in a discriminatory way against members of ethnic minorities and working class youth. Welfare considerations play a significant part in this discrimination. In New Zealand, Maori and Pacific Islander youth are more fundamentally at risk of the more coercive, intrusive welfare dispositions, under the guise of treatment and in pursuit of rehabilitation, than are their Caucasian counterparts. That most professional decision-makers in the youth justice system are from the dominant White culture and are rarely identified as working class contributes directly to this state of affairs (p. 79).

Maxwell (1994) points out that empowerment through participation has emerged in the psychological research on treatment effectiveness and is evident in the New Zealand Maori traditional meetings where decisions are made collectively by the extended family (whanau), clan (hapu) and tribe (iwi). She also points out that empowerment cannot be achieved where the cultural practices of minority groups are ignored or devalued.

In New Zealand, during the last decade, there have been political determinations made to redress the history of non-Aboriginal domination. This legislative and policy change was based upon Maori demands and in recognition of the injustice and cultural suppression which had occurred. As a result, all justice and child

and family services' procedures were required to be sensitive to the indigenous culture.

These issues which have been shaping the reform process in New Zealand are closely paralleled to the Canadian Aboriginal experience as documented by the Aboriginal Justice Inquiry in Manitoba. Two of the stated issues which have led to new and more effective interventions in New Zealand are as follows:

New and more determined efforts by Maoridom to secure self-determination in a mono-cultural legal system which demonstrably discriminates against Maori and places little value in Maori custom, values and beliefs.

Related to Maori concerns, but also an issue for the wider community, was the growing rejection of the paternalism of the state and its professionals, and a need to redress the imbalance of power between the state and its agents and individuals and families engaged in the criminal justice system (Doolan, 1990, p. 79).

The FGC model and supporting legislation was first described in the literature by New Zealand Government publications (1989, 1990, 1991). Similar efforts to involve the whole family and community members in the Canadian context have been described in Fiddler (1992), Fafard et al (1992), Koverola (1992) and by the Teslin

Tlingit First Nation (1991). In Manitoba, Circle Healing efforts have been described by Hollow Water First Nation (1989, 1991). With circle sentencing, community members come together with a judge, review the offence and determine what action should be taken. Canadian experiences with circle sentencing have been described by Davies (1993) and Onion Lake First Nation (1993).

The most extensive Canadian application of the FGC has been in Newfoundland (Burford & Pennell, 1994). In this study, family group decision making was used to facilitate support and protection to victims of family violence. The demonstration sites involved two Aboriginal groups, the Inuit community of Nain in Labrador and the Micmac group at the Port au Port Peninsula. The final results of these applications are not yet available.

Tribal clans and networks can focus energy in a positive direction or have a negative impact. Contemporary Aboriginal groups in North America have evolved a clan structure which Attneave (1979) characterizes as network-clans.

While close-knit extended family ties are not unique to American Indians, or even universal among them, extended families are often seen as viable social units. Predictable meetings of the extended family and a focus of concern for its members can be found in many tribes. In spite of the kinship of members, its composition is not technically an exact



replica of the "clans" described by anthropologists. The term network-clan seems to describe its combination of contemporary social organization and its links with more classically described past (Ibid. p. 493).

Attneave outlines a number of characteristics of tribal network clans.

1. They have a constellation of reasons for existence. They provide identity and activities which satisfy social, religious and subsistence needs.

2. Family always seems to be a nuclear part of a network clan unit. Roles are often passed down in families, this inheritance is by group consensus and is not automatic. Many kinship titles and roles such as "grandparent", "uncle" and "aunt" fall somewhere between functional realities and their genealogical abstraction.

3. There is an organizational hierarchy present in each network clan. This provides for rapid mobilization to action and provides continuity and stability over time. The network clans also have a life pattern independent of a single personal crisis.

4. Informal rapid communication among members is characteristic of Aboriginal network clans.

5. There are significant unconscious components present. This accounts for the tremendous energy that can often be mobilized to accomplish a common goal. "In the clan or tribal setting one is somewhat protected by the need to fill a role and to use the language understood by the people in a literal and symbolic sense as well as a verbal one." This is one of the reasons non-aboriginal social workers have great difficulty working within these network clans.

In healthy tribal cultures, the network clan permits individuals to deal with the tensions of living in two worlds: a non-Indian world and a social-religious-cultural world organized around "the Indian way." Because the FGC allows for all relevant clan members to be part of the justice process all the above noted benefits are brought into play.

### 2.3 Victim Participation

More meaningful participation by the victims of crime has been advocated for many years. However, only a few victim-offender mediation programs are operated directly by provincial governmental departments. Most are sponsored by voluntary non-profit organizations such as the John Howard Society, the Native Friendship Centres, and the Mennonite Central Committee's Mediation Services. This latter program is probably one of the largest in Canada.

Pate and Peachey (1988) point out that, unlike the court process, a mediation session gives the youth an opportunity to discuss matters with the victim and has a direct impact on the outcome of the case. In mediation, the views, concerns and needs of the victim are first identified. Second, the victim's desire for peace of mind, understanding the offender's motivation, and interest in receiving compensation can be addressed. Fischer and Jeune (1987) found that in a Saskatchewan project, most participants strongly preferred the victim-offender mediation experience over judicial proceedings.

Additionally, public demands for meeting the needs of victims or holding offenders accountable and victim compensation have also contributed to the emergence of victim-offender mediation programs (Hudson & Galaway, 1977; Galaway & Hudson, 1978). The FGC process considers victims and their needs and provides a structured format - the Victim Impact Statement Appendix L - for ensuring that this is not neglected.

Christie (1977) views crime as conflicts or breaks in human relationships rather than as offenses against society at large and suggests that conflict resolution should be returned to the individuals and communities directly affected. This perspective has resonance in Aboriginal communities, where the state is often viewed as a foreign entity and a system of customary dispute resolution and informal justice redress are present in the

collective memory. One attempt to return to these traditional practices is exemplified in the recent work of the Hollow Water First Nation Holistic Healing Circle (1989, 1991). Typically this healing circle approach involves almost the whole community as well as victims in the resolution of the offender's misbehaviour.

The Family Group Conference is a mechanism that involves both direct and indirect victims in conflict resolution and returns discussion of accountability and reparation to the community of people directly involved. The end result is that the community owns both the problem and the solution.

#### 2.4 The Canadian System

The Canadian process for responding to delinquent behaviour is derived from British practices. As early as 1820, magistrates in England developed a practice to deal with youthful offenders by sentencing them to one day in prison. During this sentencing, there could be persons identified to act as guardians and be responsible for the youth in conflict with the law. In 1840, the Recorder of Portmount appointed a special "inquiry officer" to investigate the character of the accused youth, a forerunner of the current predisposition investigations.

In North America, the development of probation is usually ascribed to John Augustus, a philanthropist and member of the Total Abstinent Society. He involved himself in speaking to sentences

for common drunks and was successful in obtaining probationary release for them under his supervision. From this singular involvement there developed a gradual broadening of the probation mandate to include investigation reports, home visits, and other elements. In 1869, Massachusetts legislated the first law calling for probation officers.

In Canada, the first law relating to probation was passed in 1869 and extended in 1901. The Juvenile Delinquents Act came into effect in 1908, was revised in 1929, and remained essentially unchanged until replaced by the Young Offenders Act in 1984. Initially these youth cases were heard separately in a division of the Family courts of the day. However, it was not until 1921 that statutory provisions for probation supervision of youths were made. These legal provisions were consolidated into the Criminal Code in 1927.

In Manitoba, juvenile probation was provided under the jurisdiction of Section 6 of the Child Welfare Act. Until the extension of the provincial probation service in 1959 the aforementioned services were provided by the field staff of the Provincial Welfare Department.

With the development of an identifiable probation service, the use of pre-court investigations by judges increased dramatically. In 1960, the courts ordered a total of 47 juvenile and 31 adult

reports for the year. By 1974, the monthly average was 45 juvenile reports and currently in 1994, the average is about 100 province-wide requests per month. About two-thirds of these arise in the city of Winnipeg.

The decision of a judge to place an offender on probation is strongly influenced by the pre-disposition report (hereafter referred to as a PDR - see Appendix M). In most instances, this report is the only information on the youth's background that the court will receive. The report concludes with recommendations regarding the suitability of the offender for probation and suggestions for conditions to be attached to the order, should one be issued.

Public concerns have been continuously expressed regarding the youth justice system and its inability adequately to address delinquent behaviour in youth. In particular, the PDR format and content has come under close scrutiny by researchers due to its importance in the sentencing of the youth offender. In a study of probation officers' practices, Wilkins and Chandler (1965) found no consistent pattern regarding the manner in which probation officers prioritized information about the offenders. They concluded that both the selection and utilization of information was heavily influenced by the orientation of the individual probation officer. Similarly, investigations in the adult correctional system have been found to be biased. Demers (1978), in an extensive study of

parole investigations and recommendations found a racist bias against Aboriginal offenders.

Although race exerts no direct impact on (parole) board decision in the selection process Indians and Metis candidates are less likely to receive favourable officer recommendations than their white counterparts. In fact the analysis indicates that parole officers differentiate between racial groups in selecting and weighting information when formulating parole evaluations. Thus it would appear that officer assessments can indirectly produce racial inequalities with reference to parole selection (pp. 206-7).

In a study of how PDRs were composed in one Canadian jurisdiction, MacDonald (1981) concurs that the content and recommendations were strongly influenced by the social-biographical attributes of the offender, the organizational procedures of the probation office, and the personal orientation of the probation officer preparing the report.

Despite the research which reports the bias found in the PDR, the Young Offenders Act (R.S.C. 1985, c.Y-1) legally requires these reports and further specifies the content.<sup>1</sup> When a youth has been found guilty of an offense, judges will often request a report

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<sup>1</sup>. The court is required to consider a predisposition report before committing a youth to open or secure custody unless both Crown and defense counsel waive this requirement.

before sentencing. The PDR report provides information on any interviews with the young offender, parents, victims and other individuals. The report also includes personal information such as the age, maturity, character, behaviour and attitude, future plans for improvement, former convictions or history of delinquent behaviour and consequences. The availability of extracurricular facilities in the community, education and employment history, and parental influence on the youth are contained in the report.

According to Dr. Gabrielle Maxwell, the FGC can be incorporated within the current Canadian legislation. After reviewing the Young Offenders Act, Dr. Maxwell revealed that Canada's legislation supports the same intents as the New Zealand youth legislation (personal communication, May 16, 1994). For example, the Manitoba Department of Justice has a procedures manual which outlines the structure and content of the predisposition report. The components of the PDR include the offender's statement, victim's statement, previous convictions, family background, education, employment, financial situation, personal and social factors, response to previous correctional services, assessment, and recommendation. There are three headings within the PDR format of particular relevance with respect to the FGC model because it is within these areas that the approach can currently be implemented. These areas - the impact on victims, the offender's family background and the offender's personal and social factors - provide information related to the family and community. It is noteworthy that the



issue of spirituality, which is central to the holistic worldview of Aboriginal people, is not given any validation in PDRs and in all the PDRs' reviewed was not mentioned once for either Aboriginal or non-Aboriginal clients.

Specifically, in terms of impact on victim, the FGC model encourages in-person involvement of victims, which is congruent with Aboriginal practices and customs. Additionally, in regard to family background, the following information is admitted into court: the youth's family of origin, family structure and relationships, parenting and disciplining practices, child welfare involvement, role in the community and, any unique circumstances. Lastly, personal and social factors include information related to the following areas (if relevant): physical health, mental health, chemical use/abuse, use of leisure time, peers and associates, religious and/or cultural affiliation and, the community's response to offence/or offender.

Although sufficient legal authority exists in Canada to allow for the application of the FGC, the problem lies in the way in which the law is interpreted. In Canada, as in New Zealand, the process of English common law and courts has been imposed upon Aboriginal populations. Most of the employees, officials and key actors in the justice system are non-Aboriginal. Aboriginal groups say that this imbalance has resulted in a system that is not understood, is

irrelevant, sometimes racist, and which leads to ineffective court dispositions and interventions.

Similar statements are made within the Aboriginal community regarding social work practitioners involved within the justice system. Popkewitz (1988, 1978) points out that the dominant social science methodologies deny commitment to any values except those of process while, at the same time, focusing on procedures of inquiry that emphasize the individual over the collective. Thus, the relative invisibility of culture in the social work literature belies its importance to minority group clients, and to the social work profession itself. The FGC is one approach that responds to cultural relevance concerns.

Green (1982) recommends a transactional approach to issues of cultural differences because the ways in which social boundaries are defended, asserted, preserved, abandoned or violated become of particular importance in social work practice. Because the maintenance and manipulation of the social boundaries between distinctive groups is often at issue, the persons who mediate the boundaries become critical actors.

It is interesting that although Canadian social work is moving towards holistic approaches, now taught under the rubric "the ecological model" or the "life model," there is little emphasis on spiritual beliefs and religious organizations as support structures

and congregations of helpers to families in distress. With regard to Aboriginal people this absence is typical given the long history of suppression of their religion by mainstream society.

Throughout North American society, the "politically correct" response with respect to Aboriginal people is to support culturally appropriate services such as the FGC. Philosophically, society upholds the principles outlined in the model and attempts to reflect those beliefs within the laws. Unfortunately, it is in the practices of government where the breakdown of supports occurs. In other words, the difficulties of going beyond "paying lip service" to cultural appropriateness occurs at the implementation phase.

## CHAPTER 3

### METHODS

#### 3.0 Introduction

Whereas the FGC model in New Zealand was applied by the Department of Social Welfare to both child welfare and youth court case planning, this practicum application was limited to the Manitoba Youth Court case planning context. This was done for two reasons. First, the child welfare system, with devolution of mandates to Aboriginal Child and Family Service agencies, has moved further toward a family and culturally based system than what is evident in the youth justice system. Second, there is more available research on outcome in New Zealand pertaining to the application in youth justice.

#### 3.1 Objectives

Briefly, the objectives of this practicum were to:

1. Replicate the New Zealand FGC model.
2. Re-empower families of Aboriginal youth in decisions that are made with regard to the delinquent behaviour of youth and

demonstrate that families, despite their particular socio-economic situation, are capable of making good decisions.

3. Demonstrate that the involvement of Aboriginal families at this level increases the options for diversion from the formal correctional system.

4. Demonstrate that when families and youth have choices, they will choose a more culturally appropriate process.

The hypothesis of this study was that the New Zealand FGC model, with minor modifications, could be applied within the Canadian context. The intent of the Young Offenders Act in Canadian legislation and the Children, Young Persons and Their Families Act in New Zealand legislation are similar. In both countries a youth must verbally admit to responsibility for the offense(s) before any further formal legal proceedings, otherwise there is a referral to court for trial. Both pieces of legislation require family input; however, in Canada a court probation officer has responsibility for formulating a plan. In New Zealand the family must formulate the plan, but it must be acceptable to police and other officials.

The New Zealand FGC's address societal issues related to Indigenous youth in conflict with the law, that is, youth who have themselves been victimized and brutalized by mainstream society. The FGC process involves culturally appropriate approaches that build on

images significant to these young people. The FGC model blends both contemporary and traditional bodies of knowledge and has been developed and implemented with success in New Zealand and can be modified to address the situation evident within urban Winnipeg. Also, if the FGC is used in early intervention, it can assist in identification of client problems such as the non-medical use of alcohol and drugs.

According to Doolan (1990), the FGC, is used in the area of corrections because child and family service issues are often paramount and the identified youths are required by law to attend school. In modifying the FGC approach, it must be understood that it can only be done within the existing laws of Manitoba; unlike New Zealand, where the law supports the FGC model by mandating this family assembly to precede any court action, in Manitoba, it was only feasible to insert the FGC subsequent to a court finding of guilt and referral for a PDR. Despite this legal reality, it is possible to revise the FGC model so that implementation respecting the existing Manitoba legislation and policies can occur. This revised FGC approach should effectively improve the decision-making process with regard to Aboriginal youth.

In the New Zealand approach, the Indigenous youth experiencing difficulty would be assembled with caregivers who can support them during the PDR investigation and planning process. In the cases handled during this practicum exercise, the FGCs were held after a

guilty plea had been entered to a criminal offence and referral had been made by the courts for a PDR.

### 3.2 Design for Family Group Conference

The plan for this practicum was to assign eight youth pre-disposition report requests regarding Aboriginal youths to the practicum project. In each case, the practicum cohort would involve the family, via FGC, in preparing a report and recommendation for the Youth Court.

The functions and procedures carried out in this FGC application were developed from an outline found in the New Zealand Youth Justice Handbook, (New Zealand, Youth and Community Unit, 1989: Practice Guidelines pp. 16-17 and Functions, pp. 20-27). A series of preliminary reviews and modification of these procedures to satisfy the Canadian legal requirements was jointly completed with Mr. Lawrence Barkwell, Area Director of North Winnipeg Youth Unit of the Community and Youth Corrections Department. Mr. Barkwell also had consulted Mr. Mel Armstrong, Area Director (Central Manitoba) regarding his experience to date with FGCs. Mr. Armstrong had attempted to implement a small number of FGCs in his district, and reported that the results had been included in the assessment section of the PDR. His probation officers were responsible to record these results in the recommendation section of the PDR, and indicate whether they were supporting the

recommendations of the conference, or suggesting some modification. For all other issues that needed clarification there was direct correspondence with Dr. Gabrielle Maxwell, Senior Researcher, Office of the Commissioner for Children in New Zealand.

As a result of discussion with Mr. Edwin Kimelman, Associate Chief Judge, there was a decision to attach the FGC reports as an appendix to the completed PDRs. This would ensure meeting the requirements of the Young Offenders Act. Recommendations arising from the FGC were then discussed in the recommendation section of the standard PDR format.

The location for FGCs were to be facilities in the community. The most important consideration was that the people in the conference feel comfortable with the surroundings. Specific people who would be invited to attend the conference would be the parents or guardians of the youth, other extended family members, classroom teacher and/or guidance counsellor, child and family services worker or other agency personnel, elder, and the referred youth.

The implementation steps of replicating the New Zealand FGC model were as follows:

- 1) Receive notification that a PDR has been requested by the Youth Court.



2) Determine through self-declaration that the family identifies itself as Aboriginal.

3) Explain the purpose of a PDR investigation to the youth and parent/guardian.

4) Explain the Probation Officer's role and the purpose of a PDR and FGC and clarify that the youth has the choice of going through the ordinary process or the FGC. Ask the youth to nominate a relative or other person with whom to make initial contact to organize the FGC.

5) Interview relatives and other significant persons, e.g., school teacher (pre-group conference):

- a) Explain the situation of the young person.
- b) Explain own role and purpose of the PDR and FGC.
- c) Outline persons entitled to attend including victims of alleged offenses.
- d) Emphasize the central role of family members in the decision-making process and their right to deliberate in private during the conference if they wish.
- e) Determine if there are other family group members who should be interviewed about the conference.
- f) Explain that the conference may decide its own procedures, inquire as to the best time, date and venue

for the conference (own home, probation office, Indian Family Centre, etc.).

- g) Establish whether assistance is required to facilitate the attendance of family members (e.g., those who might have to travel from a distance).

6) The involvement of victims is mandatory because there is a legal requirement under the YOA for a victim impact statement to be included in any PDR. Additionally, the family was asked whether they wanted the victim to attend the FGC or whether victim representation would be done by having myself read the victim impact statement during the FGC. Even if the latter was decided a statement was obtained by interview prior to the conference.

7) Convene the actual conference by completing the following tasks:

- a) Give effect to family wishes as to the time, date and place.
- b) Ensure that everyone has reasonable notice.
- c) Advise as to procedures which could be adopted by the family group. Give the group an overview of different decision-making processes as outlined in the Youth Justice Handbook (1989), namely: linear, circular and holistic approaches to decision-making (pp. 23-24).
- d) Take all reasonable steps to ascertain the views of any person who is entitled to attend the conference but

cannot be there. For example, the police view can be given via the P6 report they file with the Crown and probation services (Appendix N), the victim's view can be given via the victim impact statements which under the YOA have to be filed with the PDR, the views of significant family members who are unable to attend can be determined by way of a phone interview.

- e) Record the decisions, recommendations and plans made at the Family Group Conference.
- f) The family members meet on their own with a Ma Mawi Wi Chi Itata Centre Inc. (hereafter referred to as MaMawi) worker acting as a facilitator. (This is an optional step.)
- g) Include the families' plans and recommendations in the PDR to the Youth Court.
- h) Assist the family in presenting their plan by attending court with them on the date of disposition.

This set of steps was deemed to be important not only to implement FGC as was done in New Zealand but to also try to incorporate steps which would circumvent some of the implementation problems they had identified in their research.

### 3.3 Criteria for Case Selection

The case selection involved contacting the families of the youths and requesting a self-declaration of Aboriginal status (Metis, Treaty status Indian, non-status Indian, non-treaty Indian). For the purposes of the practicum, youths who had been permanently removed from their natural families by Child Welfare were not considered.

A review of three months' intake (February to April, 1993) to the Winnipeg Youth Unit, Community and Youth Corrections, Department of Justice, was completed. It was determined that 52 of 150 Pre-disposition report referrals were Aboriginal youths. A majority (37) of these youths already had an assigned Probation Officer. This left 15 potential referrals for the planned practicum. At this rate it was estimated that it would take approximately two-and-one-half months to assign at least eight youths for the purposes of this practicum. However, this was dependant upon a number of random variables. For examples, the total number of referrals from the court varies during any given time period as does the incidence of Aboriginal youth referred.

For the purposes of the practicum only new and inactive cases were considered. That is, youths who had been reinvolved in delinquency while on probation were not included. The reports for probationers currently on supervision are normally done by the supervising

probation officer, since that person is in the best position to report on previously adjudicated conditions of probation. We considered doing the practicum exclusively with first offenders; however, because of the extensive use of alternative measures, there would have been problems in deriving enough cases to do this within the time frame of the practicum.

All youth report requests from Winnipeg were assigned by Mr. Barkwell, Area Director, North Winnipeg Youth Unit, as the base of operation for the practicum was in that office. All referrals were delegated by the Area Director.

To avoid having too many confounding variables the decision was made to deal with PDR requests for youths who were either first offenders, or, if not a first offender, were not currently under an order of probation supervision. In Manitoba, due to the extensive use of diversion to Alternative Measures for first offenders on less serious offenses it is rare to find a PDR request for these youths.

The second criterion was that the youth be of Aboriginal background. This information is either contained in the Police referral report to the Crown Attorney (Appendix N) or can be determined by phoning the family and asking for self-disclosure of their Aboriginal ancestry.

### 3.4 Planning For Implementation of The Practicum

A number of key individuals in the justice field were consulted in the planning stage of the practicum. Their approval was needed in order to implement the FGC model.

A series of preliminary meetings were held with Mr. Barkwell, Area Director, North Winnipeg Youth Unit. A draft of the proposed practicum was reviewed and implementation steps were outlined. A review of the previous three months of referrals for reports was done and the determination was made that it would be possible to obtain 10 to 15 cases matching the criteria in a three-month time frame.

The practicum proposal was then forwarded to Mr. Ben Thiessen, Executive Director of Community and Youth Corrections for the Province and to Mr. Earl Norlander, Assistant Director who has responsibility for all Probation Office functions in the city of Winnipeg. A briefing session was held with Mr. Norlander and permission was granted to proceed.

Since there had already been a limited attempt to apply this concept with families within the Dakota Ojibway Probation Service and Central Manitoba catchment a consultation was held with Mr. Mel Armstrong, Area Director of Central Manitoba (located in Portage La Prairie) to obtain a status report of what had transpired and

suggestions as to problems encountered within the Canadian context. Mr. Armstrong mentioned that there were difficulties associated with having more than one or two family members attend as well as the lack of personal attendance of victims.

Following this consultation, a briefing session was arranged with His Honour Edwin Kimelman, Associate Chief Judge and Mr. Barkwell, Mr. Norlander and myself. It was essential that the Associate Chief Judge be involved at the onset of the planning process, since the intended project goes somewhat beyond the scope for reports under the Young Offenders Act. It would result in a report using a different format, and would require a somewhat longer preparation time. These decisions are within the purview of the Associate Chief Judge for the Provincial Youth Court.

Basically, Judge Kimelman had several concerns and phrased these in the following questions:

- Why not do this with Alternative Measures referrals?
- What gave us the right to question youths as to racial or cultural background?
- Should all the judges be briefed extensively or should only a selected number hear these cases?

We discussed the fact that Alternative Measures was a direct diversion method from court to community Youth Justice Committees

whereas the goal of this practicum was to deal with youths who were not eligible for that level of diversion. We noted that questions as to racial/cultural background were already asked during the Alternative Measures procedure and families were free to decline to respond. Also, this information is freely available in police reports, as previously stated.

Judge Kimelman agreed to proceed with the proposed practicum and circulated the practicum proposal to all judges assigned to Youth Court in Winnipeg. He asked if we could attend a Provincial Judges' training session for further briefing, but this request was pre-empted due to the short time available and the lack of a mutually convenient meeting date during the practicum time frame. He indicated that with notice, he would commit to hearing a number of these cases himself, due to his interest in this practicum.

Preliminary meetings were also held with Mr. Don Slough, Senior Youth Crown and Mr. Bill Malcolm, Legal Aid Manitoba to brief them on the project and obtain their input on which procedures would work best. Since many of the lawyers who are part of the defense bar are in private practice these individuals were briefed on a case by case basis.

Participation of an Aboriginal Winnipeg City Police Officer was discussed but Police policy did not allow for such participation.



Evidently, this is based on the fact that they decline to discuss cases which are pending before the court and where they could be called as witnesses for the Crown.

The above set of consultations were felt to be the minimum necessary for FGC to be carried out with the cooperation of all the other stakeholders and key actors in the court process.

## CHAPTER 4

### RESULTS

#### 4.0 Introduction

Chapter 4 presents the results in five parts: a description of the youth sample that was selected; the preparation for holding the conferences; a description of the actual conferences as to process, venue and the variety of people who participated; a summary of the plans that arose from these conferences and the recommendations forwarded to the youth court; and a description of the court sentences and conditions attached to orders for probation supervision.

#### 4.1 Families and Youth

A total of eight youth were referred to the project. A description of each youth and his/her delinquent history is presented in the table below. Six were male and two were female. Their ages ranged from 13 to 17 years and three of the eight were first offenders. Three offenders were charged with theft, one with house break and entry, one with possessing a weapon and three others with offenses of violence. Only three youths had no prior court record for

delinquency. Current referrals were in all cases for more than one criminal offence (2 to 33 offenses).

The youths presented with a wide variety of family/guardianship arrangements:

- Case A: Youth residing with both parents.
- Case B: Parents separated, youth residing with mother.
- Case C: Parents separated, mother in city, father's location unknown. Youth was residing with an older sister.
- Case D: Father deceased, mother living in Winnipeg. Youth had resided in a number of foster homes via Temporary Contract Placement agreements.
- Case E: Parents, father living on-reserve, mother, the custodial parent lives in Winnipeg. Youth resides with mother.
- Case F: Parents divorced, youth lives with mother, but had been in Temporary Contract Placement with a group home.
- Case G: Mother deceased. Parents were separated and youth lived with mother until her death less than one year ago. Youth then went to live with father.
- Case H: Parents both living on-reserve, youth placed in Winnipeg on a Temporary Contract Placement.

Because of the complicated living situations and low number of intact families it was a time-consuming process to locate and interview parents and extended relations. However, as shown in Table 1 below, it was possible to have 23 family members attend the six FGCs that were held. There were eight family members at the largest FGC. In one instance neither parent could be located and only a sister was present; in another, only mother was present. In all other conferences there was more than one family member present. In at least six instances relatives travelled from a distance, at their own expense, to attend the conference.

# YOUTH DESCRIPTORS

TABLE 1

YOUTH (CASE)	SEX	AGE	PRIOR RECORD	MOST SERIOUS OFFENCE	# OF CHARGES PENDING	
A	Indian Male	13	NO	ROBBERY	5	
B	Metis Male	17	YES, 2 CHARGES	POSSESS WEAPON	4	
C	Metis Female	16	YES, 2 CHARGES	ASSAULT	4	
D	Metis Male	15	YES, 1 CHARGE	THEFT OVER \$1000	2	
E	Indian Female	15	NO	THEFT OVER \$1000	2	
F	Metis Male	17	YES, 10 CHARGES	ASSAULT	4	
G	Indian Male	13	NO	THEFT OVER \$1000	2	
H	Indian Male	17	Yes, 1 CHARGE	HOUSE BREAK & ENTER	33	

#### 4.2 Initial Meetings and Planning for The Conference

As in the New Zealand experience, it was necessary to spend an adequate amount of time to prepare victims, offenders and families for the conference. This amounted to three to four hours preparation time at minimum. An additional two hours was necessary to brief the defense and Crown counsel.

Reports for youths held in custody are expected within two to three weeks of referral. Youths out of custody are given adjournments of four to six weeks for the preparation of a predisposition report. This is in contrast to the lengthy period of time, in some cases over one year, that elapses from commission of the offence to a finding or plea of guilt.

As conference convenor, I met with the referred youth to discuss the issue of the delinquent behaviour and the subsequent court process, and to determine whether the participant wanted to deal with the issue in a traditional Aboriginal or non-traditional manner. The youth was allowed the opportunity to define who was considered to be family. These pre-meetings took place at the youth's home, Manitoba Youth Centre or a guardian's residence.

After the youth chose the FGC, I also held pre-meetings with the youth's family to discuss the process, the issue of misbehaviour in the community and other disciplinary issues that had arisen either

at home or in the school. At this time the family decided whether they wanted to deal with the issue in a traditional Aboriginal or non-traditional manner. The family was given the opportunity to define who they considered to be family. They also determined whether victims would be invited to the conference. Most of these meetings were held in the parent or guardian's residence.

All of the families felt that the victims should be invited, although they felt it would be most appropriate for me to contact the victims. As a result, as conference convenor, I would contact the victim to attend the conference, brief them on the process or alternately collect a victim impact statement if they were unable or unwilling to attend. I contacted three victims via home visits and the rest were contacted and interviewed by phone.

The youth and family took responsibility to invite their immediate or extended family members to the location on a specified date and time. If an elder was requested to participate, the family was also responsible to provide traditional or non-traditional gifts. A total of four elders were asked to chair FGCs and two agreed to do this.

I contacted all additional family group conference members such as cultural advisors, school teachers, guidance counsellors, and ministers, who had been approved by the youth and the parents or guardians to attend.

### 4.3 Family Group Conference

#### 4.3.1 Venue

As was done in New Zealand the choice of venue was a decision made by the youth's family. The largest group conference had 16 people present, the smallest had five. One meeting was held on a Sunday. To facilitate the participation of a family elder (maternal grandmother) one conference was held on-reserve on a weekend. Two conferences were held at the Indian Family Centre during the afternoon. Two conferences were held at the Manitoba Youth Centre (hereafter referred to as MYC), not by choice, but because the youths had been denied release on bail. (These conferences had to be held in the afternoons due to institution regulations.) Each conference lasted from three to four hours.

None of the families selected the probation service office as a conference location. The two conferences held at MYC were due to legal requirements. In both these cases the family would have preferred to have the conference in their own home. Most families, given a choice, would prefer the conference in their home or a community location that is not a government office.

Most conferences were held during normal working hours to suit the professionals who were to attend. In practice, it would seem that both the family and the victims would have little choice as to time



because social workers and other professionals could only attend during working hours.

As noted above, an unforeseen problem developed mid-way into the project. This was due to the fact that a number of the referred youths were being held on remand in the MYC. Since release on bail had been denied they could not leave the youth centre to attend FGCs at outside locations. Security concerns with regard to possible escapes from custody and concerns over visitors bringing contraband into the institution were also issues that had to be resolved.

These issues were first discussed with Mrs. Jan Burns, Cottage Coordinator and later meetings with Mr. Darryl Rumsey, Deputy Superintendent of the MYC to resolve these issues. Through the co-operation of MYC, arrangements were made to hold one FGC in the waiting room of the Youth Court housed in the institution. A second FGC was arranged using the teepee that is located in the inner quadrangle of the institution, as the waiting room was in use and the teepee was considered to be a culturally appropriate venue.

#### 4.3.2 Who Participated

In applying the Family Group Conference model to the Pre-disposition Report Process in youth courts in Manitoba, I was required to fulfil a number of different roles. I began as the researcher, gathering the necessary information. As an Honourary Probation Officer I was responsible under the YOA to do the PDR investigation, conducting interviews with offenders and/or their guardians, and offering them the choice of holding a Family Group Conference. Over a period of six months, six offenders and their families were confirmed as participants in the FGCs. I then had the task of co-ordinating the FGCs, bringing together stakeholders, briefing sessions, advocating, counselling, taking care of logistics, and the like. Once FGCs were convened, I was a resource person, pipe carrier and facilitator. As Honourary Probation Officer I also was responsible for the offender and ensuring that the PDR was properly submitted to court, and that the court's recommendations were implemented and monitored.

Table 2 below presents information on attendance at the FGC. One case (H) was withdrawn from the process by the Crown Attorney, who felt the charges were far too serious and numerous to proceed by this process. A second case did not proceed to conference because the youth had run away from a Child and Family Service group home placement. In five cases at least one parent was present; in only one case were both parents present. In three cases sisters or

brothers attended; there were another three instances of extended family attending. Two victims chose to attend; the others provided victim impact statements resulting from interviews. In three cases the youth's teacher had been identified as a significant person and in all these instances they attended.

Generally the family of the youth took responsibility for arranging for the participation of immediate and extended family members. Families would also select and invite an Elder or spiritual advisor. Where families were not aware of a culturally appropriate person to do the opening ceremony I would arrange for a pipe carrier from Ma Mawi to attend. One family gave me tobacco and requested that I carry out the pipe ceremony. Three families decided to proceed in a non-traditional format, that is, in a sharing circle format but without elder and ceremonies.

# CONFERENCE ATTENDANCE

TABLE 2

Youth	Immed. Family	Extend Family	Social Agency	School	Victim	Other	TOT
A Yes	Mother Father Sister Brother	(2)Sis. -in-law Uncle Aunt	MaMawi staff (3)	Teach. Elder	Yes	Family friend	16
B Yes	Mother	Gdfa.	MaMawi Native Addic. Coun.	Teach.	Victim Impact Stmt.	Pastor (2) IFC	9
C Yes	Sister		MaMawi	No	"	Family friend	5
D No- AWOL							NA
E Yes	Mother		C&FS	Teach.	Yes		6
F Yes	Father	Gdmo. Uncles (2)	MaMawi C&FS Prob. Off.	No	Victim Impact Stmt.	Cousin	9
G Yes	Father Brother Sister	Gdmo. Aunt Uncle	No	No	"	Cousin	9
H With- drawn by Crown							NA

## Location of conferences:

- A - Manitoba Youth Centre
- B - Indian Family Centre (IFC)
- C - Youth's home
- D - Not held
- E - Central Child & Family Services
- F - MYC Teepee
- G - Grandmother's home, Valley River I.R.
- H - Not held

Aboriginal youths are usually very reserved at the beginning of an intervention, and such was the case at commencement of the FGC. Therefore, it was not surprising to observe that these youth were unwilling to immediately share all the circumstances surrounding the offenses. However, as the conference proceeded they became more involved. I found that feedback from family members seemed to positively affect other participants and elicited involvement by the youth.

Three school teachers and ten social workers participated in different conferences. One of the teachers was Aboriginal and saw the process as quite appropriate. Teachers liked the idea of the family focus and control over decision-making. All three teachers found it easy to participate, while it was evident that the three non-Aboriginal social workers (one of whom left a conference, and all of whom raised the objection that the families could not make a decision that would be satisfactory to the court) seemed uncomfortable during the FGCs. The Ma MaWi social workers were most helpful to the process and showed a great willingness to bring all possible resources to the sharing circle. Social workers from the mainstream agencies (probation and child welfare) were not flexible in the times they would make themselves available to meet.

Although all of the lawyers agreed to attend, none showed up. Lack of legal aid payment and high workloads were cited as reasons.

The police department took the position that they could not participate because "charges were still before the court." Aboriginal officers were frustrated with this departmental response.

I took the responsibility for inviting victims to attend the conferences. Sixteen victims were interviewed prior to the conferences, but only two attended. A majority of these felt that they would be more comfortable "leaving things to the court". All were quite prepared to discuss how the offense had impacted upon them and the nature of their losses. It was not possible to locate three of the victims due to the length of time between the occurrence of the offence and referral from court. Two victims resided outside of Winnipeg and were not able to attend. In the case of the FGC that was held on-reserve the victim was not able to travel to the conference. Most of the victims were more concerned with receiving restitution than with locking youths up to punish or to teach them a lesson.

In one FGC where a female victim attended (Case Study E), she was very involved in helping the family reach consensus on a plan. It was an opportunity for her to resolve feelings associated with being a victim and enabled her to constructively participate. An older male victim (Case Study A) was concerned that there was some assurance that the delinquent behaviour would not re-occur: that is, was the family taking responsibility for the youth and prepared

to provide close supervision. In both cases the victims had no concerns about meeting the offender and the offender's family.

#### 4.3.3 FGC Process

The following culturally appropriate steps were developed and implemented:

1. The FGC members assembled into a sharing circle. The Honourary Probation Officer (myself) or an elder would open the sharing circle either traditionally or non-traditionally and explain the role of the youth and their family members.

2. A feather, stone, talking stick, or other acceptable object was passed around in the circle in a clockwise direction allowing an opportunity for all to participate. (See Glossary for significance of these objects.)

3. As convenor, I explained the purpose of the conference and outlined the expected outcomes of the process.

4. The youth explained the circumstances surrounding the offenses and the effects these have had on different aspects of his or her life. Then, the other FGC members shared the ways in which the youth's behaviour had affected them.

5. The victim, if present, described the offence and its impact on his or her life. This was followed by family members describing how the offender's behaviour had affected them. If no victim was present I gave the group the information obtained from the victim by way of a victim impact statement.

6. The eagle feather or other object would return to myself or the elder, who summarized the general feelings of all conference members and passed the object to the youth to respond to expressed concerns.

7. After the youth had completed responding to the concerns, FGC members within the sharing circle would discuss a series of recommendations or a plan that addressed expressed concerns and a plan that would potentially satisfy the court.

8. The family group then usually met separately with a facilitator (a MaMawi worker) and decided by consensus on a plan of action that would alleviate the concerns. It was the family's choice to meet privately to decide on a plan of action and recommendations. Roles and responsibilities jointly assigned by the elder and facilitators to each of the conference members were discussed.

9. Subsequent to the court accepting the recommendations of a FGC either Probation Services or C&FS or other designated family or



community members took responsibility to monitor and ensure that these recommendations were implemented. (This conference could be repeated if the youth continued to experience difficulty.) This is similar to what is done in New Zealand although Dr. Maxwell (personal communication May 16, 1994) noted that several judges in New Zealand took the position that the family was responsible and no external agency follow-up was required.

In summary, it was crucial that the youth and family determine who their family members were, and the onus would be on them to invite mutually agreed upon family members to a culturally appropriate gathering--an on-reserve venue (where applicable), pipe ceremonies, elders present, use of Ojibway language, sharing circles, consensus and the involvement of extended family. It was up to the family to decide which of these components would be included. As convenor, I was responsible to invite members who were not immediate or extended family and monitor the outcomes. The family, having chosen the FGC process, and having been given an opportunity to resolve the issues in a traditional or non-traditional forum, were asked to commit themselves to this culturally appropriate strategy from the outset. It was important that the process included pre- and post-conference activities to ensure first, that the conference occurred and second, that the proposed recommendations were implemented.

Since all of the referred families were Indian or Metis with Ojibway (Saulteaux) as the common first language, the typical FGC was based upon traditional Ojibway (Anishinabe) cultural procedure. In all cases at least one pipe carrier was present. In two instances I was given tobacco by the family and asked to arrange the ceremony. In only two cases the pipe was used, whereas in four, the pipe was not used. In all instances sweetgrass was used and discussions took place in a sharing circle.

Similar to the New Zealand experience there was excellent participation by families, relatives, friends, teachers, Native Child and Family Service staff and youths. It was found that youths and their immediate families were quite prepared to engage in the process.

Victim participation was at least as extensive as in New Zealand, but not without some logistical problems related to attendance. Although all but three victims (18 in total) were contacted, only two actually attended the FGC. The FGC model was fully explained to all victims. Victims were quite prepared to share information for use at the conferences, and no one said they did not want to attend because they did not want to meet with the offender and his or her family. A number said that they did not want to be involved beyond sharing information because they saw it as the judge's role to negotiate a resolution to the delinquent behaviour. All victims were interested in a reparative sentence as opposed to a punitive

sentence. Better victim participation could have been achieved by holding conferences outside of normal working hours.

The New Zealand research reports attribute the less than 100% victim participation to the fact that many victims were never contacted or were contacted so close to the date of the FGC that they could not adjust their schedules to attend. However, they did have a 50% rate of victim attendance.

Whereas New Zealand almost always had a police representative in attendance, the Winnipeg Police Services policy of "no participation where matters are before the court" resulted in no police participation for this practicum. With more negotiation at higher supervisory levels it might be possible to involve them in such a process. Such participation might fit in with their recent emphasis on community policing. Another alternative is to have members of the Citizens for Crime Awareness regional committees attend to give a general victim and crime prevention perspective as well as sharing their knowledge of local resources for youth.

The New Zealand research indicates that in two-thirds of their cases the youth advocate did not attend. They gave the inconvenience of the time as the reason. In this study there was no legal counsel prepared to attend. Defense counsel while supportive of the idea of the FGC noted that their fee schedule did not pay them for such work. The Crown Attorneys did not feel they

had a role to play. One of the concerns of the YOA was protection of the rights of youths, since they had no right to legal counsel under the previous Juvenile Delinquents Act. Thus, there is allowance for legal representation at every step under the YOA. If the FGC process actually took the place of court hearings as currently conducted, legal counsel would probably attend, and their fees could be covered. However, in this practicum, no family or youth raised this as an issue.

In New Zealand social workers are only entitled to be present when the Department of Social Work has some official responsibility for caring for the young person, but in practice the majority of conferences were attended by social workers even though there was no statutory justification for their presence. This might be taken as evidence of their dedication, but Dr. Maxwell interpreted it to mean that they wanted to influence decisions, and were not in tune with the intention of the legislation allowing for family control over decision-making. In this practicum social workers (probation officer or Child Welfare) were only invited when they had some responsibility for caring for the young person. The exception to this was the attendance of Ma Mawi social workers who attended for the purposes of cultural relevance and culturally appropriate resources. Ma Mawi is a non-mandated agency; that is, they do preventive work and do not apprehend children nor assume guardianship of youths. They interpreted the intent of the FGC process as a positive step and were quite supportive of family

decision-making. Social workers from the mandated agencies have a different role and may have attended with a pre-formed assessment and agenda for outcome in accordance with that role.

#### 4.4 Plans Developed and Presented to Court

At the completion of the FGC, a plan for presentation to the court is developed by participating family and professionals. The plan contains recommendations for satisfying the requirements of the court, such as probation supervision, community service, school attendance, curfew and no contact with named individuals.

All of the FGC plans included a cultural component. In four cases a culturally relevant educational program was recommended. In three cases probation supervision by Ma Mawi, an Aboriginal community agency, was recommended. Additional cultural resources identified were two referrals to the Native Addictions Council, one youth required to attend traditional ceremonies, and one to be placed with maternal grandmother.

Probation supervision was recommended as an alternative to custody in all cases. In four instances the family was requesting a curfew, in three cases non-association, in two, abstention from alcohol use, and in one case a weapons prohibition.

The typical FGC used a sharing circle format and covered the following agenda items:

- (a) Open circle session with sweetgrass or pipe ceremony.
- (b) Youth discloses circumstances of offence(s).
- (c) FGC members share effects of the offenses. If the victim was not present the victim impact statement was presented at this time as well.
- (d) FGC members determine recommendations for disposition.
- (e) The circle is closed.

The report of the FGC was attached to the PDR along with the victim impact statement and the P6 police report. Since the FGC report was restricted to the PDR format, and since there is a limit to the amount of information that the court can process, only a very small portion of the FGC information could in fact be relayed to the court. Because most of the victims did not attend the conferences there was little discussion or planning put forth on reparative measures other than financial compensation. These issues are not problems in New Zealand, where the FGC has replaced the court process.

All of the FGC plans presented to court are shown below in Table 3 and in complete written form in Appendix A. Four of the plans made recommendations for community service work to be performed. As

none of the youths was employed there were no recommendations for monetary restitution to the victims.

**TABLE 3**  
**RECOMMENDATIONS MADE TO COURT AND**  
**SUBSEQUENT COURT DISPOSITIONS**  
**1993-1994**

CASES	REST.	CSO	CULTURAL PROGRAM	OTHER PROGRAM	OTHER CONDITION	PROB. SUP.	CURFEW	SCHOOL
A RECOMM.	No	200 Hrs	Ma Mawi	MaMawi Family Violence	Non-assoc.	Yes	Yes	Beedabun
A COURT	No	No	No	No	Yes	Yes	Yes	Yes
B RECOMM.	No	150 Hrs	Ma Mawi	NAC MaMawi Int. Supervision	No	Yes	No	Yes
B COURT	No	No	No	No	Abstain	Yes	Yes	No
C RECOMM.	No	100 Hrs	No	Ma Mawi Intensive Supervision	Alateen	Yes	No	Children of the Earth
C COURT	No	No	No	No	Abstain & Literacy Program	Yes	No	No



**TABLE 3 (CONTINUED)**  
**RECOMMENDATIONS MADE TO COURT AND**  
**SUBSEQUENT COURT DISPOSITIONS**  
**1993-1994**

CASE	REST	CSO	CULTURAL PROGRAM	OTHER PROGRAM	OTHER CONDITION	PROB. SUP.	CURFEW	SCHOOL
D NA								
E RECOMM.	NO	No	No	Ma Mawi Intensive Supervision Private Therapist	Pritchard House	Yes	Yes	Children of the Earth
E COURT	No	No	No	Yes	Yes	Yes	Yes	Yes
F RECOMM.	No	No	Ojibway Traditional Ceremonies & place with Grandma	Diagnostic Learning Centre	NAC Non-assoc. No weapons	Yes	Yes	Children of the Earth
F COURT	No	No	No	No	AFM	No Custody 2 Yrs.	No	No

**TABLE 3 (CONTINUED)**  
**RECOMMENDATIONS MADE TO COURT AND**  
**SUBSEQUENT COURT DISPOSITIONS**  
**1993-1994**

CASES	REST.	CSO	CULTURAL PROGRAM	OTHER PROGRAM	OTHER CONDITION	PROB. SUP.	CURFEW	SCHOOL
G RECOMM.	No	50 Hrs	No	Ma Mawi Intensive Supervision	Non-assoc	Yes	No	St. Johns
G COURT	No	No	No	Yes	Yes	Yes	No	Yes
H NA								

#### 4.5 Court Outcomes

In all cases the family's plan was presented to court as an appendix to the PDR. All the youths were represented in court by legal counsel. All youths had at least one parent or guardian present at court. At one court hearing at MYC there was not enough space for all family members to be present in the courtroom. In all cases both defense and Crown Attorneys spoke to sentence. In no instance were the family members asked to make comments in court. In only one case the judge asked the youth to comment. I was never asked to comment although all the PDR's indicated that I was the Probation Officer who had prepared the report. The average hearing for court disposition took no longer than thirty minutes. The shortest hearing was about fifteen minutes; the longest was over one hour as the judge adjourned court in order to read the report.

A summary of the court dispositions are shown above in Table 3. The court dispositions in full written form are outlined at the end of this report in Appendix A. All of the youths but one received alternatives to custody. One youth received a two year custody order, one year secure custody followed by one year open custody, followed by one year probation supervision.

In no case did the courts order either restitution for victims or make an order that the youth perform community service work in lieu

of restitution or as a consequence. The court made no conditions on probation orders with regard to the recommended cultural programming with the exception of two of the Aboriginal education programs and the one recommendation to attend Pritchard House, run by the Native Addictions Council.

Case study A, a 13-year-old Indian male, had five charges pending, the most serious of which was a robbery. The FGC made ten recommendations to the court, including community service, participation in a cultural program and a family violence program at MaMawi, and other support programs. The court, however, named only four conditions: probation supervision, school attendance, curfew, and no contact with named individuals. It is apparent that the court was not prepared to take seriously the family decisions.

Since no judge gave either verbal or written reasons for disposition, it is hard to determine why the courts largely ignored the family's recommendations and failed to order any restitution to victims. Some judges have commented that they do not order restitution for two reasons. First, the victim has recourse to civil courts for a restitution order. Second, they feel that to order restitution for a youth who has no financial resources or employment is merely inviting failure. Overall, neither defense nor Crown Attorneys emphasized or advocated for FGC recommendations to be included on court orders, and the judges never strayed far from the lawyers' recommendations. The court, it appears, does not

recognize cultural factors but restricts its purview to the implementation of the law.

## CHAPTER 5

### DISCUSSION AND RECOMMENDATIONS

#### 5.1 Feasibility of Replicating New Zealand Family Group Conferences

Legislative support for replicating the New Zealand Family Group Conference currently exists in the Young Offenders Act. Existing legislation needs only to be re-interpreted to facilitate the implementation of the FGC model. This re-interpretation would require a commitment from the Minister of Justice and the Department to review present policies so as to accommodate family involvement and responsibility for children in conflict with the law. In its present form, the legislation supports the model, as individual cases can be diverted from the formal court process through a referral to Alternative Measures. Under the YOA, Youth Justice Committees can be formed in a community. Young offenders can appear before the Committee instead of going through the court system, and the Committee can determine appropriate action. The Youth Justice Committees can also be mandated and its members trained to implement the FGC model.

A major area in which the YOA supports the FGC is in its provisions for victim involvement via an impact statement. The FGC recognizes

the involvement of the victim as an integral component in the overall process towards individual and community healing. Further, the Young Offenders Act includes provision for victim reparation through two avenues--monetary restitution or restitution in kind. The FGC supports the idea of restitution as an overall goal of the blending of contemporary mainstream ideologies with traditional Aboriginal beliefs.

The Young Offenders Act (YOA) in Canada differs from the New Zealand legislation in that a report requiring family input is only mandatory in cases where committal to custody is a disposition under consideration. Even this requirement can be waived if both counsel agree. The New Zealand legislation dictates that families must be involved at early stages either as an alternative to court or prior to a decision by the court on outcome. That is, FGCs are designed to ensure that penetration into the system does not occur until all the family and community resources have been brought to bear upon the solution of delinquency problems.

The New Zealand legislation requires that services in support of the family's plan be financially supported by the state. However, in practice there is a lack of follow-up and financial resources. The YOA has no such requirements.

One similarity is the fact that the YOA provides for supervision being delegated to parties other than state agencies (Probation or

Child and Family Services) and the YOA does allow for almost any charge to be diverted by a judge to Alternative Measures. However, in practice this diversion rarely, if ever, occurs. The exemplary cases of delegation of supervision are projects carried out by the Tlingit First Nation and Hollow Water First Nation examples previously mentioned. In these cases, financial support for the decisions was provided by the Indian First Nations due to absence of a governmental mandate or funding structure.

In current Canadian justice practices, restitution in kind has been interpreted and resulted in community service orders as a way of holding the offender accountable to the community. Most victims contacted in this practicum believed that youth unable to make financial restitution could perform community service work as an alternative. This found agreement from most other FGC participants.

During the course of the practicum, a number of areas in the justice system were identified where policy revisions following the FGC model could have an impact on existing practices. These areas include the intake procedure, the compilation of pre-disposition reports, and the briefing of youth court judges. The intake procedure could accommodate court orders where an FGC is recommended. Probation officers would be required to convene the FGC in order to assist the youth in avoiding further involvement with the justice system. The current PDR format would need to be



revised to include the family group conference report and recommendations. Finally, a more extensive briefing of youth court judges would likely lead to greater inclusion of the family in court proceedings.

Generally, appropriate facilities necessary to accommodate the FGC already exist. Thus, major capital renovations are not a factor, except for one court room. This practicum found that the MYC court room lacked the physical space to accommodate family members. It is further noted that the majority of Aboriginal youth in custody attended in said court room and if courts were properly rescheduled to have Aboriginal youth attend at the York Avenue location (where most young offenders appear) this concern could be alleviated.

The New Zealand model was implemented without substantial modification except for the method of referral as previously noted. Yet the practicum was delayed due to a number of factors beyond my control. These factors included the reduced work week within government services over the summer, scheduling conflicts with other agency staff, difficulty in locating victims because of outdated information on the police reports, the necessity of extensive briefings for related parties (judges, lawyers, social workers, other probation officers, etc.) and, the special meeting arrangements for youths in remand custody at the MYC. Basically, since this replication of the FGC model was the first of its kind in Canada it simply took longer than it otherwise would have.

However, the end result was still a community based justice service that engaged more adults, bringing a variety of perspectives, to deal with the delinquent behaviour found among youth.

As shown earlier, families were able to come up with plans which contained consequences for behaviour as a deterrence to its repetition, reparation to victims or the community in general, culturally appropriate resources for the youths to learn more acceptable behaviours and treatment resources which proceed from an Aboriginal world view. As previously noted, however, these recommendations were seldom if ever supported by the court dispositions.

## 5.2 How Families Arrive at Decisions

All families were afforded the opportunity to decide who would chair and preside over the FGC, whether there would be traditional Aboriginal ceremonies or not, whether the greetings and proceedings would be in English or in their Aboriginal language and, if traditional food and drink would be served or not, and at what point this would occur. Most families found it helpful to have at least one non-family member assist the FGC in reaching a consensus.

Many conference participants commented on how important it was to bring in the power of a culturally appropriate process because it seemed to speak more meaningfully and have more impact upon the

youth and family. There is also the advantage of having group dynamics working for the clients as opposed to what happens in one-to-one interview situations. The introduction of more information into the circle by the group members, the provision of more accurate details, and the broader range of support allowed participants to disclose, confront and offer encouragement in ways that would otherwise not have been possible.

Because the family is required to arrive at appropriate sanctions for their child's offending they need to examine the disciplinary measures they have been using and explore what has been effective or ineffective and whether there are alternatives. Similarly, they have to look at which resources, if any, they have been using to deal with problematic areas. In New Zealand some Youth Justice Coordinators provide written information to families before hand and ask them to check out local programs as to availability and suitability before they attend the conference. Such pre-conference meetings were held during the practicum, and proved very helpful. It was observed that the closer in time the FGC is held to the actual occurrence of the offense the easier it is for the youth to link all the factors in his or her life to the behaviour. Many of the referrals received related to offenses which had occurred many months previous. Court disposition dates often came many weeks after the FGC. These factors tended to dilute the power and impact of the process. The youths were difficult to engage and only contributed minimally toward the plan put forward. At times, the

non-Aboriginal social workers proposed solutions before the group had sufficient opportunity for discussion and planning. As facilitator, convenor and a pipe carrier, the writer had too many roles to play and it was difficult to keep the process and its goals in perspective. For example, the process seemed to go much better in case study G, when a traditional on-reserve grandmother took the lead role in the FGC.

There is the difficulty of clients "emotionally bleeding" in the group and with limited time there is no way to intervene to heal this obvious pain. Dr. Maxwell discussed this issue in the Winnipeg Workshop on FGC (May 17, 1994). She noted that it was the inclination of therapeutically trained people to try to jump in and deal with these situations. This goes against the intent of the model. She feels that at these points the facilitator should validate that the family group has revealed their pain and very real problems, and as a next step should point them to alternatives they might choose as paths to healing. In case study E, for example, the offender, a 15-year-old Indian female, had difficulty in showing some of her strong feelings because she experienced associations with an alleged incident of sexual abuse she had previously experienced. She was unable to verbalize her feelings and turned away from the FGC members. Had there been more time, she might have been able to express her feelings more fully and contribute more to the success of the conference. She was referred to her therapist for follow-up.

### 5.3 Cultural Appropriateness for Aboriginal People

Cultural relevance was an important factor in this practicum. As previously indicated, the major goal of the practicum was to illustrate the advantages of blending traditional Aboriginal beliefs and practices with the contemporary Canadian social work methods and justice practices as they pertain to youth in conflict with the law. This goal was accomplished in the replication of the FGC model. Aboriginal cultural symbols, images and language meaningful to Aboriginal people were incorporated into the process. The most significant outcome was the influence of the participants' recommendations on the young offenders. For some youths and parents it was the first time they had affirmed in a positive way that their Aboriginal heritage was important to them.

There are a number of ways to examine the cultural sensitivity and appropriateness of the FGC process. The venue, the procedures, the language, the concepts symbolized by the pipe, sweetgrass and the circle, the extent to which family members were present, and the cultural match between the facilitator and the youth and family - all have their importance. Traditional practices included location (on reserve, teepee and in the homes), use of pipe ceremonies and elders/leaders, use of Aboriginal language, circle format and decision-making based on consensus. Lastly, and most important was the recognition and active participation of the extended family network. Two of the conferences were not traditional in the sense

explained above, as they were confined to the circle format and consensus decision-making.

In this practicum the most common location was the family home. One conference was held on First Nation territory and another in the teepee at MYC. All of these locations were found to be more culturally appropriate, less intimidating and more private than the usual government office locations. Further, these locations ensured appropriate space for the size of the group and afforded the families an opportunity to provide food and refreshments for those in attendance. Unlike the New Zealand experience where most conferences were held in government offices, alternative locations used in the practicum were necessary to accommodate sweetgrass and pipe ceremonies. This special arrangement was due to the fact that all government offices and buildings in Manitoba are smoke-free environments.

There is no provision in Canada for lay advocates to be appointed by the youth court to advise on cultural matters the way there is in New Zealand. However, in practice the Manitoba Youth Court judges are prepared to receive input from Aboriginal Elders and Aboriginal staff from Child and Family Services or cultural institutions. The research in New Zealand did not observe any instances of lay advocate participation although the coordinators reported that where used, they had been very helpful. In this practicum, this role was fulfilled by staff from the Ma MaWi Centre

in Winnipeg whose recommendations were included in the recommendations from the FGC. A review of the dispositions revealed that all recommendations that related to community service or cultural measures were not incorporated into the court orders.

In facilitating the family's plan and recommendations, better and faster results could have been achieved if it had been possible to focus my role more sharply. Specifically, if this study is to be replicated, coordination should be considered a single function, not combined with all the various activities for which I was responsible. The Aboriginal cultural content should also be provided by a different individual, preferably an elder chosen by the family and youth. The FGC process engaged the family and youth more effectively when Ma Mawi staff provided the cultural content and assisted the family in formulating their recommendations in the absence of all professionals.

#### 5.4 Recommendations

I believe that this model is a more humane and cost-efficient way to manage Aboriginal youth in conflict with the law than what occurs in the existing system. Present legislation supports this model and its principles. Therefore, the long-term goal would be to implement the FGC throughout Aboriginal communities. However, in order to further prove the feasibility of this prospect, I recommend that the short-term goal be to organize another project

which would include greater participation of mainstream systems and the Aboriginal community. This follow-up project would also provide us with the further research that is required to more effectively adapt and implement the model in Manitoba.

Based on the findings of this practicum, the following recommendations can be considered in any follow-up project:

1. The FGC process should be implemented to replace the current court process. For those cases which must proceed to court under the New Zealand model, perhaps a process which uses a combination of FGC and the Circle Sentencing currently being tried in Manitoba would make the court appearance more culturally relevant and meaningful.
2. Revisions should be made to the policies of the Winnipeg Police Services, Legal Aid, and Department of Justice Crown Attorneys, in order to ensure support for the FGC. The absence of police, Crown Attorneys and defense counsel impedes the transition from FGC to court. Ideally, with some sort of police, lawyers and Crown presence at the FGC, the results of the conference would become the official disposition and no further court appearance would be necessary, as in New Zealand. New Zealand found that although police were initially reluctant to participate, they are now enthusiastic advocates of the process. There should be changes in the



legal relationship to include FGC attendance as part of defense counsels' responsibility and fees.

3. A culturally appropriate process should be implemented at the predisposition level. This was a fundamental recommendation of the Aboriginal Justice Inquiry as well. This study has shown that there are no major obstacles to doing this; all that is required is the will and administrative decision. Even if this were to be done, however, the process would still require cases on which agreement cannot be reached to proceed to court.
4. The time between occurrence of offense, timing of the FGC and disposition in court should be as short as possible. The Minister of Justice has made public comment that the reduction of court backlog is a high priority. This study reinforces this ministerial priority.
5. FGC convenors should be mandated by the court to assist youth and families. The roles played by these convenors should be clearly defined. It is also important to the process that every effort is made to ensure that convenors are representative of the community's cultural milieu.
6. The cultural component of the FGC should be provided by an incultural group person who is someone other than the convenor

or coordinator. For example, when Ma Mawi staff fulfilled this cultural content role, they engaged the family and youth to a greater degree.

7. Professionals such as judges, Crown Attorneys, defense counsel, probation officers and child and family social workers involved within the youth justice system should be trained to understand and implement the FGC system.
8. Existing culturally appropriate supports such as Ma Mawi Centre and Children of The Earth High School should be recognized by the court, and others developed. These might include recreation and social, such as evening sports programs; mental and emotional, such as therapists and support groups; training and job opportunities for youth; literacy programs; as well as supports that impact on the larger family unit such as respite care for the parents of the youth. These supports should be offered through agencies and programs owned, controlled and staffed by Aboriginal people.
9. Increased victim participation is recommended. There need to be more innovative ways of encouraging victims to participate, such as holding conferences after normal working hours and providing transportation to meetings. Some victims are also interested in attending court when the youth is to be sentenced. This could be facilitated by the re-institution of

youth night court. If victims were able to see things through to their conclusion perhaps they would be more inclined to attend FGC. Pre-work with victims is necessary so that they come to the FGC with a realistic set of expectations. Handouts of ranges of options where families have limited financial resources, as the majority do, would assist victims to choose realistic reparation requests.

10. All of the youth who participated in the study were urban, and all of the FGCs but one were held in Winnipeg. However, there is great potential for FGCs to be held in smaller First Nations and Metis communities due to the greater availability of extended family supports and a more general feeling of community than normally exists in large urban centres. A follow-up project could consider this observation in its design.

## 5.5 Conclusion

It is the circular and consensual approach to decision-making that is fundamental to the Family Group Conference. This approach is based on the principle of harmony, rather than an adversarial one:

The restoration of harmony is fundamental to the Family Group Conference. From the outset, the presence of harmony will maximise the potential for relationships between all

participants to move away from the adversarial and confrontational atmosphere common to the criminal court and set the scene for negotiated outcome (Youth Justice Handbook, 1989, pp. 23-24).

In this practicum the potential of the FGC process was diminished because the adversarial and confrontational atmosphere was still present in the courtroom setting where these plans were presented. There are advantages across cultures if the Family Group Conference can encourage young people to consider the effects of their offending behaviours on others.

At one level the full submission of all material known to officials will assist families ... and family groups to reach decisions and make recommendations and plans for their youngsters. At another level it is important to realize that excessive concerns for confidentiality would mitigate against traditional and culturally appropriate ways by which Aboriginal families develop a sense of remorse within their youngsters [Ibid. pp. 26-27].

When the practicum proposal was submitted, confidentiality was a concern. However, in the implementation of the practicum, families and youths did not exhibit concerns for confidentiality. In fact several family members commented that on other occasions, when a family member had been charged, they had been frustrated by the

lack of information they had received as to the delinquent behaviour. They felt that they would have been more effective as a family in controlling the youth's behaviour if they had all available information at the earliest opportunity. Family members outside of the nuclear family particularly felt this way.

In conclusion, the aforementioned recommendations would greatly increase the odds of the effective and long-term implementation of the FGC model as an alternative for youth to the formal court process. By re-empowering families in the decision-making process they will take more responsibility in addressing their children's conflict with the law. This model can provide the interim step needed in ensuring that the needs of the community, the justice system and those of Aboriginal families and their children can be met. This model encourages the community to accept and support youth and families rather than rejecting them when they encounter difficulty.

## GLOSSARY OF TERMS

### Justice Terms:

**Alternative Measures:** Means measures other than judicial proceedings under the Young Offenders Act used to deal with a young person who is alleged to have committed an offence.

**Predisposition Report:** Means a report on the personal and family history and present environment of a young person.

**Probation Officer/Youth Worker:** Means a person designated or appointed, whether by title of youth worker or probation officer or by any other title, pursuant to an Act of the legislature of a province, to perform the duties of a youth worker under the Young Offenders Act. Generally this includes the preparation of predisposition reports, giving such assistance to a young person as the officer considers appropriate between the time that a young person is found guilty of any offence up to the time the young person is discharged or the disposition of his case terminates, and the supervision of youth probation orders.

**Volunteer/Honourary Probation Officer:** Persons who are appointed by the Attorney General of Manitoba to carry out (unpaid) the duties of a probation officer. In this capacity they have all the powers of probation officers employed and paid by the province.

**Young Offenders Act:** (RSC 1985, c. Y-1) A 1985 Act of Parliament that sets out proceedings for youths charged with Criminal Code of Canada offenses.

**Youth or Young Person:** Means a person who is or, in the absence of evidence to the contrary, appears to be twelve years of age or more, but under eighteen years of age and, where the context requires, includes any person who is charged under the Young Offenders Act with having committed an offence while he was a young person.

**Aboriginal Cultural Terms:**

**Aboriginal person:** Means the people descended from the indigenous inhabitants of a country. In Canada, this includes Indian, Metis and Inuit people. In New Zealand it refers to the Maori and Pacific Islanders.

**Anishinabe:** Is literally translated to mean the original people in the Ojibway/Saulteaux language.

Consensus decision making: To reach decisions by ensuring that all participants have equal input into deciding upon the final decision. This is carried out within a traditional forum.

Eagle feather: A sacred Anishinabe object, when one talks while holding the feather they are obligated to be truthful.

Elder: Someone who is recognized within the Aboriginal community to be a cultural advisor. This person is usually mandated to conduct specific ceremonies.

Eshkabe: A term in the Ojibway/Saulteaux language to refer to an individual(s) who assists a teacher elder during ceremonies. These individuals may also be apprentices who are learning the teachings.

Medicine wheel: A pattern or framework that refers to a way of thinking about existing in the universe that organizes and clarifies. This framework is dynamic in nature.

Midewewin: One of four lodges or laws of the Anishinabe and most frequently practised in contemporary times.

Mother earth: A term that refers to the earth as giver and sustainer of life.



Ojibway: A common English term used to refer to Anishinabe.

Pipe ceremony: Is a ritual that can be conducted with any range of people from one person to a group. The purpose of this ritual is guidance through prayer.

Saulteaux: A common French term used to refer to Anishinabe specifically those who historically were found living at present day Sault Ste. Marie and who later migrated to present day Manitoba and Saskatchewan.

Sharing circle: A traditional forum that enables all participants to have input in the tasks needed to be completed among a group of people.

Sweatlodge: A purification and healing ceremony.

Sweetgrass: One of four sacred cleansing medicines used by the Anishinabe.

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## APPENDIX A

### RECOMMENDATIONS AND COURT DISPOSITIONS

#### CASE A: RECOMMENDATIONS

- 1) Curfew from 8:00 P.M. to 8:00 A.M., for said period.
- 2) On occasion, after 8:00 P.M. must be accompanied by an escort and regardless must be at residence, Winnipeg, Manitoba by 10:00 P.M.
- 3) Complete 200 hours of community service work.
- 4) Attend regularly at the MaMaWi cultural coordinating program.
- 5) Regularly attend the MaMaWi family violence program.
- 6) Immediately join the Al-A-Teen group.
- 7) Enrol September, 1993 and attend regularly at Winnipeg School division Beedabun Alternative School Program.
- 8) Supervised probation for a two year period, commencing May 20, 1993.
- 9) Report as required to the MaMaWi supervision program for said period.
- 10) Under no circumstances can young offender have any contact with eight named individuals.



CASE A: COURT DISPOSITION (May 27, 1993)

1. Time served in custody and two years probation supervision (concurrent on 6 charges). Report to Ma Mawi Youth Worker as required during the two year term.
2. Attend school regularly.
3. Curfew, 9:30 PM to 8:00 AM daily.
4. No contact with named individuals.

CASE B: RECOMMENDATIONS

- 1) Supervised probation for a two year period.
- 2) Complete 150 hours of community service work.
- 3) Report as required to the MaMaWi intensive supervision program for said period.
- 4) Attend regularly at Native Alcohol Council of Manitoba's six month treatment program for at least 3 one hour sessions per week.
- 5) Enrol September, 1993 and attend regularly at St. John's High, Winnipeg School Division #1.

CASE B COURT DISPOSITION (October 8, 1993)

1. One year probation supervision, report as directed.
2. Abstain from alcohol and drugs.
3. Seek counselling as the probation officer directs.

4. Curfew for one year, Sunday to Thursday 11:00 PM to 7:00 AM unless with parents or resource teacher.

CASE C RECOMMENDATIONS (June 8, 1993)

- 1) Supervised probation for a one year period.
- 2) Complete 100 hours of community service work.
- 3) Report as required to the MaMaWi intensive supervision program for said period.
- 4) Attend regularly at Al-A-Teen for youth.
- 5) Enrol September, 1993 and attend regularly preferably at Children of the Earth High School, Winnipeg School Division #1.

CASE C COURT DISPOSITION:

July 27, 1993: A warrant issued for failure to appear, she was on the run from the placement at her sister's.

March 9, 1994:

1. 18 months supervised probation
2. Report to a youth worker at least twice per month
3. Continue to attend R.B. Russell School in the City of Winnipeg and once per month provide to Probation Officer a written report from school authorities as to attendance, behaviour and efforts to achieve a

satisfactory academic standing (authority being homeroom teacher, guidance counsellor or principal of the school).

4. Attend for a literacy assessment as arranged by Probation Officer and in the event the assessment should indicate literacy is an issue, attend a literacy program in addition to school program to deal with literacy, as arranged by Probation Officer.
5. Abstain absolutely from the consumption of alcohol, non-prescription drugs or other intoxicants (including solvents).
6. Attend a substance abuse program as arranged by Probation Officer and if the assessment indicates treatment is warranted, to attend and fully participate in a substance abuse program.

Note: At the time of this sentencing, an outdated PDR was used and the girl was pregnant with a due date of Oct 5/94. The court was not aware of this fact.

CASE D None, youth went AWOL and a warrant was issued.

#### CASE E RECOMMENDATIONS (July 20, 1993)

- 1) Supervised probation for a one year period.
- 2) Attend regularly at Pritchard House chemical abuse program.
- 3) Report as required to the MaMaWi intensive supervision program for said period.

- 4) Curfew on weekdays from 10:00 P.M. to 7:00 A.M. and from 11:00 P.M. to 7:00 A.M. on weekends.
- 5) Attend regularly at the Children of the Earth High School, Winnipeg School Division #1, commencing September, 1993.
- 6) Maintain individual treatment sessions with private therapist.

CASE E COURT DISPOSITION (October 29, 1993)

1. One year probation supervision.
2. Attend regularly at Pritchard house Chemical Abuse program.
3. Report as required to the MaMawi intensive supervision program for said period.
4. Curfew on weekdays from 10:00 PM to 7:00 AM and from 11:00 PM to 7:00 AM on weekends.
5. Attend regularly at Children of the Earth High School, Winnipeg School Division #1, commencing September 1993.
6. Maintain individual treatment sessions with private therapist.
7. Attend at Probation Services office once each month for the first six months of the one year probation period.

CASE F RECOMMENDATIONS

PLAN A

- 1) The youth should be placed in grandmother's, foster home.
- 2) No contact with members of the Overlords gang.

- 3) Curfew on weekdays from 10:00 p.m. to 8:00 a.m. and on weekends from 11:00 p.m. to 8:00 a.m.
- 4) No possession of weapons.
- 5) Attend the Diagnostic Learning Centre at Clifton School.
- 6) Enrol September, 1993 and attend regularly at Children of The Earth High School, Winnipeg School Division #1.
- 7) Attend Ojibway traditional ceremonies.
- 8) Attend regularly at the AFM or NACM chemical abuse programs.

#### PLAN B

- 1) Family would agree to the youth being placed in an open custody home, only if said home is operated by Aboriginal people.
- 2) No contact with members of the Overlords gang.
- 3) Curfew on weekdays from 10:00 p.m. to 8:00 a.m. and on weekends from 11:00 p.m. to 8:00 a.m.
- 4) No possession of weapons.
- 5) Attend the Diagnostic Learning Centre at Clifton School.
- 6) Enrol September, 1993 and attend regularly at Children of The Earth High School, Winnipeg School Division #1.
- 7) Attend Ojibway traditional ceremonies.
- 8) Attend regularly at the AFM or NACM chemical abuse programs.

#### CASE F: COURT DISPOSITION (August 11, 1993)

1. One year secure custody, followed by;

2. One year open custody, followed by;
3. One year supervised probation.
  - (a) To report to a youth worker.
  - (b) To attend school regularly.
  - (c) To reside as directed by Child and Family Services and obey all house rules including curfew.
  - (d) To attend all treatment programs as directed by probation services.
  - (e) Not to possess weapons.
  - (f) Not to have contact with members of any gang.
  - (g) Attend, participate in and satisfactorily complete an Alcoholism Foundation of Manitoba or Native Addictions Council Chemical Abuse Program.

CASE G RECOMMENDATIONS (August 26, 1993)

1. Supervised probation for a ten month period.
2. Report as required to the MaMawi Intensive Supervision Program for said period.
3. Enrol at the St. John's High School in grade seven.
4. Complete 50 hours Community Service Work at MaMawi Centre.
5. No contact with named youths.

CASE G COURT DISPOSITION (August 31, 1993)

1. 15 months probation concurrent on each charge.

2. Report to MaMawi intensive supervision program as directed by Probation Officer.
3. Enrol at St. John's School within 7 days and attend school regularly.
4. No contact or communication with named youths.

#### CASE H

This case was referred to a probation officer for regular processing due to the number and seriousness of the offenses (including more than 30 Break and Enters). This was done at the request of the Crown Attorney.

**APPENDIX B**  
**CASE STUDY A**

**1. Background of Family and Youth Offenses**

This is a 13 year old adolescent male referred for preparation of a Pre-disposition report on 5 criminal offenses the most serious of which was a robbery charge (reduced in a plea bargain from armed robbery). The youth had no prior criminal record.

He was represented at court by defense counsel from a private firm who specializes in youth court work. He was in custody having been refused release on bail after review by a hearing officer and a Youth Court Judge. At the time of referral, the youth had been in remand custody for over 70 days.

The youth is a Treaty Status Indian with membership at Pine Creek First Nation. This community is located 500 kilometres north-west of Winnipeg and has a population of 950 on-reserve. There are large Metis communities located nearby to the north and the south. However, this youth was born and raised off-reserve in Winnipeg.

At the time the offenses occurred he was living at home in Winnipeg with both natural parents. There are two older married step-brothers who live on their own and a 15 year old step-sister who



lives with an aunt. Parents live in a common-law relationship of 16 years.

The co-accused youths were from 14 to 17 years of age and lived in the same neighbourhood. None of the co-accused were schoolmates. At the time of the offenses he was attending a special detached education program of reduced class size.

The youth is described to be of good physical and emotional state with no history to indicate otherwise. The youth reports that he does not use drugs or consume alcohol. Sources of information concur that the youth reveals no concerns with the use of mood altering substances.

The youth enjoys playing video games with friends in his leisure time. However, many of his peers are known to engage in delinquent behaviour. Recently, his greatest interest has been in re-discovering his cultural roots through involvement in school initiated activities such as pipe ceremonies, and the construction of a pow wow outfit for dancing purposes.

As part of his involvement in a program offered by the MaMawi Youth Program, the staff report that the youth was a well behaved young man. He accepted direction eagerly from MaMaWi workers and other adults. Staff verified that he regularly attended the one-on-one and group programs.

In their assessments, the youth was a follower and experienced difficulties standing up to the pressures of co-offenders. Specifically, one female youth could easily manipulate and control the youth's behavioural actions, therefore staff did not allow any contact with her during duration of program sessions.

MaMaWi staff found the youth to be family oriented and especially fond of his mother. Parents supported his cultural interests and staff indicated he enjoyed the MaMaWi cultural co-ordination group program. In regard to not attending school from November/92 - March/93, this situation was due to difficulty in having the youth accepted by the school.

The youth has no employment background and is dependent on his parents for financial support. In addition to satisfying all his living needs, parents provide the youth with a \$20.00 weekly allowance if all assigned chores are completed.

## 2. Initial Planning and Meeting for FGC

The first step was to interview the youth at the Manitoba Youth Centre. This appointment was arranged by obtaining the permission of the Cottage Coordinator of the unit where the boy was housed (the FGC was also explained to the Coordinator). This interview was necessary to determine the circumstances surrounding the offenses and whether he was aware of what he had plead guilty to, and

whether he intended to proceed on the basis of those pleas. At this time the nature of the Youth Court process was explained.

Note: This step is necessary because in the PDR process it is often the case that youths have little understanding of the court process, the nature of the allegations against them and the consequences of entering guilty pleas.

The nature of the Family Group Conference was explained and a definition of whom the youth considered to be family was obtained. The regular procedure for PDR's was also explained and the youth was given the choice of procedures. The youth was asked to self-declare as an Aboriginal person, which he did. He also agreed to FGC.

Second, an in-person interview was conducted with the youth's legal counsel. The nature and process of FGC was explained and the lawyer saw no difficulty with the procedure. She indicated that, time permitting, she would arrange to attend the FGC.

Third, a joint interview was held with parents at the family residence in the north-end of Winnipeg. Again, the alternate procedures were explained and they opted for FGC. A definition of family was obtained from parents. We also discussed possible locations for the FGC and determined who would be invited.

### 3. FGC

#### 3.1 Venue

The family's preferred location for FGC was the family home. A check was made with the Manitoba Youth Centre with regard to obtaining a temporary release for the youth to attend the FGC. It was then learned that since he had made application for release on bail and this had been denied, it would be necessary to appeal this decision to a higher court (or to the original judge), even for a temporary release.

Consequently, it was determined that it would be necessary to hold the FGC at MYC. A meeting was then arranged with the Deputy Superintendent of MYC as to how to best facilitate the conference. Concerns of MYC were:

1. The size of the group.
2. The length of time required.
3. Security concerns regarding people entering the building with contraband or weapons.
4. Security concerns regarding possible escape.
5. Finding a location where a sweetgrass and tobacco smudge would not set off smoke alarms.
6. Access to washrooms.
7. Making arrangements so that extra MYC staff would not have to be pulled off regular duties for security supervision.

As a result of this meeting the MYC officials had to contact the Provincial Executive Director as to whether the FGC was a sanctioned procedure. Having received an affirmative answer, it was determined that the best location was the court waiting room area at a time when the Youth Court was not in session. There was discussion of holding the conference in the open quadrangle of the building but this was rejected because of "confidentiality" issues. Later, when a teepee had been erected in the quadrangle it was possible to hold a subsequent FGC in that location.

I was allowed to provide supervision for the youth in this location because as an Honourary Probation Officer I was empowered as a Peace Officer in the Province of Manitoba. Otherwise either Probation Services or MYC would have had to specially assign staff to this function.

### 3.2 Who Participated

Mother and father contacted all their available family members to attend the conference. I contacted the Elder, and gave him tobacco. Three victims were identified. One victim could not be found, another agreed to participate by providing a victim impact statement to be verbally presented at the conference. The third victim agreed to attend the conference.

PRESENT:           1)   Young offender

- 2) Mother
- 3) Father
- 4) Sister
- 5) Brother
- 6) Sister-in-law
- 7) Sister-in-law
- 8) Uncle
- 9) Aunt
- 10) Family friend
- 11) Teacher/Elder
- 12) Youth Support Worker, MaMaWi Centre
- 13) Team Leader, Youth Program, MaMaWi Centre
- 14) Youth Support Worker, MaMaWi Centre
- 15) Victim
- 16) Lyle N. Longclaws, H/Probations Officer

Basic family and school information was obtained prior to the FGC since this was not to be specifically reviewed in the FGC but was required for inclusion in the PDR under the terms of the Young Offenders Act.

### 3.3 FGC Process

The conference members began with a traditional pipe ceremony and pipe carriers explained the purpose of gathering. The family group conference members remained within the ceremonial circle for the

duration of the family assembly, and after all participants spoke, the young offender responded to the circumstances regarding the offenses.

The youth concurred with the information stated in the three attached Police Reports. He described having been introduced to the co-offenders and a circle of other close friends, approximately a year ago through his association with an ex-girlfriend. The youth indicated that he recently began keeping many friends, therefore it seemed harmless to continue exploring these newly established friendships. He admitted that his involvement within this circle of friends negatively affected his school attendance since the beginning of the academic year and has strained relationships with his family. The youth acknowledged that his once close family ties has been tested several times within this year and are in danger of being severed.

Generally, the youth is seen as a follower among those who know him. However, similar circumstances found in two offenses indicate some planning had taken place between the youth and co-offenders. In these two situations, the youth admitted being pressured by peers and taking the lead to commence these unacceptable acts. In regard to the third offence, he stated that it was carried out on impulse and seemed to be a matter of poor judgement.

The youth did not blame his friends; instead he realized his actions were wrong and spoke of feeling badly about being involved. These feelings were clearly demonstrated at the FGC where after hearing from a victim, the youth shook his hand. He stated that he hoped "there would be no bad feelings between themselves." During the FGC, the youth openly displayed much remorse in the presence of all participants.

#### 4. Family's Plan

The professional helping staff left the conference room in order to enable the MaMaWi youth counsellor to facilitate a closed session with family members only, in order to assist in reaching a family consensus on the recommendations to be presented in court. After approximately 20 minutes of family deliberations, the professional helping staff rejoined the conference to discuss the recommendations decided by the family.

They supported the recommendations of the family group conference as listed:

- 1) Curfew from 8:00 P.M. to 8:00 A.M., for said period.
- 2) On occasion, after 8:00 P.M. must be accompanied by an escort and regardless must be at residence, Winnipeg, Manitoba by 10:00 P.M.
- 3) Complete 200 hours of community service work.



- 4) Attend regularly at the MaMaWi cultural coordinating program.
- 5) Regularly attend the MaMaWi family violence program.
- 6) Immediately join the Al-A-Teen group.
- 7) Enrol September, 1993 and attend regularly at Winnipeg School division Beedabun Alternative School Program.
- 8) Supervised probation for a two year period, commencing May 20, 1993.
- 9) Report as required to the MaMaWi supervision program for said period.
- 10) Under no circumstances can young offender have any contact with seven named youths.

#### 5. Court Disposition

##### CASE A: COURT DISPOSITION (May 27, 1993)

1. Time served in custody and two years probation supervision (concurrent on 6 charges). Report to Ma Mawi Youth Worker as required during the two year term.
2. Attend school regularly.
3. Curfew, 9:30 PM to 8:00 AM daily.
4. No contact with named individuals.

APPENDIX C  
CASE STUDY B

1. Background of Family and Youth Offenses

It should be noted that the youth had resided with the father since birth and up to March 9/92. The father still has legal custody of the youth but the mother was granted temporary custody since said date. The youth and his father had resided in Roblin for the majority of their relationship. Father has made it clearly understood on several occasions to the family that he does not want his son living with him until all charges have been disposed. The youth feels that his father has taken this position because of the stress encountered during their most strained relationship.

Since relocating to Winnipeg in March, 1992, the youth has resided with his mother and her common law spouse. The youth and mother stated that their relationship was stable when he visited during certain times of the year, but since he has moved in with his mother, they have no relationship at all. Mother brought the youth to a counsellor and a contract was drawn up between them and the youth broke all the conditions. His mother asked him to leave because the youth kept losing his house keys and had severed all communication with common law spouse. The youth is currently living at his aunt's residence. The youth has no previous convictions.

The youth attended Roblin Elementary School and from all reports, did very well in grades one to six. He attended Goose Lake High School in Roblin where he was expelled for a confrontation with administration, but he was also able to complete grade nine. In September, 1992, the youth enrolled in grade ten at St. John's High School in the Winnipeg School Division #1 but withdrew on April 1, 1993. He has agreed to return to St. John's High in September, 1993. The youth is currently actively seeking employment and is interested in sandblasting for a local firm. He is dependent on his parents for financial support.

The youth enjoyed owning a vehicle, but recently sold it for "party money". He reports no specific hobbies or interests, other than hanging around with friends and partying. He appears to have no desire to change his friends, despite peers being known to engage in delinquent behaviour. The youth reports that he does use drugs and consumes alcohol. Sources of information concur that the youth openly reveals personal use of mood altering substances, while not admitting that this fact contributes to being in conflict with the law.

## 2. Initial Planning and Meeting for FGC

No difficulties encountered and family assumed responsibility for all arrangements pertaining to FGC.

## 3. FGC

### 3.1 Venue

Two victims resided outside the City of Winnipeg and for this reason were unable to attend, while the third victim could not be located.

### 3.2 Who Participated

Present:

- 1) Youth Offender
- 2) Grandfather
- 3) Mother
- 4) Guidance Teacher
- 5) Pastor at Indian Family Centre
- 6) Pastor
- 7) Worker, Native Addictions Council
- 8) Youth Support Worker, MaMaWi Centre
- 9) Lyle N. Longclaws, H/Probations Officer

### 3.3 FGC Process

The conference members began with a traditional sweetgrass ceremony and prayer. I explained the purpose of family group conference. The family group conference members remained within the sharing circle for the duration of the family assembly.

The youth spoke first and related the circumstances with each offence. The youth accepted the information contained in the attached three police reports. In regard to the first charge, the youth claims that he was stranded in Dauphin, Manitoba and required money to return home. He had received a ride from friends to Dauphin where he attended a party which resulted in his missing a car ride back to his residence. A counter cheque was given to the youth from a friend, and he admitted endorsing it prior to presenting cheque to clerk at gas station. The clerk deducted the amount of gas purchased, reimbursed the youth the difference in cash, and recorded the license plate number. The youth and his friends returned to the location where party was being held, spending all the obtained funds.

In regard to the second offence, the youth could not readily recall the events nor circumstances surrounding the charge. He stated that on the following day, he endorsed the back of a cheque and passed it to a vendor in Dauphin. He clearly admitted cashing said cheque. Further, he said that circumstances appeared "cloudy"

because they were still partying and he required money to return home. He finally left Dauphin to return home later in the day.

In regard to the circumstances with the last offence, the youth and three friends approached complainant at a bus stop in the city of Winnipeg. The youth displayed a pellet gun handle which was tucked in his pants to complainant who surrendered his jacket. The youth stated that the jacket was sold for 3 grams of marijuana, and basically that was the sole reason for his involvement.

The youth realizes that the aforementioned circumstances surrounding the offenses are unacceptable social behaviour. However, due to his chemical dependency, specifically marijuana and alcohol, the youth is not able to withstand negative peer pressure, coupled with feelings of the lack of family supports, appears to justify his unacceptable behaviour.

Each family group conference member spoke thereafter, and the young offender responded to all their comments. He acknowledged all concerns, but displayed little remorse. The conference participants worked diligently towards the youth's final admittance of needing professional assistance in combatting a chemical dependency problem which clearly was a contributing factor to being in conflict with the law. At no point did the youth not accept responsibility for his actions. Instead, he frequently agreed to accept the consequences of his unacceptable social behaviour. These

events enabled the reaching of a family consensus on the recommendations to be presented in court.

#### 4. Family's Plan

The family supported the recommendations, specifically:

- 1) Supervised probation for a two year period.
- 2) Complete 150 hours of community service work.
- 3) Report as required to the MaMaWi intensive supervision program for said period.
- 4) Attend regularly at Native Addictions Council of Manitoba's six-month treatment program for at least 3 one hour sessions per week.
- 5) Enrol September, 1993 and attend regularly at St. John's High, Winnipeg School Division #1.

#### 5. Court Disposition

CASE B COURT DISPOSITION (October 8, 1993)

1. One year probation supervision, report as directed.
2. Abstain from alcohol and drugs.
3. Seek counselling as the probation officer directs.
4. Curfew for one year, Sunday to Thursday 11:00 PM to 7:00 AM unless with parents or resource teacher.

APPENDIX D  
CASE STUDY C

1. Background of Family and Youth Offenses

This is a 16 year old girl who was born in The Pas. The father is age 38 years, and the mother is 36 years. This Aboriginal family lived in The Pas until 1982, before re-locating to Winnipeg. The family is first generation urban and has encountered many unfortunate incidents of racism.

Specifically, this young girl experienced numerous difficulties adjusting to the urban lifestyle. She blames herself for the family breaking up in 1983 and does not recognize that there were other factors that contributed to the disintegration of family life; such as the parents' chronic unemployment.

She has two brothers, age 19 and age 15. She enjoys a close relationship with her sister, who is age 18, who resides with common law spouse at Waywayseecappo First Nation. She also has tremendous respect for her oldest sister who has started her own family. This sister is currently her guardian. The youth readily shares that the "hidden rage" she possesses is not as frequently felt when she lives with this sister.



She was enroled at William Whyte school, where she completed most of her elementary education. She graduated from grade six at King Edward school. She completed grades 7 - 9 while attending Aberdeen junior high school. It was while attending Aberdeen that the youth's learning disabilities were detected. The girl commented that she was first in conflict with the law during the work experience program at Aberdeen school and felt that work placements only served as an opportunity to "steal".

At present, she is diagnosed illiterate as reports indicate she can barely write her own name. Despite these facts, she was placed in grade 10 at Children of the Earth high school. She was enroled at aforementioned school for a brief period and was later transferred to R. B. Russell high school. She was then placed in a work experience education program and has since dropped out. The youth has no employment history and is dependent on sister and mother for financial support. Her goal is to complete her high school education.

The youth enjoys listening to different kinds of music and especially enjoys dancing. She reports that she prefers her own company and likes to be alone but if she has to interact with others, she prefers the company of her sisters. The youth visits her mother on occasion but has no relationship with other family members. The youth has no close friends of her own age.

Previous reports indicate that the youth responded fairly well to adult supervision and generally satisfied all requirements of her probation. Further, the youth was referred for alternative measures in 1990, and completed successfully.

## 2. Initial Planning and Meeting for FGC

I met with and interviewed the youth in the presence of her guardian and sister. After outlining the FGC as an option, both youth and guardian agreed to this alternative. The youth and guardian indicated their commitment to inviting family members and requested that I approach the youth support worker from MaMawi Youth Program for attendance at the FGC.

## 3. FGC

### 3.1 Venue

A family group conference was convened at the youth's sisters' residence. There were no difficulties in holding the FGC at the youth's choice of venue.

### 3.2 Who Participated

#### PRESENT:

- 1) Youth
- 2) Sister
- 3) Family friend

- 4) Counsellor, MaMaWi Centre
- 5) Lyle N. Longclaws, H/Probation Officer

It should be noted that two victim impact statements were completed after the family group conference because involved people were engaged in shift work since PDR was requested and were unable to attend the FGC. These two victim impact reports were attached to the PDR. Unfortunately, several attempts were made to locate the third victim, but they were unsuccessful.

### 3.3 FGC Process

I shared that the family agreed to participate and be responsible to hold the family group conference. I explained the purpose of such a family assembly and compared it to the Indigenous people from New Zealand process. The family group conference members remained within the circle for the entire sharing circle session.

The youth concurred with the information found in the police reports. At the time, she was a ward of Child and Family Services and admitted returning to placement in an intoxicated state. She reported that she felt extremely angry and could not identify the reason for being in such a rage. This rage was set off by another resident who was trying to assist the youth to her room. After arguing for sometime, she smashed several windows and purposely cut

herself. She admits kicking the night worker, because she was sure that she had called the police.

In a separate incident, while the youth and a co-accused were still wards of Child and Family Services and living at the same residence, the girl admitted to removing the vehicle keys from residence. Along with co-accused walked to a parking lot and drove the vehicle for several hours. She stated that on the following day she and co-accused unlawfully entered a Winnipeg residence but could not recall the address. She removed several items from the residence, while co-accused served as a "lookout". She was later arrested at a friend's house, while in possession of keys and cooperated with police in retrieving vehicle and stolen goods.

She recalled having a curfew, however she felt that since nobody cared anyway, why should she return to residence? She states that "the staff would only call the police anyway. Nobody cares." Upon returning to residence a day later, she was arrested.

She shared that being a ward of Child and Family Services contributed to her rages of anger. She reported that her workers "make things worse" by always taking the side of other service authorities. She felt that she can not confide in these workers and yet they are all told on a daily basis that "everybody is part of the family". This type of rationalization seems to have

contributed to openly admitting to assaulting a worker. She left the impression that workers simply do not understand.

During the family group conference, her demeanour was very open and honest in the sharing of her feelings. She is willing to make changes but will need supports academically and personally to deal with her anger. Regarding her illiteracy, she needs to be assessed to determine her level of skill and enroled in an individualized program with resource supports to address her academic deficiencies. She also needs supports to address her feelings of alienation from her peers and family which can be accomplished through attendance of traditional Aboriginal ceremonies and support groups.

The youth readily shared all of the circumstances with each of the four charges. Each family group conference member probed for more information and I was requested to review the police statements, and with the girl's approval, they both went into greater detail.

This triggered the family members to relate how her recent unacceptable social behaviour personally affected them. They indicated that they had difficulty understanding the youth's anger and allowed her the opportunity to attempt to verbalize her feelings. The youth emotionally responded to all their comments. She recognized the family's frustration and agreed to try to

understand her anger cycle. This conference was a very dramatic experience for her because family members stated for the first time how she had hurt them.

The conference participants were able to have the youth agree that this undescribable pain she felt could be dealt with and should not be mixed with alcohol. She admitted that she needed assistance in dealing with her alcohol dependency, but she only drinks when she feels this pain. The pain appears to be expressed by becoming angry at which point she becomes violent and destructive. This open display of emotions contributed to having the family reach a consensus on the plan to be presented in court.

#### 4. Family's Plan

The consideration of her legal situation and more importantly, personal feelings, brought the entire family group conference together in their support for the following recommendations:

- 1) Supervised probation for a one year period.
- 2) Complete 100 hours of community service work.
- 3) Report as required to the MaMaWi intensive supervision program for the one year period.
- 4) Attend regularly at Al-A-Teen for youth.

- 5) Enrol September, 1993 and attend regularly preferably at Children of the Earth high school, Winnipeg School Division #1.

## 5. Court Disposition

### CASE C COURT DISPOSITION:

July 27, 1993: A warrant issued for failure to appear, she was on the run from the placement at her sister's.

March 9, 1994:

1. 18 months supervised probation
2. Report to a youth worker at least twice per month
3. Continue to attend R.B. Russell School in the City of Winnipeg and once per month provide to Probation Officer a written report from school authorities as to attendance, behaviour and efforts to achieve a satisfactory academic standing (authority being homeroom teacher, guidance counsellor or principal of the school).
4. Attend for a literacy assessment as arranged by Probation Officer and in the event the assessment should indicate literacy is an issue, attend a literacy program in addition to school program to deal with literacy, as arranged by Probation Officer.

5. Abstain absolutely from the consumption of alcohol, non-prescription drugs or other intoxicants (including solvents).
6. Attend a substance abuse program as arranged by Probation Officer and if the assessment indicates treatment is warranted, to attend and fully participate in a substance abuse program.

Note: At the time of this sentencing an outdated PDR was being used and in fact the girl was pregnant with a due date of Oct 5/94. The court was not aware of this fact.



**APPENDIX E**  
**CASE STUDY D**

After receiving this referral for involvement in the practicum, the 15 year old youth became AWOL (ran away) and his whereabouts were unknown until after the completion of the practicum. This information was obtained through ongoing contact with youth's social worker and guardian. Involvement in this case study did not determine this youth's decision to run and it must be pointed out that some youth will go AWOL regardless of intervention strategies.

**APPENDIX F**  
**CASE STUDY E**

**1. Background of Family and Youth Offenses**

The female youth was born in The Pas, Manitoba and moved with her family to Winnipeg when she was four years old. Her father did not relocate with the family and continues to live in The Pas. Her mother currently resides in Winnipeg with the youth and a brother who is twelve years old. An older sister, born in 1972, was placed in care and her whereabouts are still unknown to the family.

The mother has worked with three employers over the last ten years and these include the Winnipeg Arena, Neechi Foods Co-op, and the Teulon Residence for northern Native students. During the last decade, the family has relocated a total of four times within the core area of Winnipeg.

In regard to her father, the youth's relationship with him and his clan were maintained until the youth reported an incident of alleged sexual abuse involving a stepbrother from her father's common-law relationship. Her allegations were not supported by her father or his clan members so the youth had to sever all ties with that branch of her family.

This event has affected her behaviour and may be at the root of her unacceptable behaviour towards herself and others. She is unable to presently accept and address her alleged abuse which has contributed to her actions. The youth appears to experience difficulty controlling her feelings associated with her alleged abuse (ie. recent suicidal attempt). The youth has no previous convictions.

The youth is a first generation urban raised and educated Aboriginal person. She is familiar with the city streets and the ways of the street. She attended inner city elementary and secondary schools where she is reported to have been an acceptable student academically (entered grade ten in September, 1993).

Socially, the youth was drawn to informal classroom settings and culturally sensitive teachers provided through an alternative program for Aboriginal students offered by the Winnipeg School Division #1. She is looking forward to attending Children of The Earth, a culturally appropriate school setting, in September, 1993 where she will begin her S2 (grade 10) year.

The youth has no employment background and is dependent on mother for financial support. She is a personable individual with a good sense of humour. She enjoys spending weekends with her mother who she considers a special friend but reports to not having many close friends. The youth expressed interest in learning more about

herself through learning about her cultural heritage. Consequently, she has attended school settings that offer exposure to cultural activities.

## 2. Initial Planning and Meeting For FGC

I met with the youth and social worker on three separate occasions to describe and plan for the FGC. After the initial meeting, the youth indicated that she needed some time to decide on this alternative. Prior to the second meeting, the youth decided on the FGC and during the second meeting, she chose to host the FGC at a group home in which she was presently residing. A third meeting was necessary when the location of the FGC was changed.

## 3. FGC

### 3.1 Venue

A family group conference was held at the Child and Family Services boardroom due to its central location.

### 3.2 Who Participated

Present:

- 1) Youth Offender
- 2) Mother

- 3) Victim
- 4) Social Worker
- 5) Lyle N. Longclaws, H/Probations Officer

### 3.3 FGC Process

I opened the sharing circle by reviewing the outcome of meetings held with family members since the PDR was requested. I shared that the family agreed to participate and be responsible to host the family group conference. I explained the purpose of the gathering and compared it to the process adopted by the Indigenous people from New Zealand. The family group conference members remained within the circle for the entire duration of conference.

The youth spoke next and briefly reported all of the circumstances with each of the offenses, often leaving many moments of silence between sentences. The youth agreed with the contents of the attached police reports which were verbally shared upon the family's request.

She shared that she was currently a ward of Child and Family Services and that it was while she under care that the first offense occurred during an outing. She stated that several female students; including herself; and their teachers had attended a traditional Full Moon ceremony near Beausejour, Manitoba. She recalled that the evening was cool so the youth and others were

allowed to sit in the complainant's vehicle. Once inside the car, she removed a spare set of keys from the complainant's purse and kept them. The complainant, also a teacher, drove the students home after the evening's activities were completed.

Later in the early hours, the youth shared that she woke the co-accused and they went to the complainant's home where the youth used the spare set of keys obtained earlier and drove the car from the parking lot. Meanwhile, the co-accused waited in the back lane. The youth and co-accused then drove around the city of Winnipeg until they were apprehended by police.

On another occasion, the youth shared that she had not slept for some time and had been drinking when she found the car keys in the complainant's jacket pocket. Without the complainant's knowledge or consent, the youth proceeded to the parking lot and took the car for "a joy ride" until stopped by police. The youth did not realize the amount of alcohol she had consumed until she began dialogue with the police officers. Youth reported that she was under much duress because she had been caught driving by police while she was intoxicated and also identified herself incorrectly to police. Once arrested, she cooperated with the police officers and provided two breath samples.

Once all the circumstances were verbally shared by the youth, the family members and victim related how they were effected by the

youth's recent deviant behaviour. Further, they stated that because they knew her so well, they understood why she was acting out and made it clear that she would still have to accept responsibility for her unacceptable actions. The youth's responses demonstrated she was sorry for hurting people who were getting too close to her, and suggested for everybody to try to understand that she could not help how she felt.

The FGC members worked hard to encourage the youth to verbalize her feelings which she was unable to do because she admitted to being incapable of controlling feelings associated with being allegedly abused. Instead, the youth agreed that she needed professional assistance to help her deal with these feelings and at this point turned her back to the rest of the family group conference members.

#### 4. Family's Plan

The FGC members did not want to risk another "emotional blowout", as it was obvious the youth was in great pain and agreed to leave exploration of these feelings to the recently engaged therapist. The conference participants decided to concentrate their energies on jointly developing a plan with the youth's input.

It was agreed that a set of recommendations which the youth would commit herself to would be the most beneficial plan for

presentation in court. The family supported the following recommendations, specifically:

- 1) Supervised probation for a one year period.
- 2) Attend regularly at Pritchard House chemical abuse program.
- 3) Report as required to the MaMaWi intensive supervision program for said period.
- 4) Curfew on weekdays from 10:00 P.M. to 7:00 A.M. and from 11:00 P.M. to 7:00 A.M. on weekends.
- 5) Attend regularly at the Children of the Earth high school, Winnipeg School Division #1, commencing September, 1993.
- 6) Maintain individual treatment sessions with private therapist.

5. Court Disposition

CASE E COURT DISPOSITION (October 29, 1993)

1. One year probation supervision.
2. Attend regularly at Pritchard house Chemical Abuse program.
3. Report as required to the MaMawi intensive supervision program for said period.
4. Curfew on weekdays from 10:00 PM to 7:00 AM and from 11:00 PM to 7:00 AM on weekends.
5. Attend regularly at Children of the Earth High School, Winnipeg School Division #1, commencing September 1993.



6. Maintain individual treatment sessions with private therapist.
7. Attend at Probation Services office once each month for the first six months of the one year probation period.

**APPENDIX G**  
**CASE STUDY F**

**1. Background of Family and Youth Offenses**

A probation officer from another district office was responsible to do the PDR on this specific youth. The details related to the background of family and youth were incorporated within the PDR. My involvement was to undertake the FGC and prepare the FGC report as an attachment to the existing PDR.

**2. Initial Planning and Meeting for FGC**

The father was interviewed by myself at the North Winnipeg Youth offices and he agreed to arrange a meeting with all parties to discuss the FGC. I met with the probation officer and social worker as well as the father and uncle at the MYC to describe and make arrangements for the FGC.

**3. FGC**

**3.1 Venue**

Since a FGC had previously been held at the MYC, I did not encounter any difficulties in arranging for this particular FGC.

The FGC was arranged to be held in a tipi that had been erected in the courtyard of the MYC.

### 3.2 Who Participated

Present:

- 1) Youth Offender
- 2) Grandmother
- 3) Father
- 4) Uncle
- 5) uncle
- 6) Cousin
- 7) Social Worker
- 8) Probation Officer
- 9) Lyle N. Longclaws, H/Probations Officer

### 3.3 FGC Process

The FGC commenced with the youth smudging everybody with traditional incense and also acted as an eshkabe (helper) through the entire pipe ceremony. After smoking the pipes, I explained the purpose of the family group conference and its' relevance to Ojibway customs. The family group conference members remained within the sharing circle for the duration of the family gathering.

The youth briefly shared the circumstances with each offence while often being probed for further information by other immediate family members. The social worker present related additional information and concerns regarding the youth's increasing violent behaviour and the need for him to attend school on a regular basis.

The probation officer, also present, shared the information contained in the victim impact statements and emphasized the necessity of an open custody arrangement to counteract involvement with gang members. The father strongly objected to this recommendation and shared his concerns why his son should not remain in custody at the youth centre nor be placed in an open custody setting but rather should be returned to family members with specific conditions.

The remaining family group conference members spoke thereafter and the young offender responded to all their comments. The youth acknowledged all concerns and displayed unease regarding his future living arrangements. The youth, a young father himself, appeared concerned regarding the maintenance of a relationship with his own son and the mother while appearing torn between having to live with his mother or establish a new relationship with his father's side of the family.

Unfortunately, time did not permit the further participation of the probation officer, but the conference participants continued to

work diligently towards the youth's admittance of the need to change his life. The youth realized that being in conflict with the law was the result of being part of a gang which contributed to his participation in several recent aggressive and violent acts.

The youth was consistently willing to accept responsibility for his actions, and frequently agreed to change his unacceptable social behaviour. Additionally, he admitted to using drugs and alcohol more frequently in the past two years. His sharing of these facts enabled the reaching of a family consensus on the recommendations to be presented in court.

#### 4. Family's Plans

In consideration of the seriousness of the offenses the entire family group conference members reached a consensus on all of the following recommendations:

##### PLAN A

- 1) The youth should be placed in grandmother's foster home.
- 2) No contact with members of the Overlords gang.
- 3) Curfew on weekdays from 10:00 p.m. to 8:00 a.m. and on weekends from 11:00 p.m. to 8:00 a.m.
- 4) No possession of weapons.
- 5) Attend the Diagnostic Learning Centre at Clifton School.

- 6) Enrol September, 1993 and attend regularly at Children of The Earth High School, Winnipeg School Division #1.
- 7) Attend Ojibway traditional ceremonies.
- 8) Attend regularly at the AFM or NACM chemical abuse programs.

#### PLAN B

- 1) Family would agree to the youth being placed in a open custody home if operated by Aboriginal people.
- 2) No contact with members of the Overlords gang.
- 3) Curfew on weekdays from 10:00 p.m. to 8:00 a.m. and on weekends from 11:00 p.m. to 8:00 a.m.
- 4) No possession of weapons.
- 5) Attend the Diagnostic Learning Centre at Clifton School.
- 6) Enrol September, 1993 and attend regularly at Children of The Earth High School, Winnipeg School Division #1.
- 7) Attend Ojibway traditional ceremonies.
- 8) Attend regularly at the AFM or NACM chemical abuse programs.

#### 5. Court Disposition

#### CASE F: COURT DISPOSITION (August 11, 1993)

1. One year secure custody, followed by;
2. One year open custody, followed by;

3. One year supervised probation.
- (a) To report to a youth worker.
  - (b) To attend school regularly.
  - (c) To reside as directed by Child and Family Services and obey all house rules including curfew.
  - (d) To attend all treatment programs as directed by probation services.
  - (e) Not to possess weapons.
  - (f) Not to have contact with members of any gang.
  - (g) Attend, participate in and satisfactorily complete an Alcoholism Foundation of Manitoba or Native Addictions Council Chemical Abuse Program.

APPENDIX H  
CASE STUDY G

1. Background of Family and Youth Offenses

The youth was born in Brandon and moved with his mother to Winnipeg when he was five months old. His immediate family, except the father, are first generation urban dwellers and the majority of extended family members are still living at either Valley River First Nation (maternal clan) or Waterhen First Nation (paternal clan). The youth's mother, recently deceased, practised her traditional ways and frequently attended ceremonies with her children. The death of his mother at thirty five years of age, in January of this year, due to a sudden heart attack has impacted tremendously on the emotions and behaviour of this young man. Consequently, the youth has remained closer to his maternal ties at Valley River.

The youth's father has lived in Winnipeg all his life. During their common law relationship, the youth's parents were separated on a number of occasions including the period of her sudden death. The father is presently unemployed but has worked for the Salvation Army as a driver. He had planned to return to school but the death of his common law spouse has necessitated that he remain at home with his children.



Father's concern for his son, in particular since the mother's death, involves his observation of his son's erratic and unusual behaviour that includes his son wandering about in the night as if the boy is sleepwalking.

The youth's younger siblings are a set of twins - one boy and one girl who are nine years of age. All children have lived periodically at Valley River First Nation and the youth prefers this setting. According to the youth, this choice is due to the fact that he feels peer pressure in the city towards activities that display delinquent behaviour.

The youth has no employment background and is dependent on father for all his financial needs. Despite the unfortunate reality the youth is forced to accept, it is obvious that he possess a good attitude towards self development and social activities. He reports two major hobbies that consumes much of his and the father's spare time. For example, he looks forward to going with his father to boxing and swimming lessons. He has participated in all the local boxing club activities and hopes to continue in the future. However, his favourite sport is swimming and he has progressed significantly at this endeavour.

The youth appears to be well liked and has many friends his age. He enjoys activities such as video games, movies, and music just as his contemporary counterparts. He often stated that he was "sorry"

that he had lost the opportunity to continue learning about his traditional heritage since his mother passed away. He recognizes his grandmother as being a resource in learning about his traditional heritage and culture.

The youth's most stable influence in his life was his mother and her recent and sudden death has created a void in this young man's life. The father assuming the parental role must be credited with attempting to bring some stability to the family but the past indicates an inability to commit to family on the part of the father. It appears that the father's influence has not extended to the youth given his involvement in these charges. It is unclear of the exact relationship existing between the youth and his father but the ability to influence his son in a positive way appears lacking in this situation, given this is the first time the youth has been in conflict with the law.

On the other hand, the youth appears to be influenced by his peers. Unfortunately, his choice of friends has led to his involvement in the offenses and it is also obvious that he is a follower in this situation. His maternal relatives particularly his grandmother also have the ability to influence him in a positive manner. Therefore, future contacts with his relatives at Valley River are important to counteract his negative influences in the city.

The youth is entering a difficult period of his life - adolescence, with several strikes against him. He has been assessed by his teachers as developmentally delayed and has been placed in a special education program for September, 1993. However, it is the unresolved issues surrounding the death of his mother which poses the greatest threat to this young man's future. In order to fill the void left by this most important person in his life, he must replace that influence with someone similar.

## 2. Initial Planning and Meeting for FGC

There were three meetings held with the youth and father to discuss the process and to plan for the FGC. In the initial meeting, both father and son agreed to the FGC as an alternative. All planning for the FGC were carried out by the family.

## 3. FGC

### 3.1 Venue

The FGC was held at the maternal grandmother's residence located at Valley River First Nation. No difficulties were encountered in arranging the youth and father's requests.

### 3.2 Who Participated

#### PRESENT:

- 1) Youth Offender
- 2) Father
- 3) Grandmother
- 4) Aunt
- 5) Uncle
- 6) Sister
- 7) Brother
- 8) Lyle N. Longclaws, H/Probations Officer

### 3.3 FGC Process

The grandmother opened the sharing circle in the Saulteaux (Ojibwa) language by explaining the responsibilities of Aboriginal youth in today's world. She emphasized traditional forms of disciplining unacceptable behaviour in children and underlined the role of extended family as paramount in this process. Traditionally, outside intervention occurred only after family influences were exhausted. She warned her grandson that to continue in this delinquent or unacceptable behaviour would result in embarrassment to his family and clan and could lead to being ostracized from his mother's family if his behaviour did not improve. She further shared personal experiences of family members who had been involved in similar delinquent behaviour and the consequences of their

actions. No one spoke or interrupted the grandmother as she shared, indicating the respect she holds among her family members. As chair, she permitted me to explain the purpose and process of the family group conference.

The grandmother instructed her grandson to speak on his own behalf and to explain his role in the charges. He responded to her instructions and expressed remorse for his involvement and its' reflection on his family. The youth agreed with the police report overall and admitted to stealing four vehicles over the course of two days. However, in the first incident, he denied breaking the windows of the Plymouth van. He explained that when they abandoned the van, the windows were intact. When they returned later to retrieve the van, they noticed that the windows had been vandalized.

In the last incident involving the Oldsmobile Cutlass, the youth reported that when the police were in pursuit of the youth and co-accused, they had jumped out of the moving vehicle. The vehicle smashed into a tree and one of the co-accused was hit in the face with an open car door sustaining injuries to that area of the body. The youth explained how he ran from the scene but was later apprehended while walking down the street by an officer who recognized him.

The youth was held one day in the youth centre and released on bail. Upon returning home, he was grounded and denied all previous privileges. He explained that this was his first offense and hoped that it would not interfere with his summer plans of returning to Valley River First Nation to visit his grandmother. The youth realized that he had disappointed his family including his father and siblings and displayed remorse over this fact. He indicated his willingness for restitution. He vowed to disassociate himself from this group of friends. He further reiterated his desire to spend the summer with his grandmother and wondered if this would still be a possibility. The grandmother indicated that this plan was plausible if the youth made some changes in his behaviour.

The aunt was conciliatory in her approach and offered support to the youth during this time of loss and conflict. The uncle utilized personal experiences as examples to allow the youth the opportunity to reflect on where a life of crime can lead. The father shared the negative effects of his son's first criminal involvement on himself and his other children. The children concurred with his remarks.

#### 4. Family's Plan

After hearing the effects of her grandson's behaviour, the grandmother led the family through a second round of discussions

that concentrated on the plan of action to be presented to court.  
All present unanimously agreed to recommend the following:

- 1) Supervised probation for a ten month period.
- 2) Report as required to the MaMaWi intensive supervision program for said period.
- 3) Enrol at the St. John's High School in grade seven.
- 4) Complete 50 hours of community service work at MaMaWi Centre.
- 5) No contact with four named youths.

The family conference group participants were joined by many other relatives, mostly children, at this point. A traditional feast was served with medicinal swamp tea (made from roots grown in swampy areas) at the end of the sharing circle.

## 5. Court Disposition

### CASE G COURT DISPOSITION (August 31, 1993)

1. 15 months probation concurrent on each charge.
2. Report to MaMawi intensive supervision program as directed by Probation Officer.
3. Enrol at St. John's School within 7 days and attend school regularly.
4. No contact or communication with named youths.

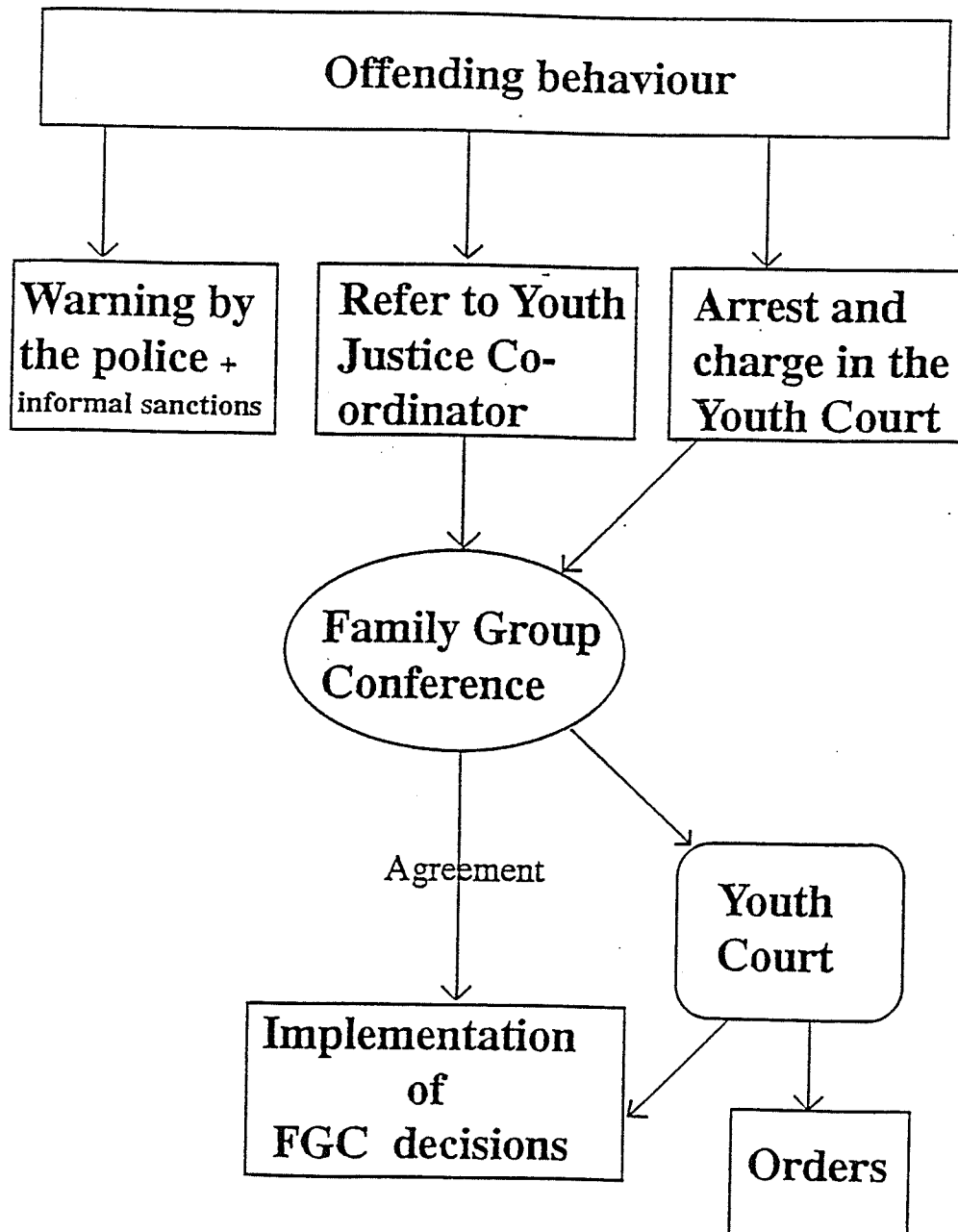
APPENDIX I  
CASE STUDY H

CASE H

This case was referred to a probation officer for regular processing due to the number and seriousness of the offenses (including more than 30 Break and Enters). This was at the request of the Crown Attorney.

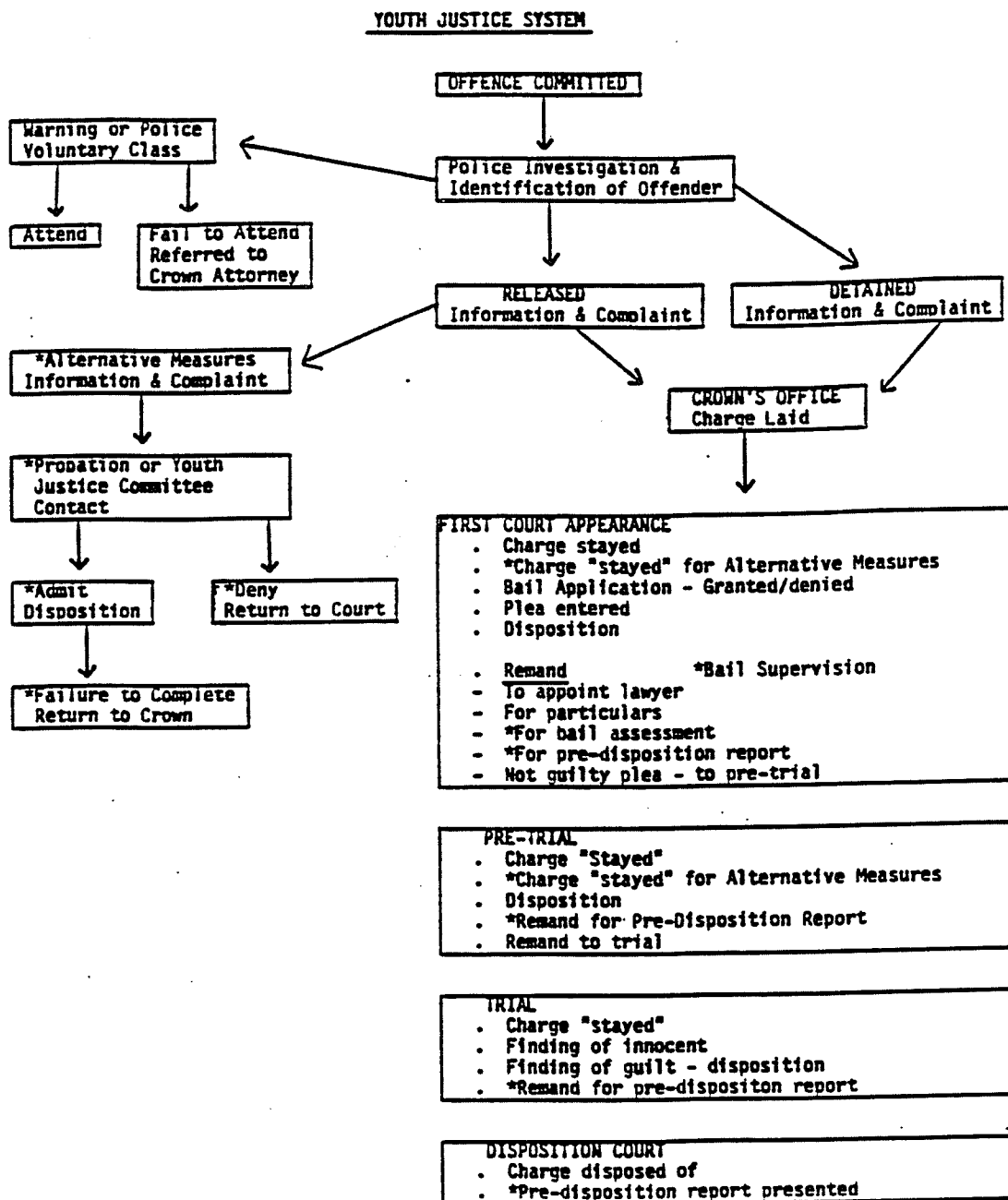


## NEW ZEALAND YOUTH JUSTICE: FLOW CHART

**Box 1 Youth Justice: Pathways through the system**

# APPENDIX K

## MANITOBA YOUTH JUSTICE: FLOWCHART



**\*EQUALS PROBATION INVOLVEMENT**

**\*PROBATION INVOLVEMENT IF DISPOSITION IS:**

- supervised probation (including after closed custody)
- open custody
- community service order
- victim/offender mediation



Attorney General

Community and Youth  
Corrections  
North District Probation77A Redwood Avenue  
Winnipeg, Manitoba, CANADA  
R2W 5J5

(204) 945-7183

VICTIM IMPACT STATEMENT

PROBATION FILE NO. \_\_\_\_\_ YOUTH: \_\_\_\_\_

OFFENCE AND DATE: \_\_\_\_\_

ARREST DISPOSITION DATE AND LOCATION: \_\_\_\_\_

VICTIM INFORMATION: \_\_\_\_\_

LOSSES/DAMAGE/RECOVERY: \_\_\_\_\_

INSURANCE: YES \_\_\_\_\_ NO \_\_\_\_\_ NAME OF INSURER: \_\_\_\_\_  
(If Applicable)

AMOUNT OF DEDUCTIBLE \_\_\_\_\_

PHYSICAL INJURY AND TREATMENT: \_\_\_\_\_

ADDITIONAL IMPACT: \_\_\_\_\_

ADDITIONAL COMMENTS: \_\_\_\_\_

PREPARED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

☐ Supplementary  
☐ Post-Sentence☐ Pre-Disposition  
☐ Pre-Sentence☐ Progress  
☐ Transfer

JUDGE:

COURT:

COURT DATE:

OFFENDER:

Age:

Birth Date:

Address:

Telephone:

Guardian Name/Address (Youth Only):

OFFENCES(with dates):

SOURCES OF INFORMATION:

ATTACHMENTS:

CROWN ATTORNEY:

DEFENCE COUNSEL:

PROBATION OFFICER:

Telephone:

Office:

945-

North Wpg. Probation, 77A Redwood Ave,  
Wpg, MB.

DATE COMPILED:

CIRCUMSTANCES SURROUNDING THE OFFENCE(S) (As Supplied by Crown)

OFFENDER'S EXPLANATION OF OFFENCE(S)

IMPACT ON VICTIM

PREVIOUS CONVICTIONS

FAMILY BACKGROUND

MARITAL SITUATION

EDUCATION

EMPLOYMENT

FINANCIAL SITUATION

PERSONAL AND SOCIAL FACTORS

RESPONSE TO PREVIOUS CORRECTIONAL SERVICES

ASSESSMENT

RECOMMENDATIONS

Respectfully submitted by:

---

, Probation Officer

# WINNIPEG POLICE DEPARTMENT

1. F.P.S. NUMBER		2. I.R.N.		3. INCIDENT NUMBER	
4. SURNAME		FIRST NAME		MIDDLE NAME	
5. ADDRESS		POSTAL CODE		ALIAS/NICKNAME	
6. DRIVER LICENCE NO.		YEAR		PROV.	
7. CANADIAN		OTHER (Specify)		YRS. IN CAN.	
8. EMPLOYER NAME		ADDRESS			
9. <input type="checkbox"/> PAROLE		<input type="checkbox"/> PROBATION OR S.S.		<input type="checkbox"/> TEMPORARY ABSENCE	
<input type="checkbox"/> ON BAIL (Details Inc)					
10. WANTS OTHER DEPTS. AND/OR NOTIFICATIONS					
11. NAMES OF OTHERS CHARGED					
12. FINGERPRINTS: <input type="checkbox"/> DONE <input type="checkbox"/> REQUIRED <input type="checkbox"/> NOT REQUIRED		13. MOTHER, FATHER OR GUARDIAN: <input type="checkbox"/> NO <input type="checkbox"/> YES			
14. 1ST OFFENDER/REPEATER		15. NOTIFICATION BY		16. REASON FOR DETENTION	
17. DISPOSITION		18. NOTIFIED FOR YOUTH COURT		19. NOTIFIED FOR VOLUNTARY CLASS	
20. DATE 1ST COURT		21. REMANDS		22. TRIAL DATE	
23. TRAFFIC ACCIDENT		24. REGISTERED OWNER		25. COUNSEL	
26. DATE 1ST COURT		27. REMANDS		28. NAME OF CROWN AUTHOR CHARGE	
29. TRIAL DATE		30. TRIAL DATE		31. TRIAL DATE	
32. TRIAL DATE		33. TRIAL DATE		34. TRIAL DATE	
35. TRIAL DATE		36. TRIAL DATE		37. TRIAL DATE	
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95. TRIAL DATE		96. TRIAL DATE		97. TRIAL DATE	
98. TRIAL DATE		99. TRIAL DATE		100. TRIAL DATE	

MANITOBA  
 PROBATION SERVICE  
 NORTH DISTRICT  
 JUL 13 1992  
 WINNIPEG, MAN.

Property Crimes: Include full name of firm (if Limited) otherwise full name of owners.  
Persons Crimes: Include full name of victim, age and sex (describe injuries and/or weapon if applicable).

NAME(S) OF ACCUSED 1) 2) 3)

Include (Age & Address)

COMPLAINANT(S) (Name & Age only) 1) 2) 3)

Multiple Charge Supplementary required if more than one complaint or victim

DETAILS

DATE OF INCIDENT

TIME OF INCIDENT

LOCATION OF INCIDENT

TYPE OF INCIDENT

REASON FOR INCIDENT

INVESTIGATOR

DATE OF REPORT

REPORTING OFFICER

REMARKS

BACKGROUND

MARITAL STATUS

NO. OF DEPENDENTS

EMPLOYED

SUMMARY OF RECORD & OTHER DETAILS

OFFICERS INVOLVED / ANNUAL LEAVE

DESCRIPTION

SEX

HT

WT

POB

EYES

HAIR

RACE

COMP

MARKS/SCARS/TATTOOS

AND IN CRY

DATE OF BIRTH

DATE OF DEATH

DATE OF MARRIAGE

DATE OF DIVORCE

DATE OF SEPARATION

DATE OF EMPLOYMENT

DATE OF UNEMPLOYMENT

DATE OF CITY WELFARE

DATE OF PROV. WELFARE

DATE OF INCIDENT

DATE OF REPORT

DATE OF REVIEW

DATE OF CLOSURE