

RELEASE DATE: May 23, 2014



Manitoba

THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: *The Fatality Inquiries Act, C.C.S.M. c. F52*

AND IN THE MATTER OF: An Inquest into the death of:

**JAYLENE REDHEAD
(aka REDHEAD-SANDERSON; SANDERSON-
REDHEAD)**

**REPORT ON INQUEST AND RECOMMENDATIONS OF
JUDGE LAWRENCE ALLEN
ISSUED this 20th day of May 2014**

APPEARANCES:

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MR. H. COCHRANE, Counsel for Southeast Child and Family Services Agency and First Nations of Southern Manitoba Child and Family Services Authority (aka Southern Authority) - All Nations Coordinated Response Network (ANCR)

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MS. S. SANDERSON, Paternal Grandmother

RELEASE DATE: May 23, 2014



Manitoba

THE FATALITY INQUIRIES ACT, C.C.S.M. c. F52

**REPORT BY PROVINCIAL JUDGE ON AN INQUEST
INTO THE DEATH OF:**

JAYLENE REDHEAD

(aka REDHEAD-SANDERSON; SANDERSON-REDHEAD)

Having held an Inquest respecting the said death on August 10, 2012; September 7, 2012; December 11, 12, 17, 18, 19, 20, 21, 2012; January 16, 17, 21, 23, 2013; February 25, 26, 27, 28, 2013; March 1, 4, 6, 7, 8, 2013; May 13, 14, 15, 16, 2013; June 21, 2013; July 15, 16, 17, 18, 19, 2013; September 9, 10, 11, 12, 2013; and December 16, 17, 18, 19, 29, 2013, in Winnipeg, Manitoba, I report as follows:

The name of the deceased is: **JAYLENE REDHEAD
(aka REDHEAD-SANDERSON; SANDERSON-REDHEAD)**

The deceased came to her death on the 29th day of June, 2009, at the City of Winnipeg, in the Province of Manitoba.

The deceased came to her death by the following means:

The Autopsy Report found: "No anatomical cause of death". The testimony and evidence produced at the Inquest established that Jaylene Redhead died as a result of being asphyxiated by her mother.

I hereby make the recommendations as set out in the attached report.

Attached hereto and forming part of my report is a list of exhibits required to be filed by me.

Dated at The Pas, Manitoba, this 20th day of May 2014.

“Original Signed by:”

Judge Lawrence Allen

DISTRIBUTION LIST

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2. Chief Judge K. Champagne, Provincial Court of Manitoba
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4. Mr. M. Mahon, Assistant Deputy Attorney General
5. Mr. B. Sychuk, Inquest Counsel
6. Mr. F. Johnson, Counsel for Nicole Redhead, mother of Jaylene Redhead
7. Mr. I. Frost/Mr. J. Koch, Counsel for Civil Legal Services, Manitoba Justice
8. Mr. J. Harris/Ms. J. Guiboche, Counsel for Awasis Agency of Northern Manitoba
9. Mr. H. Cochrane, Counsel for All Nations Coordinated Response Network (ANCR)
10. Mr. J. Feldschmid, Counsel for First Nations of Northern Manitoba Child and Family Services (aka Northern Authority)
11. Mr. J. G. E. Young, Counsel for Native Women’s Transition Centre



THE FATALITY INQUIRIES ACT, C.C.S.M. c. F52
REPORT BY PROVINCIAL JUDGE ON AN INQUEST INTO THE DEATH OF:

JAYLENE REDHEAD
(aka REDHEAD-SANDERSON; SANDERSON-REDHEAD)

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CALLING OF THE INQUEST

[1] By letter dated October 24, 2011, the Chief Medical Examiner, Dr. A. Thambirajah Balachandra, directed that an Inquest be held into the death of Jaylene Star Sanderson-Redhead for the following reasons:

- i) To fulfill the requirement for an inquest as defined in s. 19(1) and s. 19(2) of *The Fatality Inquiries Act*;
- ii) To determine the circumstances relating to Jaylene's death;
- iii) To examine the function and operation of "safe houses" with regard to (but not limited to) the following factors:
 - (a) Staff/client ratio;
 - (b) Supervision; and
 - (c) Criteria used to determine which child/children can be reunited with their parent/parents (who, most often, are in need of services themselves) and when; and,
- iv) To determine what, if anything, can be done to prevent similar deaths from occurring in the future.

MANDATE OF THE INQUEST

[2] In Manitoba, Inquest proceedings are governed by both common law and by the statutory provisions of *The Fatality Inquiries Act*, C.C.S.M. c.F52. The primary purpose of an inquest, as set out in *The Fatality Inquiries Act* section 33(1), is to determine the identity of the deceased, the facts surrounding the death, and whether the death was preventable. The Inquest Judge can make recommendations for changes to "the programs, policies or practices of the government and the relevant public agencies or institutions or the laws of the province" where the Judge is of the opinion that such changes "would reduce the likelihood of death in similar circumstances."

[3] The limitation on presiding judges is found in section 33(2) of *The Fatality Inquiries Act*, which provides:

33(2) In a report made under subsection (1), a provincial judge

(b) shall not express an opinion on, or make a determination with respect to, culpability in such manner that a person is or could be reasonably identified as a culpable party in respect of the death that is the subject of the inquest.

[4] Further, in The Report of the Manitoba Pediatric Cardiac Surgery Inquest: An inquiry into twelve deaths at the Winnipeg Health Sciences Centre in 1994, Associate Chief Judge Murray Sinclair stated:

“Provisions in fatality inquiries legislation, on the other hand, allow for evidence to be heard informally, sometimes *in camera*, and for persons to be examined in a manner that is not necessarily consistent with the protective procedures that are normally in place during civil and criminal trials. That is because the purpose of such legislation is not to place legal blame but to determine what happened in order to see if what happened can be prevented from recurring.

... As an inquest judge, therefore, I accept that I am not permitted to comment on culpability in the course of making my findings. Accordingly, this report will not comment on the culpability of any individual, corporation, group or collective of individuals.

That does not mean, however, that a presiding judge at an inquest cannot make findings of fact or of law in order to reach appropriate conclusions.

... Therefore while a judge cannot declare that a particular act makes a person legally culpable, he can make a finding that a particular act occurred, without declaring on the question of culpability, so long as the finding is relevant to a matter into which he or she is inquiring.

... Throughout this report, therefore, I intend to make whatever findings of fact, and of law, are essential for me to perform the mandate assigned to me by legislation, but I do not intend to make any findings of culpability. It is important to bear that limitation in mind throughout this report. The question of culpability is for others to decide if asked”.

REPORT

[5] The deceased person was known as Jaylene Redhead (aka Redhead-Sanderson; Sanderson-Redhead). According to the autopsy report, she was pronounced dead at 23:26 hours on June 29, 2009. The cause of death is noted as being “No anatomical cause of death”.

[6] An Inquest into the death of Jaylene Redhead took place in the City of Winnipeg, in Manitoba, on the following dates: August 10, 2012; September 7, 2012; December 11, 12, 17, 18, 19, 20, 21, 2012; January 16, 17, 21, 23, 2013; February 25, 26, 27, 28, 2013; March 1, 4, 6, 7, 8, 2013; May 13, 14, 15, 16, 2013; June 21, 2013; July 15, 16, 17, 18, 19, 2013; September 9, 10, 11, 12, 2013; and December 16, 17, 18, 19, 29, 2013.

SUMMARY OF EVENTS OF JUNE 29, 2009

[7] On the evening of June 29, 2009, Winnipeg Police and emergency medical personnel were contacted and asked to attend to the Native Women's Transition Centre in Winnipeg. Police found 20-month old Jaylene Redhead unresponsive and apneic. She had been found that way by a family care worker who had been called by the child's mother's boyfriend, an inmate at Headingley Correctional Institution. The child was taken by ambulance to the Children's Hospital. Resuscitation attempts were unsuccessful and she was pronounced dead at 23:26 hours on June 29, 2009.

[8] As a result of this death, the child's mother, Nicole Redhead, was criminally charged. She eventually plead guilty to manslaughter and was sentenced to 12 years in prison. At the time of her sentencing, an agreed statement of facts was entered as an exhibit. These facts are as follows:

"Nicole Redhead (hereinafter Redhead) was charged in one count information with the following offence: Second Degree Murder. The victim was her 21 month old daughter, Jaylene Redhead Sanderson (hereinafter Jaylene). The death occurred on June 29, 2009.

The charge was laid following an investigation into the sudden death of Redhead's daughter Jaylene at the Native Women's Transition Centre (hereinafter referred to as NWTC). The NWTC is a second stage housing development for women having left abusive relationships and/or dealing with substance abuse and other issues. The accused was nine months pregnant at the time of the offence.

In the days and moments leading up to Jaylene's death, Redhead committed multiple assaults on the child which would have caused her significant pain. At autopsy (copy attached) these injuries are listed in detail and are also evident in the autopsy photographs (attached). They include:

1. Severe bruising and swelling to the vaginal area; deep purple and red in colour (suspected to be caused by an object such as a shoe)
2. Bruising identified on the sides of the clitoris
3. Adult bite marks on the upper leg areas; purple and yellow in colour
4. Bruising to the chest, neck, face, back and top of the head, arm, hips, back and lower abdomen.

There were approximately 30 separate bruises of varying age covering the child's body. Redhead admits to having caused these injuries. As a result of the pain Jaylene would have been in it is expected (and confirmed by Redhead) that she would not stop crying. As a result, Redhead placed her hand over her daughter's mouth and held it there from between 70 seconds to two minutes ultimately resulting in the child's unconsciousness and death. After having killed her daughter, Redhead placed her in her crib, covered her with a blanket, turned off the lights and closed the door. She made no efforts to contact anyone for assistance. Approximately two hours later, Redhead received multiple calls from her then boyfriend, Preston Tran, who was serving a sentence in Headingley Jail for a separate Manslaughter. Five calls were ultimately placed by Tran over several hours with the last ending at 10:28 p.m. In the calls, Redhead admits to killing her child and alludes to having caused her injuries. She also refuses, despite repeated efforts by Tran, to contact anyone.

Tran ultimately contacts the Transition House himself which results in authorities being called and paramedics and first responders attending. Despite efforts to revive Jaylene, she was already deceased. A copy of the transcript of these calls is attached.

Police spoke to Redhead immediately following the incident and during a short break in questioning, she attempted to strangle herself with the drawstring of her sweats. She was quickly revived, taken to hospital and released. She made no comments with respect to the incident.

Redhead was not arrested until July 9, 2009, following seizure of the recorded calls between herself and Tran in which she admits to the killing. Following her arrest, she made no comments and has remained in custody. She entered a guilty plea to Manslaughter on November 24, 2010".

[9] Nicole Redhead was sentenced on the acceptance of the above facts. With her guilty plea, she acknowledged that she had been responsible for the multiple bruises and bite marks on the child's body. Ms. Redhead was called as a witness

at the Inquest and testified on three separate occasions. She provided an alternate explanation as to the events of the day of this tragedy. In her testimony at the Inquest, Ms. Redhead said:

- That she was not abusive to Jaylene and had not struck the child at any time;
- That for the most part, she was unaware as to how her child had been bruised;
- That on June 29, she had taken her daughter out from the Native Women's Transition Centre (NWTC/Centre) and gone to a nearby house where drugs were sold. She bought crack cocaine at that location. She then went to her sister's house and left the crack with her sister. Ms. Redhead testified that she then returned to the dealer's house, with Jaylene, looking to purchase more crack. That dealer had nothing to sell her so she left the child at that location and by herself went to another dealer's house where she was able to purchase the drug. She then returned to the first dealer's to retrieve her child;
- Ms. Redhead said that it was after getting the child back to the NWTC and changing her diaper, that she noticed the bite marks on the baby's legs;
- Nicole Redhead then went on to say that she put the child in front of a television set in her suite and then went into the bathroom and smoked enough crack to get "really high". At some point while still in the bathroom, she heard a crash in the living room. Ms. Redhead went into the living room area of the suite and found that the television had fallen onto Jaylene, who was lying on her back with the appliance on top of her. She told the court that she did not call either for medical assistance or assistance of any kind. The child, presumably in no small amount of pain, continued to cry. In order to stop the crying, Ms. Redhead put her hand across the baby's mouth until the child asphyxiated;
- It was only sometime later, approximately one to two hours, that while talking to her boyfriend on the telephone, Ms. Redhead intimated that something was wrong with the child. The boyfriend then contacted NWTC

and a staff person attended Ms. Redhead's suite and found Jaylene unresponsive.

[10] An autopsy was conducted. The autopsy was unable to determine an anatomical cause of death, but did note that she had multiple bruises over her body and human bite marks. It is noteworthy that the autopsy also discovered the letters C and A as bruising in the child's abdominal area. It was initially assumed that this unusual bruising had been transferred from the bottom of a boot or shoe. It has later been determined that the television in Nicole Redhead's suite was an RCA and those letters were found in a raised decal on the front of the television.

SUMMARY OF TESTIMONY BY WITNESSES APPEARING AT THE INQUEST

Nicole Redhead (Mother of the Deceased Child)

Testimony December 11, 12, 20, 21, 2012)

[11] Ms. Redhead testified that Jaylene was her third child. Her older children, J.R., born July 28, 2001 and T.R., born July 21, 2005, have both been made Permanent Ward of the Awasis Agency of Northern Manitoba, a child care agency with authority over certain northern bands and their members living elsewhere in Manitoba. Ms. Redhead testified that Jaylene, who was born October 16, 2007, had been apprehended from her at birth. She was taken into the care of the Awasis Agency as Ms. Redhead had a long history of addiction and had presented to deliver Jaylene while intoxicated by crack cocaine. The baby, who was suffering the effects of drug withdrawal at birth, was kept in hospital and then later transferred to a foster home.

[12] Ms. Redhead related that she had previously resided at NWTC on three earlier occasions. She said that she had entered NWTC prior to the birth of her second child, T.R., and the process of re-unifying with that child had not begun until after five to six months. After T.R. was in her care, she relapsed into drug use. The child was then taken by the child welfare agency and made a permanent ward.

[13] Ms. Redhead said that she remained addicted to crack cocaine at the time of Jaylene's birth, but that she had wanted to stop drug use and she wanted the

child returned to her so she went into the NWTC for a fourth time in January of 2008. Ms. Redhead originally became a resident of “stage one” at NWTC. Stage one residents live at the facility at 105 Aikins Street. Stage two residents live in a facility across the lane. This second stage facility is known as Memengwaa Place.

[14] Ms. Redhead participated in a variety of programming at the Centre. Eventually, in March 2008, she started having visits with her child at NWTC. She said these visits were supervised by “some lady”, but described these as being only barely supervised. At some point after entering the Centre, but before visits began, she attended alcohol counselling at Pritchard House in Winnipeg (Pritchard House is a rehabilitative alcohol facility run by the Native Alcohol Drug Abuse Program). Ms. Redhead said that even while attending that programming, she was consuming alcohol on a regular basis.

[15] Ms. Redhead said that she was involved with several staff persons at NWTC, but only met several times with workers from Awasis. She acknowledged that at one point her worker was Ithan Bullard, but said her meetings with him were just “hi and bye”. She stated that she understood Mr. Bullard was eventually replaced by Michael Wood, but that she never met with him. She also said she never met with anyone from Awasis as to increasing her visits, but that they did increase. She also said she never met with workers to discuss moving from stage one to stage two, Memengwaa Place, but that she was told by NWTC staff that she would be moving there.

[16] Ms. Redhead told the court that stages one and two at NWTC are two separate facilities that are located across the lane from each other. She testified that stage one is more of a rooming house and that stage two offered separate apartments with less support. Ms. Redhead’s definition of support was help with babysitting, cleaning and particularly respite. Ms. Redhead went on to testify that in December of 2008, the Agency agreed to return Jaylene to her at NWTC under the terms of a Supervisory Order. She told the court that no one from the Agency had attended inside her apartment and she felt that she had no involvement from Awasis at all.

[17] Ms. Redhead testified that at around the time Jaylene was returned to her, she started using crack cocaine in her suite. She said she did this when the child was sleeping, although she also said that sometimes when she was in the

washroom doing crack, her daughter was having “little accidents...Like she would bump her head under the table or she would play in cupboards and catch her finger between the cupboards” (Transcript December 21, p. 13, lines 25-27).

[18] Ms. Redhead testified that she started using crack again because “I knew I could do anything I wanted” and because other women at NWTC were using drugs and alcohol.

[19] Despite saying that she did not feel she had enough help at NWTC, she did nevertheless say that NWTC staff person, Gloria Nobiss, talked to her and listened to her and that she was able to open up to another NWTC staff person, Wanda Ferland, who she felt also listened to her.

[20] Specifically as to Awasis, she said that she felt it would have helped if the Agency met with her more frequently. She also said that she asked for help at the Centre and she was told to wait.

[21] Ms. Redhead testified that she was not able to understand the programming that she received at NWTC.

[22] Ms. Redhead said that day time visits with Jaylene started in March, 2008, overnight visits started in July and the child was returned to her full-time at NWTC in December of 2008. After Jaylene was in her care, she often left the child with her paternal grandmother, Skye Sanderson, for the weekend. Ms. Redhead said that she would “party”, drink and do drugs on the weekends, but sobered up before retrieving the child.

[23] She said that she went to NWTC staff member Marie Sutherland for help, that she tried going to her office, even tried calling her home phone number, but did not get help.

[24] Nicole said that she saw other residents of stage two housing doing crack in their rooms and that she sometimes did it with them. As well, she testified that:

- she started drinking again as soon as she was given weekend passes to be away from NWTC;

- That despite wanting to maintain sobriety at NWTC, the influence of other women at the Centre was too great. She said “but the people that I was staying with were using drugs anyways, no matter where I was people were using drugs and drinking”;
- The above reference was to both stages at NWTC. Additionally, she said that her roommate in stage one was using drugs and drinking when away from the Centre and returning intoxicated;
- That she witnessed crack cocaine being used in the rooms at NWTC;
- When asked how many times she met with anyone from the Awasis Agency while at NWTC, she said “several times at stage one and once for stage two”
- That programming was mandatory at stage one, but optional at stage two. She does not remember having received counselling for addiction issues at NWTC;
- That she was required to sign out when she left stage one, but was free to come and go while at stage two. In addition to weekend passes, she thinks she may have been away from the Centre overnight on other occasions;
- That she sometimes left Jaylene with babysitters in the community;
- That she did crack in her suite at NWTC “many times”;
- That she did not feel comfortable at NWTC and as a result, “went out a lot”;
- That she did not feel that she was helped by the people who were counselling her. When asked why she did not seek help elsewhere, she said “I did not know where to go”. When asked what else the Agency could have done for her, she said “if they would just meet with me every now and then”.

[25] Pursuant to section 8.2.3(1) of *The Child and Family Services Act (C.C.S.M.) c.C80*, the Office of the Children’s Advocate (O.C.A.) prepared a report examining the Native Women’s Transition Centre, filed as Exhibit 2, Binder A Section [I], B1. Nicole Redhead was interviewed by Julie Dawson, a counsellor from the Fraser

Valley Institution, the jail where Ms. Redhead resides. The interview took place on January 5, 2012, and was conducted at the jail. Ms. Dawson's report of that interview, filed as Exhibit 31, said the following about the period leading up to the birth of Jaylene:

"The mother reported that at the age of 18 she got her own apartment and shortly thereafter her older boyfriend moved in. She later became pregnant with her first son. The mother reported that during her pregnancy she did not drink or use drugs. She reported that her son lived with her until he was about 2 ½ years of age. During this period she began drinking heavily and using drugs. Her boyfriend was extremely controlling and abusive to her. He forced her into prostitution to support his drug habit as well as her own. She reported that throughout this time she had no support and no one she could turn to for help. She stated that she had no trust in the helping system.

The mother reported that at one point she did not go home for several days. During this time her boyfriend contacted social services. Her son was taken into care and placed in a foster home. As the mother was continuing to use drugs she had only one visit with him. She reports that she spiraled downward as she did not feel she had anything worthwhile in her life and had ceased to care. When social services decided to apply for permanent custody of her son, the mother's older sister stepped in and agreed to care for him.

The mother reported that when she became pregnant with her second son she was still at a very low point and used drugs and alcohol during her pregnancy. She said that she suffers the effects of that. He too was taken into care. She reported that through this time she felt hopeless, with little to live for".

[26] The interview continued and Ms. Redhead then related the events surrounding the birth of Jaylene to Ms. Dawson, who reported:

"The mother reported that after this she met the father of her third child she tried to become alcohol and drug free however was unable to sustain this. During this time she was driven by a social worker to visits with her first son. The social worker encouraged her to seek help for her substance abuse as she was pregnant and wanted a healthy child. The mother reported that other than these supervised visits she did not receive any supports during this period. When her daughter was born in 2009, she was taken into care.

The mother reported that during all three pregnancies she received little to no prenatal care. She was not aware of what services, such as public health nurses, or parenting training might be available and said no support was offered.

After the birth of her daughter the mother again sought treatment. She attended the Stage 1 treatment and lived in a group setting and received counselling and support. Following this she moved to Stage 2 treatment when she had an apartment in a supported living arrangement. Her daughter was returned to her. The mother reported that during this time, while there was support on-site, it was available at times when it was least needed and not available at high need times. She reported that she felt alone and frustrated. She said she was having difficulty budgeting her money, had no access to child care services, and had few skills in caring for an infant. She began to use drugs again and reports that she left her child in unsafe circumstances. She did not feel that she had anyone to turn to, did not trust the service providers and had no supportive relationships”.

[27] The interviewer also asked questions of Ms. Redhead about her attitude to the services she received. About this, she said:

“The mother clearly had spent time reflecting on the circumstances that had lead to her incarceration. She was able to express with great clarity her views on the services provided both by child and family services and by the Native Women’s Transition Society. She was also able to express a level of understanding of her own responsibility. She acknowledged that she had used drugs while in the second stage program. Her comments were not made in a blaming tone but rather from thoughtfulness and consideration of what might have made a difference in her life and in the lives of her children. She was able to make general as well as specific suggestions.

Regarding services in general the mother had a number of observations and comments. She stressed that the cultural component of services was critical to her. She stated that she had experienced racism in the past when working with a non-Aboriginal service provider. She believed that it was essential that services to Aboriginal women be delivered with a strong cultural component.

The mother said that she often felt judged and that service providers made assumptions about what she needed. To overcome this she said that it was important that service providers were able to show that they believed in her, would listen to what she said (she) needed and deliver services that meet those needs. She astutely stated that this means not just the services that they had to offer and (sic) but focusing on what she needed.

The mother noted that she was slow to trust others and had over the years had few trusting relationships. She said that this was partly due to frequent changes in staff. She said that no one really got to know her as there were frequently new people involved in her life.

It appears that throughout her adult life the mother was intermittently involved with drug and alcohol treatment services. It appears that these services were not well-aligned with other needed supports and were offered on an ad hoc basis with little follow up. The mother stated that important in these services is support to get to meetings, follow up and personal contact to help the individual succeed in their sobriety.

The mother said that delivering services, particularly drug and alcohol services is a balance between pushing but not too hard. She said a counsellor needs to push people enough to motivate but not so much as to knock them over.”

[28] Ms. Redhead also told the interviewer that in her opinion, it was important to support drug and alcohol programming with “follow up and personal contact”.

[29] As to help available at NWTC, Ms. Dawson reported:

“The mother discussed the services she received through the Stage 2 Native Women’s Transition House program, noting that she believed that supports were not available to her at times she most needed them. She recommended:

- support should be available on a 24-hour basis particularly at times when help is more likely to be needed such as evenings and weekend
- the services should include hands-on help with budgeting, money management and buying groceries
- support should include parenting training and should be hands-on not just ideas
- child care should be included to give mothers a break and time to do other things, such as grocery shopping
- financial support should be included for transportation to other programs
- counselling should be part of all support programs

- the agency should bring in people for group meetings who can help the women with various aspects of their lives”.

[30] It is interesting to note the concluding remarks of Ms. Dawson:

“The overall theme arising from the interview with Nicole Redhead was that for much of her life she felt alone and unsupported even while living in supported housing. Her experience of services was that people gave up on her too soon and that there was little opportunity to form supportive, trusting relationships. Her description was of services that lacked continuity and follow up”.

Dr. Susan Phillips (Forensic Pathologist)

Testimony December 11, 2012

[31] Dr. Phillips conducted the autopsy on Jaylene Redhead. She testified that Jaylene’s body was covered in multiple bruises. As well, she found two locations on her upper inner thighs where she had human bite marks. She said the child appeared somewhat underweight, but otherwise clean and well cared for. Particularly noteworthy amongst bruises found on her head, neck, chest, etc., were multiple bruises found all over her lower abdomen and pelvis area. Amongst these bruises was what appeared to be an imprint. These are the bruises which were initially speculated to be from a boot or shoe, but were later determined by Dr. Phillips to also be potentially consistent with having been made by the blunt force of a television falling on the child.

[32] Also noteworthy were two blue bruises on the side of the clitoral hood, which she speculated may have been made by pinching. She also said that her opinion was that most of the bruises were recent with some “a little older”.

[33] Dr. Phillips said that the injuries supported the theory that the child had been smothered.

Justine Grain (Investigator for the Children’s Advocate Office)

Testimony December 11, 2012; July 15, 16, 2013

[34] Justine Grain became involved in this matter on behalf of the Office of the Children’s Advocate (O.C.A.). That office is charged by provincial legislation to provide a Special Investigative Report as to the death of a child in certain

circumstances. This is set out in section 8.2.3(1) of *The Child and Family Services Act* as follows:

8.2.3.(1) After the death of child who was in the care of, or received services from, an agency under this Act within one year before the death, or whose parent or guardian received services from an agency under this Act within one year before the death, the children's advocate:

(a) must review the standards and quality of care and services provided under this Act to the child or the child's parent or guardian and any circumstances surrounding the death that relate to the standards or quality of the care and services;

(b) may review the standards and quality of any other publicly funded social services that were provided to the child or, in the opinion of the children's advocate, should have been provided...

[35] As stated earlier, this report has been filed as an exhibit at this Inquest.

[36] Ms. Grain acknowledged that to some extent the report she prepared was limited by lack of resources. This lack of resources was cited by her in explanation as to why she did not interview certain parties, notably other women who were residents at NWTC when Nicole Redhead lived there.

[37] Additionally, Ms. Grain said that she made a choice not to interview Shelley Poiron, who arguably was the Awasis social worker who had the most involvement with Nicole Redhead. As well, she did not speak to other relevant Awasis social workers or supervisors because the O.C.A. has a policy not to interview people who are no longer employed with the agency being investigated. Further, Ms. Grain did meet with staff at the NWTC and did look at that Agency's file, but did not meet individually with the NWTC staff persons. She said that she did not deal with NWTC other than collaterally because an examination of that facility was already being done by way of a Quality Assurance Review by the Child Protection Branch.

[38] Ms. Grain conceded that little input was received from administrators at the Awasis Agency. Ms. Grain says that she gave Awasis an opportunity to provide feedback and input into the report she was preparing. On the other hand, the Awasis personnel claim that she met with them once, at which time

they felt they had only a limited opportunity to respond. Further, they claim that at a second meeting that was held, Ms. Grain was not in attendance, but others from the O.C.A. were and the report had already been largely determined.

[39] Clearly a disagreement exists as to how much of an opportunity was afforded to the Awasis officials to respond or participate. The net result of this disagreement is that, one way or another, the O.C.A. report does not adequately include the perspective of the administrators of Awasis.

[40] Essentially, the nature of the O.C.A. report is a file review of the Awasis file. This is not meant as a criticism of the report. It is simply stated that if limited by resources and/or policies and the report does not include input from most of the involved parties, it is therefore largely a file review. Unfortunately in this case, that process is severely hampered by the fact that, and this is not denied by the Awasis Agency, the file was inadequately documented.

[41] Additionally, it would appear that some (arguably many) documents from Awasis were available to the Inquest, but were not available to Ms. Grain. An example would be Ms. Grain's assertion that she could find only two case plans on the file. After being directed to the Awasis file on exhibit at the Inquest, she agreed that there were more accurately at least seven such plans. Ms. Grain testified that she had asked the Agency whether the file she had was complete and she was told that it was. Based on the above example and others, it now appears that it was not. For whatever reason this has come about, it has not made for a complete report from the O.C.A.

[42] As a result of the foregoing as to witnesses not spoken to, lack of contact with NWTC, lack of input from Awasis and inadequate file material, I think the report from the O.C.A. has to be given considerably less weight than it might otherwise have been afforded.

[43] I accept the suggestion advanced by counsel for Awasis and concurred in by several others including counsel for the government, that the report suffers from incomplete information and is factually incomplete in some areas as well. I consider it highly unfortunate that the Agency's perspective is not included.

[44] Accordingly, it is with this backdrop that I will review the evidence provided by Ms. Grain.

[45] Ms. Grain testified that she was the lead investigator and writer of a report by the Office of the Children's Advocate (O.C.A.) into the death of Jaylene Redhead. She testified that her review of the files of Awasis Agency revealed that many documents which she would have expected to find were missing. Other documents that were found were not signed. From the file materials she did review, she concluded that Awasis had come to conclusions that NWTC was responsible for certain elements of the services provided to this family, while NWTC was under the impression that the Awasis Agency was handling those matters. Ms. Grain felt that Awasis had abdicated parts of what she considered to be child welfare issues to NWTC, which as a non-mandated agency, they did not have the jurisdiction to be responsible for.

[46] One of the themes of the O.C.A. Report and of the testimony of Justine Grain was that documentation of the Redhead file was inadequate or missing. One of the areas Ms. Grain specifically targeted was a lack of observation as to the interaction between the mother and child, both during the pre-placement visiting stage and after the child had been returned to the care of the mother. She said that there was no evidence from her file review that Awasis had ever supervised the visits between mother and child. It was her opinion that the Agency felt that because visits between this mother and child were taking place at NWTC, that they would be observed by Centre staff who were in their proximity. Ms. Grain was critical of this approach because it was not direct observation and it did not provide an opportunity for teaching or mentorship.

[47] Other areas of documentation which Ms. Grain found lacking included the regular up-dating of family plans on the file. She said this was not done and "it does not bode well for the child's safety if the plan is not being up-dated or maintained". Additionally, Ms. Grain was critical of the Agency as to a lack of file or status assessments. She said that in her opinion, the Awasis Agency failed to meet Provincial Care Standards in that there was no evidence that a file and/or status assessment had been done in advance of the return of the child.

[48] Ms. Grain said that it appeared from her analysis that the Agency had engaged psychologist Dr. Dell Ducharme to do a psychological examination of Ms.

Redhead, but that his report had not been read by Awasis personnel until weeks after it had been received. She also suggested that there was no evidence to indicate that the report had been incorporated into case planning by the Agency social worker, Ithan Bullard.

[49] Ms. Grain also noted that the Awasis Agency was prepared to attempt to return Jaylene to her mother despite the mother's earlier failures to deal with her addiction issues. Ms. Grain testified that in her opinion, prior to the child's birth, Nicole Redhead had shown a consistent pattern of addiction, difficulty coping and transience. She also commented on the similarities of Nicole Redhead's life at the time of Jaylene's birth and her older brother, T.R. She pointed out that both children had been born in drug withdrawal and that on both occasions, the mother had been living at NWTC and had relapsed into the use of intoxicants.

[50] Further, as to the Agency's decision to work with Nicole Redhead, Ms. Grain was referred to the following statement from the O.C.A. report which dealt with an Awasis Family Assessment plan which was dated February 15, 2008:

[51] She refers to that report, saying:

"According to the assessment, the apprehension of the children were due to Nicole's addiction issues, which perpetuated her transience and involvement with the legal system. The assessment noted that 'Jaylene was apprehended from the Women's hospital in Winnipeg. Nicole has not had contact with Jaylene as Nicole's history indicates that she would not participate with Agency recommendations.' It was noted that T.R. was a Permanent Ward, and that Nicole had not had significant contact with him. It was noted that Nicole was not having any contact with J.R. and, that to date, Nicole had not made significant positive changes in her life. Further, 'Nicole's history indicates that she would continue to use drugs and alcohol to cope with her life difficulties.' It was noted that Nicole would attempt to make changes after apprehensions; however, the changes were generally short lived, such as the attempts to complete drug and alcohol treatment, life skills and parenting programs. The worker further observed that, 'Nicole would be able to enroll and participate for a short term, but would not be able to apply the skills in her own life, as she would continue to return to the same lifestyle choices.'

Noted strengths included that Nicole presented herself as neat and clean, and that during her pregnancy with Jaylene she had gained a significant amount of weight and attempted to get proper nutrition. Weaknesses included self-discipline, missing important meetings regarding her children, lack of pre-natal care, lack of

life skills required to maintain a healthy lifestyle, and engaging in the sex-trade to maintain her addiction.” (page 22, O.C.A. report)

[52] The report continued, again referencing the family assessment.

“The worker noted that while Nicole was attempting to make some positive changes, it was the worker’s understanding that Nicole’s history does repeat itself” (page 23, O.C.A. report).

[53] Further, the O.C.A. report quotes from a case plan, also dated February 15, that notes that:

“Nicole had not shown significant positive changes in order for her to parent, and that the worker believed that permanency planning would be ‘inevitable’ for Jaylene. Expectations for Nicole included that she would live an alcohol and drug free lifestyle, participate in and complete an anger management program, submit to random drug and alcohol testing, and participate in and complete a psychological assessment administered by the appointed psychologist. Service plan actions for Jaylene included seeking out extended family to care for her long term”.

[54] Ms. Grain’s file review also concluded that the Awasis Agency had not sufficiently assessed the situation as the file unfolded. At page 41 of her report, she said:

“The Awasis Agency never assessed as is evident in agency file documentation and confirmed through interviews by this investigator if in fact Nicole was benefitting from treatment. In Awasis documentation the recommendation of the psychologist was relayed as recommending the return of Jaylene with no noted qualifying statements”.

[55] As to the Provincial Standards for the provision of social work, Ms. Grain referred to Volume 1, Chapter 1, Section 5 of the Provincial Standards which deals with service evaluation. She reported that the standards require that agencies monitor and that reports be made “anywhere from at least weekly to once every three months depending on the level of risk. For children deemed to be at high risk reports are to be made at least once every two weeks” (p. 49).

[56] She also quoted from the Standards as saying “the case manager records monitoring results and progress reports on the case file (paper or electronic) for

each family or child receiving services within 30 days of the date information is received” (p. 49).

[57] Ms. Grain claimed that these reports were not prepared by the Awasis Agency.

[58] Additionally, the O.C.A. report refers to a provision in the Provincial Standards which requires agencies to enter into individual service contracts with collaterals to provide services. Ms. Grain pointed out that no such contract existed between Awasis and NWTC.

[59] The report is also critical of the communication between Awasis and NWTC:

“The information reviewed for the purposes of (this report) demonstrates that there was a lack of communication and clarity of respective roles and responsibilities specifically regarding assessment case planning and evaluation which had a profound impact on Jaylene. The importance of communication and clarity of roles cannot be stressed enough” (page 52).

[60] The O.C.A. report is also critical of NWTC:

“The documentation provided by NWTC for this review was minimal. It did not reflect counselling programs or regular contacts with Nicole and her children” (page 52).

[61] Another theme of Ms. Grain’s testimony and the O.C.A. report was her opinion that Nicole Redhead was suffering from Fetal Alcohol Effects (FASD) or Alcohol Related Neuro-developmental Disorder (ARND) and that she should have been dealt with in a manner consistent with that affliction. To support this opinion, Ms. Grain referenced the psychological report of Dr. Dell Ducharme who said that any positive changes that had been observed from treatment of Ms. Redhead had been short lived. She also quoted from Dr. Ducharme’s report wherein the psychologist noted “that intellectually and compared to same-age peers, Ms. Redhead possesses fewer resources to manage stress and to tackle complex problems”. (Exhibit D12.24)

[62] Additionally, Ms. Grain testified:

- That her review of the files of Awasis Agency indicated that Nicole Redhead had only one pre-natal visit with a doctor prior to the birth of Jaylene and

that there was no mention in the file that she was high risk and efforts should be made to assure that adequate pre-natal care was obtained;

- That it was difficult to tell from Agency files as to whether regular contact was occurring between Nicole Redhead and Agency staff;
- “Given Jaylene’s circumstances, the level of risk and Nicole’s parenting history, supervision of visits would be important for teaching and mentoring of bonding, an assessment of how Nicole was doing as to coping and stress”;
- That she was concerned that the Awasis supervisor had not read the psychological report and that the planning on the file did not reflect the content of the report;
- That she was concerned that using a Voluntary Placement Agreement when there are active child protection concerns is against Provincial Standards;
- That no assessment was done prior to return of Jaylene and that this does not conform to the Provincial Standards;
- The Provincial Standards are best practices;
- That the Province does not have a standard as to how many files are handled by each worker;
- Ithan Bullard told her that the Awasis caseload was approximately 35;
- Ms. Grain acknowledged that it was a mistake that the interviewer in British Columbia only talked with Nicole as to her time in stage two, rather than both stages;
- That she did not know at the time she prepared the O.C.A. report that Nicole Redhead was getting respite every weekend as the child was with the grandmother as well as regular babysitting at the Centre;
- That it would have been valuable to speak to other residents, but that the O.C.A. does not have resources for that;

- That she now realizes that Awasis had other case plans that she was not aware of when she prepared the report;
- She conceded that the actual child welfare service may not have been discernable because file documentation was not adequately maintained;
- That random drug and alcohol testing should have been done in this case.

[63] The report of the O.C.A. was challenged by counsel for the Awasis Agency as to its completeness and its fairness. In questioning Ms. Grain in these regards, it was noted that she had not interviewed two of the relevant Awasis social workers who had been charged with Nicole Redhead's file. Additionally, it was confirmed that she had not spoken to two of the Awasis social workers who had supervised the file.

[64] It was also noted that she had not spoken with Dr. Dell Ducharme, who prepared the psychological report, nor did she speak to anyone from the Aboriginal Health Authority, an agency which had at one point been involved with Nicole Redhead. It was also noted that she had not individually interviewed anyone from NWTC.

[65] It was also suggested to Ms. Grain that the report would have been of more value if she had spoken with other residents at NWTC as to how the programming related to them.

Dr. Dell Ducharme (Clinical Psychologist)

Testimony December 12, 2012; March 6, 2013

[66] Dr. Dell Ducharme, at the request of the Awasis Agency, prepared a psychological assessment of Nicole Redhead. His report was dated May 27, 2008. Dr. Ducharme testified that he had been engaged to do a psychological assessment with a particular focus on intellect, adaptive functioning, decisional capacity and mental health pertaining to parenting.

[67] Dr. Ducharme said that the production of his report was somewhat hindered by the fact that he did not receive any background information about Nicole Redhead or her circumstances from the Awasis Agency.

[68] Amongst other things, Dr. Ducharme testified as follows:

- That it was a good sign as to Nicole's prognosis that she continued returning to NWTC and that she was beginning to show more insight;
- That Nicole had reported to him that she felt that she had been affected by her mother's drinking while pregnant with her.

[69] Dr. Ducharme testified that in his mind, his report to the Agency suggested that Nicole Redhead could potentially be re-united with Jaylene, but only if prior to return she continued with rehabilitative therapy and that she "continued to benefit from treatment". He expressed some concern that the Agency focused only on the comments pertaining to return and not on the conditions precedent to return. He characterized the report as "let's see" as opposed to "go ahead and return the child".

[70] Dr. Ducharme said as a result of concerns that his recommendations are being misinterpreted, he is now being "more educative with agencies as to red flags" and he will not complete reports unless the agency involved has provided collateral information.

[71] Dr. Ducharme also indicated that he felt that Nicole Redhead required a great deal of assistance in her immediate future and "substantial support to succeed as a mother".

[72] He told the court that he thought that Nicole Redhead was in "a fairly sheltered program" at NWTC and the thought that she would seriously harm the child was not on his mind. As a result of lessons learned from this case and others involving addictions, Dr. Ducharme now recommends one or two years of random drug testing as part of ongoing monitoring. Additionally, he will only do a report if he has received background material and in advance sits down with the worker, face to face, to discuss the case.

[73] He also testified that:

- He believed the NWTC would help Ms. Redhead in her efforts to be sober;

- In retrospect, he wishes he had insisted on random drug testing and that he “considers it a major miss on everyone’s part” that this was not done. “It keeps everyone honest”;
- He knew that she had left three previous times from NWTC because of crack use and also had to leave an alcohol program at Anchorage Alcohol Treatment Centre because of using crack;
- Acknowledged that Nicole Redhead told him that she had been previously abusive with her child (spanking and yelling);
- Nicole Redhead told him that all she ever could achieve was short term progress;
- He considered her to be a high risk individual as to the possibility of addiction relapse;
- He thinks that in the future there has to be much more front-end assessment to set up an appropriate clinical pathway;
- That it is unrealistic to think that anyone with only a Bachelor’s Degree and limited experience can adequately cope with the complexity of problems that child welfare brings;
- This was an atypical assessment because he and the Agency were not in contact before, during or after the assessment was being done;
- That he felt Nicole would be at risk to relapse if she did not make use of counselling/programming, but recognises there is no way to quantify if she has taken anything from the programming.

Skye Sanderson (Paternal Grandmother)

Testimony December 17, 2012

[74] Ms. Sanderson told the Inquest that she is the mother of Paul Sanderson, who is the father of Jaylene Redhead. Mr. Sanderson had a relationship with Nicole Redhead for approximately six months. Ms. Sanderson said that after about six months of age, Jaylene Redhead spent almost every weekend at her

house. She said that Nicole would drop the child off on Fridays and pick her up on Sundays.

[75] Ms. Sanderson said that the child's underwear was often dirty when she was delivered. Ms. Sanderson also said that she noticed many bruises on the child, but none that were alarming.

[76] Ms. Sanderson said that Nicole Redhead was either drunk or stoned approximately six times when dropping off or picking up the child, but that she never said anything to her about this.

[77] The grandmother also reported that the child was always hungry when she arrived. She said that she tried to contact NWTC about her concerns pertaining to the child's care, but was "never able to get through". She also said that when it came time to go back with her mother, Jaylene never seemed to want to go.

[78] Ms. Sanderson told the court that she believed that at some point during this period, Nicole was planning to transfer custody of Jaylene to Paul Sanderson, but later changed her mind when Amber Sanderson, Paul Sanderson's girlfriend, arrived at NWTC.

[79] The witness also confirmed that neither Awasis or NWTC ever contacted her with any questions about Jaylene or Nicole.

[80] Ms. Sanderson said that when Nicole contacted her originally to leave the child with her on weekends, it was because "Nicole wanted to party".

Shelley Poiron – now known as Shelley Burnstick (Awasis Social Worker)

December 18, 19, 20, 2012

[81] Ms. Burnstick, who was known as Shelley Poiron at the time she dealt with Nicole Redhead, was the principal Awasis worker assigned to this matter.

[82] Ms. Burnstick told the court that she originally became involved with Nicole Redhead when she had T.R. as one of her assigned files. She met her for the first time in July of 2007. She testified that T.R. became a Permanent Ward as a result of an assessment of Nicole Redhead's "potential for independent parenting". She said that those problems included "ongoing issues with her drug and alcohol

problems. There was still issues with transiency, that she didn't have a permanent address. There was suspicion of possibly...been involved with the law due to some ongoing violence that she was experiencing, those kind of high risk behaviour" (Transcript Dec. 18, 2012, p. 8, line 7-13).

[83] Ms. Burnstick acknowledged an e-mail she sent to her Awasis supervisor, Darla Spence, on January 27, 2007, wherein she provided background information as to who Nicole was and said:

"You might want to understand a little about Nicole. Nicole has had a lot of difficulties due to her FASD, continued drug and alcohol".

[84] Ms. Burnstick acknowledged that throughout her involvement with Nicole Redhead, her notes on the file left something to be desired. She maintained that she did the best she could, but that she had too many cases to have sufficient time for note taking.

[85] Ms. Burnstick confirmed that although Ms. Redhead was on her caseload, she had no contact with her prior to the birth of Jaylene. (However, in his final submission counsel for the Awasis Agency, Jeff Harris, says that the Agency file reflects an e-mail from Shelley Poiron to Darla Spence referencing contact with Nicole Redhead on July 27, 2007, at which time the Agency found out that Ms. Redhead was pregnant. Mr. Harris also said that the Agency file contains information which shows that there were meetings on July 30 and August 30, 2007, between Shelley Poiron and Nicole Redhead).

[86] Ms. Burnstick also conceded that some of the intake forms that she prepared as to Nicole Redhead were either signed for approval by a supervisor in blank before being signed by her, or were filled out incorrectly. In some cases, she admitted that she did not follow Awasis procedures. As well, she acknowledged that she did not feel adequately trained at the Agency to deal with their forms and procedures.

[87] Ms. Burnstick testified that after the child was born, apprehended and placed in a foster home, the mother did not contact her to initiate visits and the first time she met with the mother to discuss the Agency's plan was November 28, 2007.

[88] Ms. Burnstick was referred by counsel to several case plans found in the Awasis Agency file (Exhibit 2, Binder D). She was unable to explain why none of these plans were dated.

[89] Ms. Burnstick was referred to one of the undated case plans found at D 14.1, wherein her note outlines background as to Nicole Redhead and said "This worker believes that Permanency Planning is inevitable for Jaylene".

[90] Ms. Burnstick said that it was her understanding that NWTC would supervise visits between mother and child, but that she never checked that that was happening. She said that visits started on March 21, 2008, and that her involvement with the file ended late that month.

[91] Ms. Burnstick testified that she did not have an in-depth knowledge of NWTC. She also said that although she remembers speaking about Nicole Redhead with Gloria Nobiss, a counsellor at NWTC, she did not make notes about their discussion.

[92] Ms. Burnstick testified that she was pessimistic as to Nicole Redhead's capacity to parent. "I did not think Nicole could pull it off".

[93] While acknowledging that record keeping at Awasis was "somewhat deficient", she felt that this was because the Agency was understaffed and underfunded. She also conceded that service suffered as a result.

[94] As to issues relating to Nicole being FASD, she said that she suspected that Nicole was FASD, but did not modify the case plan or approaches to support her to adjust for that fact.

[95] Ms. Burnstick acknowledged that early on the case plan for Nicole included a requirement that she complete drug and alcohol treatment at River House and that she was to submit to random drug and alcohol testing. She said that the requirement as to attending River House was later dropped because the Agency did not want Ms. Redhead to lose her placement at NWTC. As well, the drug/alcohol testing was not pursued because NWTC told the Agency that drugs and alcohol did not seem to be a problem for Nicole.

[96] Ms. Burnstick's reservations about re-unification planning with Nicole were acknowledged in a case note dated January 8, 2008:

"Worker questions why we are doing this".

[97] In response to a question as to why she sought a parenting capacity assessment, but had never pursued one on any earlier file, she said:

"I had never had anyone as deeply troubled as Nicole Redhead".

[98] Ms. Burnstick said that once it was agreed that the mother would have visits with Jaylene, that someone from NWTC would be present at the visits. Ms. Burnstick acknowledged a document labelled "Update to Pre-Trial Brief" dated February 27, 2008. This document seemed to suggest that the Agency, even at that date, continued to expect that Nicole would move into a residential treatment spot at River House.

Frances Swampy (Social Worker at Awasis Agency)

Testimony December 20, 21, 2012

[99] Ms. Swampy testified that she began work as a social worker at Awasis Agency on June 2, 2009. She said that when she started, she was given 18 files. Nicole Redhead's was one of them. She said that there was very limited information on the file.

[100] She also said:

- That her first contact with Nicole and Jaylene was on June 15, 2009, when she visited them at NWTC;
- When asked what she knew about Nicole Redhead's status as to drugs/alcohol, she said that she assumed everyone at NWTC had addiction problems;
- Ms. Swampy said Jaylene seemed well and healthy and she could tell that Nicole loved Jaylene;

- Ms. Swampy told the court that she was not aware that a psychological assessment had been done on Nicole Redhead nor that a Supervisory Order had been granted.

[101] In looking back on her involvement, Ms. Swampy wishes that she had spent more time with Nicole. She also does not feel that she was adequately briefed on the file, nor did she feel that she had adequate time to read the files she had. She said "it would have been better if I had known what I was getting into".

[102] Ms. Swampy testified that she was not aware that Nicole was placing Jaylene with Skye Sanderson every weekend.

[103] This witness was asked about an internal Awasis memo concerning documentation of contact with clients dated April 17, 2001 (D Binder 104.3), which stated that binders were being distributed to assist with documenting contact with clients and "significant others". Ms. Swampy said that she never saw such binders.

Veronique Bourgeois (Driver for Awasis Agency)

Testimony December 21, 2012

[104] Ms. Bourgeois told the court that she is normally employed as a treatment worker at St. Amant Centre, but her involvement as to this matter was as a driver employed to transport Jaylene from her foster home to NWTC to visit with her mother.

[105] Ms. Bourgeois told the court that she had not been given any background information about either mother or child and had not been asked to supervise visits. The Agency had asked her to write down "anything that stood out", but never told her what they were looking for.

[106] Ms. Bourgeois confirmed that she had been employed to supervise visits with other clients and did feel competent to do that if requested.

Darla Spence (Awasis Supervisor)**Testimony February 25, 26, 2013**

[107] Ms. Spence said that she was the supervisor on Nicole Redhead's file from 2007 to 2009.

[108] She testified that file notes are missing from the Redhead files. She said the filing of case notes was always a problem at Awasis. She was concerned at the time that her workers were not taking adequate notes and she spoke to them about that. It was her opinion that optimally field workers should submit notes on a daily basis to case managers.

[109] Ms. Spence was asked why the Agency was prepared to consider Nicole Redhead as a parent after her earlier failures and she said that Awasis has a policy to try with a parent if the parent wants re-unification, whatever the parent's history may have been.

[110] As to what role NWTC would play with the Redheads, Ms. Spence said she thought that NWTC would monitor visits as she felt that their pamphlets indicated that that was one of their services. She also was not aware that Nicole Redhead, while living at NWTC, was permitted to leave the facility every weekend. She also stated that she was not aware that the child and mother were not together many weekends and that Nicole was "partying" away from NWTC.

[111] Ms. Spence said that NWTC counsellor, Gloris Nobiss, had guaranteed that Nicole would be supervised in her visits with Jaylene, although she never discussed with NWTC what "supervised" meant, nor was she aware of anyone from Awasis asking for feedback on the supervision.

[112] Ms. Spence said that she thought that visits were being supervised by Veronique Bourgeois, but with hindsight realizes it may have been a better situation if they had hired someone to actually supervise the visits.

[113] Ms. Spence said that she was part of the decision to expand visits and part of the decision to eventually return Jaylene to her mother. One of the reasons why this happened was because the Agency had received information from NWTC that the mother and child were bonding and Nicole was doing well. Ms. Spence related that the Agency applied for and received a three-month Temporary Order

in March of 2008 and signed a Voluntary Placement Agreement (VPA) with the mother in June of 2008.

[114] Ms. Spence testified that her involvement with this matter ended in early 2009 and that the worker, Shelly Poiron (now Burnstick), had left the file in late March, 2008. She said that after Ms. Poiron left, it was assigned to Ithan Bullard until June 23rd, 2008, when Michael Wood took it over.

[115] Ms. Spence admitted that she should have signed the VPA between the Agency and Ms. Redhead, dated June 2, 2008 (it was signed by Ithan Bullard as the worker, and also as supervisor “for” Ms. Spence).

[116] Ms. Spence also said that she knew that the supervision of visits which would have been provided by NWTC would not be at a suitable level and it should not have been delegated.

[117] Ms. Spence was asked about an Awasis document headed “Worker’s Court Plan for Nicole Redhead and Family” dated December 17, 2008. One of the expectations of Ms. Redhead by the Agency is listed as “Nicole will need to continue to work with an in-home parent aid to improve her parenting skills”. When questioned as to why this support was not put in place, Ms. Spence said that this was placed in the plan on a “just in case” basis and it was not considered necessary in this case.

[118] Ms. Spence told the court that she and worker Ithan Bullard went over the psychological report prepared by Dr. Dell Ducharme, but not thoroughly and it did not raise any questions that she wanted to ask of the psychologist.

[119] When questioned as to why random drug and alcohol testing was never done in this case, she said that she had no answer, but said, “we could have”.

[120] Ms. Spence said that one of the reasons why there was rapid change-over of personnel at the Agency was because salaries were generally lower. As well, she believed their caseloads were higher than other agencies which made for more stressful working conditions. When asked for recommendations as to how the Agency could provide better service, she said she believed that lower caseloads and more workers would have been of assistance. Also she thought that service contracts should be entered into when dealing with other agencies.

Finally, she suggested that CFSIS, a province-wide system that collects data on children in care and families who are consumers of child welfare services, would have been of assistance to her in her job.

[121] Ms. Spence relayed that she thinks that she spoke several times on the telephone with Gloria Nobiss about the client. She also said she believed Nicole was sober because if not, someone at NWTC would have told her.

[122] When it was suggested to Ms. Spence that Awasis should have asked for “visitation notes” made by whomever was supposed to have been supervising visits, she agreed that that should have been done.

[123] Ms. Spence acknowledged that from as far back as 2006, the Agency considered Ms. Redhead to be an addict and an alcoholic and probably suffering from FASD.

[124] Ms. Spence testified that she was unaware that Nicole Redhead could leave stage one for weekends and also did not know that stage two offered more freedom than stage one.

[125] Ms. Spence testified as to staffing levels. She said that she was the only supervisor in 2007 and at that time they had eight case managers on staff. When she left the Agency in 2012, there were two supervisors, plus 12 case managers.

[126] She said that:

- Ithan Bullard was assigned the file between March 2008 and June 2008;
- Awasis has the lowest salary structure of any other agency in Winnipeg;
- Awasis generally paid frontline workers approximately \$7,000.00 less than what she believed to be the salary at other Winnipeg agencies;
- The issue of Nicole Redhead’s weekend passes was never raised with her. If she had known that Nicole Redhead was going out on weekends, it would have been significant to her;
- Her information as to NWTC came from a pamphlet and a relative who had lived there. She did not view the facility herself;

- Awasis made the decision to allow the child to be with the mother because they believed NWTC was a “safe house”;
- She thought stage one was a “secure facility” and that there was a “house mother” at the second stage;
- She agreed that visits should have been supervised;
- If a client is high risk, then they should be seen each week, medium risk every two weeks, but in this case Shelley Poiron (Burnstick) visited only once per month;
- She believes that Nicole should have been considered a higher risk, not a lower risk;
- Awasis workers carried 40-50 cases and the Provincial Standard is 20-25, but some other agencies may be high as well. She thinks these are dangerous levels for caseloads and the result is that workers are just running from point A to B every day trying to meet the minimum standards;
- That there was stress at Awasis arising from paperwork (too many forms to fill out), caseload and salary, and rapid changeover of personnel;
- She thinks her notes and some worker’s notes are missing;
- She asked workers to produce their notes to her every week, but sometimes she did not see them for a month or more;
- She said that Nicole had previous alcohol/drug testing with T.R. and suspects she failed and that is why T.R. became a permanent ward;
- Confirms that Awasis would continue to work with a parent even if they had lost multiple previous children due to addiction issues;
- Admits they did not know that Nicole was going out on weekends. Says she did not know this because she never asked and was never told;
- Respite was not provided because Nicole did not ask. If Nicole Redhead had requested more resources, they would have been provided;

- In retrospect, they should have put an in-home parent aid in place;
- When she was leaving Awasis, there was a room full of case notes and material which needed to be filed.

Ithan Bullard (Awasis Social Worker)

Testimony February 26, 27, 2013

[127] Mr. Bullard testified that he was never involved in any discussion about taking over the Redhead file after Shelley Poiron was no longer the worker. He said that if he had any involvement with the file it was only as the on call worker. He said the designated on call worker changed on a daily basis. He acknowledged that an agency cannot provide in-depth social work when there is no assigned worker.

[128] Mr. Bullard said that at the time he worked at Awasis, workers were carrying caseloads in excess of 40 files.

[129] Mr. Bullard disputed Ms. Spence's suggestion that they discussed the psychological assessment together. He testified that he had no involvement with either Ms. Poiron or Ms. Spence pertaining to the Redhead file.

[130] Mr. Bullard said that he really did not know the Redhead file in depth and never discussed it with Michael Wood (the worker who eventually took over from Ms. Poiron).

[131] When asked as to whether he thought NWTC was supervising visits, he said that he "wasn't sure".

[132] In answer to a question as to why he submitted a form saying that Nicole had submitted to random drug testing, he originally said he heard that from Darla Spence. After consideration, he then said he may have taken this information from the file or he may have assumed it.

[133] In reference to the Children's Advocates' report, he says he feels that the Agency provided service at an acceptable level. He did admit that in his opinion the documentation was lacking and that made it hard to see if the Provincial Standards were met.

[134] Mr. Bullard agreed with earlier witnesses who said that attendance and absenteeism were problems as to the staff at Awasis.

[135] Mr. Bullard said that he was not sure whether Nicole Redhead was monitored on a once a month basis during the interim periods between workers.

[136] Mr. Bullard agreed that he eventually became the supervisor of the file and as such, had a responsibility to know the file, but that in reality he did not know it "in depth". He also admitted that he did not know why Nicole Redhead was living at NWTC.

[137] Mr. Bullard also testified that during the entire time he was involved with the file, he never received a call from NWTC as to an issue with Nicole Redhead.

[138] He also said that he thought NWTC was a "secure facility".

[139] Mr. Bullard acknowledged that when he was working with this file, he was not aware that Nicole Redhead was a drug addict, alcoholic or that there were concerns as to FASD, and that if he had known this, he would have done things differently. He also said that he was never aware that she was a "high risk" client. He conceded that he had only limited knowledge of her past history and that in his current practise, he now becomes more actively involved in the files he works on.

[140] Further, he testified that:

- There should have been a case conference each time a worker or supervisor changed;
- That he feels notes are missing from the file;
- That one of the problems the Agency experienced was that when a worker left, it generally took a long time to hire a replacement;
- In his opinion, if Awasis was using CFSIS, then workers could have put their notes directly on that system;

- He acknowledged that two gap periods existed where there may not have been an assigned worker. The first period was April 7 – June 23, 2008. This period came about after Shelley Poiron changed jobs;
- He did not know that Nicole may have been FASD, that she had a drug or alcohol problem and he was never told this by his supervisor, Robert LaFontaine;
- March 30, 2009 – June 8, 2009, he was the supervisor and the interim worker. He was the only person who had contact at that time;
- Some Awasis workers had 50 open files, but that he thought 20-25 cases would have been appropriate. He felt that the large caseload meant direct contact with clients and paperwork suffered;
- He knew Nicole had two children that had previously been the subject of Permanent Orders, but did not know what precipitated those children being taken from their mother;
- He saw Nicole face to face three times;
- He acknowledged that the higher the risk presented by the client, the more contact the Agency should have. He was not aware that Nicole Redhead at any point had been considered to be high risk and that during his involvement with her, he did not consider her to be high risk;
- During interim periods with no designated worker, no long-term planning was done and there were fewer face to face contacts;
- He says he never developed a connection or a relationship with Nicole Redhead;
- He thinks Awasis fell down in terms of documentation, particularly file notes;
- He felt that because of the demographics of the people they dealt with and the consequent severity of their problems, this produced greater stress at Awasis for front-line workers;

- Because of the salary levels, the education and training level of workers at Awasis were less than at other agencies;
- That he was unaware that Nicole had said in a sharing circle at NWTC that she was feeling overwhelmed;
- He admitted that in hindsight, the Agency planning for this client should have taken into consideration the increased stress felt by Nicole because of her pregnancy;
- As a result of Jaylene's death, he became more involved as a supervisor, meeting and monitoring his workers every day;
- He did not know Nicole Redhead had pulled Jaylene out of daycare. If he had known that, it would have been important to him;
- Even after being promoted to the supervisor's role, he retained his files;
- That he was not sure whether he read Dr. Ducharme's report even after he became the supervisor.

Gloria Nobiss (Intake Counsellor at NWTC)

Testimony February 27, 28, March 1, 4, May 13, 2013

[141] Ms. Nobiss said that she was an intake counsellor when Nicole Redhead was in the facility, but since 2010 has become a case manager.

[142] In addition to other testimony, she said:

- In previous occasions when resident at NWTC, Nicole Redhead had shown indications that she was drinking. However, during her residency with Jaylene, she was not showing those signs;
- Nicole Redhead did not meet regularly with Awasis;
- That she thinks that she personally met four times with Awasis workers and spoke on the phone quite a few times with Shelley Poiron and a few times with Ithan Bullard;

- The Agency did not raise issues with her nor did they seek her opinion on anything to do with the client;
- Nicole Redhead told her that she was not getting the kind of counselling she wanted;
- She does not remember the Agency asking how the visits were going;
- Nicole Redhead was receiving one to one counselling on a once weekly basis, but eventually she stopped attending because she did not like the counsellor;
- That the NWTC addictions worker wondered if Nicole Redhead had issues with FASD;
- That she was not sure that Nicole Redhead was “getting” the information from the required classes she was attending at the Centre;
- Staff at NWTC thought Nicole Redhead was doing well because she was attending programming as required;
- Ms. Nobiss denied that she at any time told the Agency that NWTC would supervise visits. She also said that NWTC does not supervise visits and they do not take notes as to what transpires at visits;
- Ms. Nobiss said that at no time did Nicole Redhead ask for more support from either herself or the Agency. Ms. Nobiss said that at NWTC, they sometimes held “case consults” to discuss clients and had done so in regards to Nicole Redhead. She also said that none of the information gathered at those consults went to Awasis;
- Ms. Nobiss said that at no time did any NWTC staff person deliberately watch Nicole Redhead’s interaction with her child/children at visits;
- Ms. Nobiss said that until Jaylene died, they “saw a lot of success with Nicole”.

[143] Ms. Nobiss testified that subsequent to Jaylene's death, there have been significant changes in the way things are done at NWTC. By way of examples she gave:

- Incident reports are now not only provided to the Child Protection Branch, but to the relevant child welfare agency as well;
- Clients are now introduced to all staff;
- Child profile sheets are maintained;
- Profile folders are kept in the front office so that if needed, they can be accessed at night by staff;
- Notes from intake information, case consults, profiles, etc., all go into the front office for all staff to access.

[144] Ms. Nobiss further testified that:

- All residents are allowed to leave the Centre every weekend after they have lived in the facility for three months;
- Although Ms. Nobiss was aware Nicole Redhead was leaving the Centre, she was only aware that she had left Jaylene with Skye Sanderson on one occasion;
- Ms. Nobiss said that NWTC did not have the benefit of adequate background information as to Nicole, and what they did have, they got from her. She said "we did not have the information we needed";
- Ms. Nobiss said that NWTC had a policy to periodically search rooms for drugs and alcohol, but that it was rarely done and she cannot recall Nicole Redhead's room ever having been searched;
- Ms. Nobiss said that NWTC does not really turn away anyone and even someone with multiple failed attempts at parenting or addiction issues would still be welcome;

- She said that Nicole Redhead had been in NWTC on three previous occasions. At the time of her son T.R.'s birth, she was living in the facility. She was subsequently caught drinking alcohol and was asked to go for treatment. Her response was to leave the facility. Ms. Nobiss said Nicole was at NWTC at a later time and was asked to leave because she was frequently missing from the Centre after curfew without explanation;
- Ms. Nobiss said that there were no concerns from NWTC as to Nicole Redhead's parenting while in stage one housing;
- Ms. Nobiss was referred to multiple entries in the NWTC logs which reflected drug and alcohol use by residents, normally outside the Centre and returning intoxicated, and also as to drugs or drug paraphernalia found in the rooms. Ms. Nobiss conceded that drug and alcohol use either in the Centre or outside by those returning to the facility was a problem;
- She testified that NWTC personnel sometimes did search resident's rooms, but they never searched Nicole Redhead's room. Generally, they only searched rooms if they had a tip or if they were suspicious about drug or alcohol use. She said that she has been at the NWTC for 15 years and in all that time, she was aware of rooms being searched about 10-15 times. She said that three-quarters of the time when searches have been done, they have found either drugs or alcohol;
- That in the past, if they had suspicions about a resident, they would ask the relevant CFS worker to do random drug and alcohol tests. She estimated that she has done that ten times;
- That after Nicole Redhead left stage one to go to stage two, she visited her on two occasions. She did not have concerns about Nicole Redhead at stage two, nor did she hear from Marie Sutherland, who was involved with her at stage two, as to Nicole being overwhelmed;
- When asked if staff at NWTC had received training to identify child protection concerns or abuse, she said that she thinks they had a two-day workshop 11 years ago, but nothing since. She said that as far as she knows

in the 15 years she has been at NWTC, the staff have never received training as to FASD awareness, although she believes it would be valuable;

- That she asked the Agency for a copy of Dr. Ducharme's psychological report on Nicole Redhead and went over it with Nicole, but that nothing changed as to how NWTC dealt with her after seeing the report;
- Over the years that she has worked at NWTC, the number of women with FASD and/or dealing with addiction issues has significantly increased;
- She acknowledged that despite having Nicole Redhead sign a form at intake which authorized the NWTC to request information about her, they never did request more information from the Agency;
- She testified that the decision to allow Jaylene to leave NWTC for outings with her mother was a decision made by Awasis;
- She acknowledged that Nicole Redhead did not want to leave stage one to go to stage two. What Nicole Redhead wanted was to live in the community. She also acknowledged that she had to persuade Ms. Redhead to go to stage two;
- That there are no notes in NWTC materials indicating that Nicole Redhead was noted as returning to the Centre under the influence of drugs or alcohol. She also agreed that NWTC does not have any notes as to Nicole Redhead having difficulty with her children's visits;
- She also said that in her opinion, NWTC provided good service to Nicole Redhead and Jaylene;
- That the decision for Nicole Redhead to move from stage one to stage two was made by NWTC staff without participation from Awasis and the Agency was advised she was moving just one week before the move took place;
- That during the period when Nicole Redhead was a NWTC resident, there was no scheduled up-grading or training for NWTC staff, but that they now are receiving training in: Family Group Conferencing, Signs of Safety; Risk

Assessment, and Writing and Documentation. As well, there is a proposal to provide training in FASD awareness;

- When asked if she thought NWTC was capable of dealing with women with addictions to crack cocaine and/or meth amphetamine, she said "I am not sure".

[145] Other changes now in affect at NWTC are:

- A resident's case file from stage one follows her to stage two;
- Case consults now include staff from both stages of housing;
- A report as to these consults now goes to the relevant CFS Agency;

[146] Ms. Nobiss said that the ability to come and go for residents in stage two is now being somewhat curtailed. Curfews are in place and residents are expected to be actually doing something during the day. As well, residents of stage two do not receive over-night or weekend passes until they have been there for three months. Staff are now on duty 24-hours a day, seven days a week. There is also a residential support worker on staff during the day and a log book as to incidents is maintained for the purposes of communicating between the shifts;

[147] Additionally:

- After 90 days of residency, a meeting is held to determine if a resident is eligible for weekend passes. The pass would be denied if the resident is not following through with programming;
- As to the sign-out log, she said that the social workers on staff are now calling the phone numbers left to verify the whereabouts of residents out on leave;
- Ms. Nobiss said that she was not sure whether Nicole Redhead was pregnant when she re-entered the facility in January of 2008, but she does know that she had an abortion sometime in 2008 while living at the Centre and became pregnant again in 2009. She is unsure as to whether she informed the Agency of this;

- That after two months of being in the Centre, Nicole stopped going to counselling and was spoken to about this;
- Nicole was “a bit slow, but we continued in a regular way with her”;
- On a prior residency at NWTC, Nicole had been asked to go for alcohol treatment, but she had refused and left the Centre. On another occasion, Nicole went AWOL and left on her own;
- Says the Agency had to approve Nicole Redhead taking Jaylene for the first weekend outing, but they have no notes or records of having this approved by Awasis;
- She did not know that Nicole Redhead’s pregnancy was with her new boyfriend, Tran. She was not sure if Wanda Ferland knew that or told Awasis;
- She feels that the freedom to come and go for residents interferes with NWTC’s ability to help clients because of exposure to drugs/alcohol when away from the facility;
- Agrees that Awasis was not told about the child being away on weekends or that Nicole had a new boyfriend and was again pregnant with his child. She felt that this lack of communication reflected that the two agencies were not working closely on the file;
- That since the death of Jaylene, NWTC now sets up meetings with Agency workers immediately upon admission and progress reports are done regularly and provided to the Agency worker;
- It doesn’t surprise her to hear that Nicole Redhead now says the programming was not meaningful to her.

Cindy Einarson (Former Resident at NWTC)

Testimony March 7, 2013

[148] Ms. Einarson told the court that she entered stage one at NWTC in August of 2008. She described herself as Nicole Redhead’s best friend at NWTC. She said

that she considered Nicole to be a very good mother. She said that if Nicole had problems, she would ask her for help.

[149] Ms. Einarson said that she sometimes babysat for Nicole and would have been aware if the child was being hurt. She said that she never saw Nicole discipline Jaylene inappropriately. Ms. Einarson also said:

- That she was aware that Nicole Redhead had “made a slip” and used crack cocaine while in stage one;
- She was aware that on a couple of occasions, Nicole Redhead returned to the Centre having used alcohol or drugs and was intoxicated;
- That she was aware of other drug/alcohol use in the facility including one occasion when two residents came into her suite using crack;
- That her cousin, who was also a stage one resident at NWTC, was regularly abusing prescription drugs in her suite;
- That she had heard that other residents were using alcohol in the Centre;
- That cocaine was normally used by the residents at night before going to their rooms;
- The non-prescription drug abuse took place anytime the involved residents could obtain them;
- That she was never aware of her room or anyone else’s being checked for prohibited substances;
- That although NWTC had given her a sheet of rules, they were never followed;
- That periodically residents went missing and upon return, some were asked to leave;
- That curfew rules were not followed and “lots” of women came home past curfew, and some did not return at all;

- Generally, consequences were unevenly applied and sometimes meant the behaviour was discussed at meetings and sometimes the individuals were grounded;
- Despite the fact that she was prohibited contact with her partner by CFS, she kept in contact with him throughout her time at NWTC and “snuck around” to be with him;
- That despite the fact NWTC maintained a ledger to sign in and out, she was aware that some residents never signed in or out. If caught, those residents were grounded. The staff never checked on her whereabouts when she was away from the Centre;
- That after Nicole Redhead became pregnant, she seemed to become more stressed;
- That when she asked NWTC for help, she felt that they gave it to her;
- That she remained at NWTC in stage one for 18 months;
- That she was letting her children’s father into the facility through a window. She eventually was caught, but the only consequence was that she was moved to a higher floor in the building;
- Agrees that she was living a sham at NWTC, as she was continuously involved with her abusive partner and the CFS agency did not realize that;
- That she never saw Nicole becoming angry or frustrated;
- That she remained in contact with Nicole Redhead after Nicole moved to stage two and it was clear that she was becoming upset about her relationship with her boyfriend;
- That prior to getting pregnant, Nicole Redhead had an abortion while at NWTC;
- Nicole Redhead seemed more depressed after she got pregnant again;

- That the offered programming did not work for her. The programs went in one ear and out the other. No exit interviews were conducted, but an exit form was filled out;
- That it was easy to come back high and ignore curfew rules;
- That the residents were doing whatever they wanted.

Jessie Howell (Former House Mother at NWTC)

Testimony March 7, 2013

[150] Ms. Howell testified that she was the “house mother” at stage two in 2009 when Nicole Redhead was a resident there. She said that her role was to make sure the building was locked at night, but that at some point “some of the girls put something in the lock so the doors could not be locked”.

[151] She also said:

- That on Monday mornings, she went into the resident’s rooms, but only to make sure that they were clean;
- That Nicole Redhead never asked her for help;
- That Nicole Redhead told her when she was leaving the Centre and when she would be returning;
- Residents could get out of any of three doors literally at any time;
- The only “smudging” she was aware of was in a counsellor’s office in the mornings.

Crystal Sutherland (Former Resident at NWTC)

Testimony March 7, 2013

[152] Ms. Sutherland indicated that she became a resident in stage one housing at NWTC sometime in 2008. She said that she was in stage one housing for approximately six months and then moved on to stage two. She also said that:

- She was in stage one when Nicole Redhead was there. They were not close friends;
- She was not aware of Nicole Redhead using drugs or alcohol at NWTC. She was aware that Nicole was stressed;
- Although she heard about drug and alcohol use at stage one, she never saw that happen;
- When she went out on weekends, she was never checked on as to where she was;
- Her room was never checked for drugs or alcohol;
- She enjoyed the programming at the Centre;
- At stage two, some of the residents were using alcohol;
- Her room was located right across the hall from Nicole Redhead and she never heard screaming or a child crying;
- She did crack cocaine and drank beer in a resident's room while at stage two;
- Early in her stay at stage two, she used crack only twice a month, but eventually began using more frequently until she and other women were using every second day;
- In addition to drug use, she would regularly leave the Centre to drink;
- Her drug use got progressively worse while in stage two because she started socializing with the residents who were doing that;
- The "house mother" never checked the rooms at stage two;
- No one ever got caught doing drugs or drinking in their rooms;
- Some of the residents who were using drugs had their children living with them and drugs were smoked in front of the children;

- There was very little supervision at stage two and “we could do anything we wanted”;
- She found the programming at NWTC of assistance to her and felt it was at a good level. She said that the program leaders were available for individual questions and were of assistance to her;
- She felt that the residents were not provided with adequate support in stage two. She felt they needed more counselling and that they should have had Alcoholics Anonymous meetings every evening, rather than just once a week;
- Eventually she had to leave stage two as the Child and Family Services Agency she was dealing with found out that she had been drinking and took her child from her;
- Ms. Sutherland believed that NWTC staff would call CFS regarding problems some residents were having, but not as to others. She believed that NWTC “played favourites”;
- Stage two would have been more effective if there had been more rules and more supervision;
- Residents at stage two had secured a key and came and went as they pleased, even late at night;
- “Smudging” was only done in the morning;
- She regretted that there was culturally appropriate programming in stage one, but that it was not available in stage two;
- She said that the residents had their own gate key for the front lock and some of them went out whenever they wanted “to drink or get beer”, and they would drink long into the night;
- The women she smoked crack with in stage two had transitioned from stage one.

Julie Black (Former Resident of NWTC)**Testimony March 8, 2013**

[153] Ms. Black told the court that she was a resident of stage one for a year and stage two for two and one-half years, and that Nicole Redhead was already a resident of stage one in 2008 when she moved in. Additionally, she said:

- That she was not permitted weekend leave until she had been a resident for nine months;
- That when she went out on weekend passes, she never provided an address and her whereabouts were never checked on;
- That she had visits with her children at NWTC and the visits were neither supervised nor watched by NWTC;
- That the CFS agency she was dealing with as to her children was Metis Child and Family Services. Her social worker came to see her once or twice each week while in stage one. At stage two, the social worker visited about four times in two and one-half years. She also had a support worker from BNL group homes who “was there all the time”. This support worker was arranged for her by Metis CFS;
- That her CFS agency made respite available to her, even on weekends;
- That as a result of the programming at NWTC, she has turned her life around and has been free of drugs for six years. All seven of her children are back in her care. She had been a crack addict at the time she entered the Centre;
- That she considered the programming at NWTC to have “saved my life”. That because she considered herself illiterate, she needed extra help and she felt that she received that from the staff;
- That rules in stage two were not followed as they were in stage one. She said that the door was not locked at night, that people were coming in and out of the building intoxicated and that on one occasion, she had residents’ children knocking on her window at three in the morning. As a result of

these issues, she wrote a letter to complain to the administration, but did not receive a response;

- That she felt the women in stage two “suffered for their freedom” because of lack of supervision;
- That when in stage two, she sometimes used marijuana. She was aware of a resident who was “hooked on oxycontin”;
- That she felt Nicole Redhead was a very good, nurturing mother;
- That as to Nicole Redhead, she said “the system failed her” because Nicole was, in her opinion, not given respite or support workers. She said that she “barely saw anyone visit Nicole”;
- That when speaking at group sessions, Nicole Redhead said she was becoming “overwhelmed”. She also said this was happening due to Jaylene’s behaviour. Nicole said this in front of NWTC staff person, Marie Sutherland.

Amber Sanderson (Former Resident of NWTC)

Testimony March 8, 2013

[154] Amber Sanderson testified that she was at NWTC in 2008. She was 23 years old at that time. She went into the Centre to assist her to get her child back from CFS. She also said:

- That she was aware of residents drinking away from the Centre and coming back intoxicated;
- That in stage one, NWTC staff checked resident’s rooms once a month for drugs and alcohol;
- That the visits she had with her child were supervised at the instruction of CFS (Metis). The supervision lasted for two months before she was allowed to leave the Centre with her child;
- That while involved with Metis Child and Family Services, her worker was changed on three occasions;

- That she was not eligible for weekend passes until she had been resident for seven months;
- That she felt that Jaylene was being neglected;
- That she would see Jaylene at Skye Sanderson's on weekends and she felt the child was happier there. She felt that Jaylene seemed withdrawn and scared with her mother. Ms. Sanderson said that she provided these observations to several NWTC staff people, but that they would not deal with her about this because being the girlfriend of Nicole Redhead's ex-boyfriend, she was in a "conflict";
- That she felt Nicole Redhead was always "hidden in her room";
- That she did not feel NWTC "checked up" on Nicole Redhead adequately;
- She felt that the Centre could not control the residents. She said "all of those girls did everything and no one did anything about it". Asked to clarify, she said she had heard, but did not see, that some women were doing drugs and sneaking abusive men into their rooms;
- That she enjoyed the programming available at NWTC.

Dawn Simmons (Former Resident of NWTC)

Testimony March 8, 2013

[155] Ms. Simmons testified that she was 25 years old in 2008 when she resided at NWTC. She said:

- She was not friends with Nicole Redhead, but did notice that she was very quiet and kept Jaylene and herself quite isolated from the other residents;
- That Nicole Redhead seemed to be having a difficult pregnancy when she knew her in stage two;
- She felt that Nicole Redhead behaved at the programming as if she was only there because she had to be and that she showed only minimal response to the programming;

- To her knowledge, the rooms at the Centre were never searched for drugs or alcohol;
- She felt that the NWTC programming was good for her;
- She received weekend passes after being at the Centre for three months;
- She regularly left contact information when she left the Centre and thinks she may have been called once when away;
- She felt that the rules of the Centre were applied fairly in both stage one and two;
- She feels that her current sobriety has resulted from the exposure to cultural and spiritual practices and counselling she received while at NWTC.

Bernice Monkman (Addiction Counsellor/After-Hours Support Worker at NWTC)
Testimony May 13, 2013

[156] Ms. Monkman testified that she ran an in-house addiction program for women at NWTC. The program was held one evening each week.

[157] She also said that:

- Nicole Redhead attended the program regularly;
- Nicole Redhead was very quiet at the program;
- She was never aware that Nicole Redhead was using intoxicants;
- Nicole Redhead's attendance at the addiction programming was better at stage one than at stage two;
- When Nicole Redhead went to Pritchard House for alcohol therapy, there was no communication between that agency and NWTC;
- Once Nicole Redhead moved to stage two, her attendance fell off and she missed more sessions than she attended. In stage two, she always had an excuse as to why she was not coming to meetings;

- Believes there should have been more one on one counselling for Nicole;
- She was frequently aware of residents who were using drugs or alcohol. If the resident returned to the Centre intoxicated, then they were to remain downstairs and not go upstairs to the suites;
- She said once or twice a month, a resident returned intoxicated by drugs or alcohol;
- Allowing NWTC residents out into the community gives them only a slim chance to maintain sobriety;
- Once a month a resident would inform on another resident about using drugs/alcohol in their room;
- She had taken some training in relation to issues of FASD and felt that she could identify people with FASD. She said Nicole Redhead identified herself as someone who was affected by FASD;
- In all the years she did addiction counselling, she “never felt that I made much headway with FASD women”, as she felt that she could not get very far with them or that they had enough resources to deal with that issue. She also does not remember any specialized training for staff as to FASD matters.

Annetta Armstrong (Former Program Director at NWTC)

Testimony May 14, 15, 2013

[158] Ms. Armstrong worked at NWTC from 2001 to 2003, and then again from 2008 to 2012. She said that:

- She had limited personal dealings with Nicole Redhead, but she did observe that she was very quiet, soft spoken and respectful;
- She was not aware of any concerns about Nicole Redhead’s parenting of Jaylene;
- In recent years, addiction issues with the residents has shifted from alcohol to crack cocaine and prescription drug abuse;

- The Centre has now developed a form so that administrators are made aware of who is and who is not attending programming. The form also provides observations as to how actively the residents are participating in the programming;
- She was aware and concerned about the fact that NWTC was not doing a good job of documenting resident information;
- She felt that files “need to be the resident’s story while they were in our care”. Ms. Armstrong felt that because so little was being documented, it was possible that a resident could be missing programming and even if attending, may not have grasped the content of the programming;
- She said that when she returned to work at NWTC in 2008, staff meetings discussed only problems, not all the files and all the residents. She changed that and also required that records be kept of what was discussed;
- Ms. Armstrong also determined that if residents were not considered to be doing well, then they would not be given weekend passes;
- She also said that NWTC changed their policy on room searches after Jaylene’s death and now all room searches are documented;
- Sometimes she would receive calls at home at night as to residents returning intoxicated. If the problem seemed significant, sometimes the resident was asked to leave. She believes that these incidents are now being documented better than they had been formerly;
- She admitted that the sign in/out sheet was not handled well and said that after the death of Jaylene, they started “to monitor that more closely”. She also said that since the incident, NWTC staff have been told to be more diligent about knowing where the residents are;
- She acknowledged that no resident who signs out is checked on as to their actual whereabouts unless they do not show up by curfew;
- As to the breaking of NWTC rules, she admitted there were no set consequences. She said “we were lax at times”;

- She agreed that people in stage two could use drugs freely in their rooms. She said “we were not policing them”;
- Ms. Armstrong said that it was her experience that some CFS agencies were very involved with their clients and some were not;
- That NWTC has now developed a contract of understanding that they enter into with CFS agencies so that each party knows what they are responsible for;
- NWTC will now not accept applicant residents unless they have been provided with a copy of the CFS case plan;
- She agreed that in later years, they see far more women suffering from FASD. They now discuss FASD at case consults and consider ways to deal more appropriately with these clients;
- That NWTC now insists on “a lot more intake information” including risk assessment. As well, since Jaylene’s death and the subsequent audit of their procedures, they are now doing their own risk assessments of each client;
- In assessing Nicole Redhead’s files, both from stage one and from stage two, she said it was embarrassing as to how poorly maintained they were. “There were a lot of pieces missing. We were doing a good job, but not documenting it”;
- That she reviewed other resident’s files, not just Nicole Redhead’s, and determined that they were lacking as well;
- She said that in 2008 when intake was done with Nicole Redhead, the information provided “only scratched the surface” and was not enough to develop an appropriate plan;
- She said they wanted to balance safety with support and they placed more emphasis on working with women than on documenting what they were doing;

- She said that in an ideal situation the women would stay in stage one “as long as it took”;
- Ms. Armstrong said that in retrospect, it would have been better to have taken a pro-active approach to checking rooms for contraband. She now believes that room checks and random drug checks should have been done three times a month;
- She also said that a woman could barely participate in programming and yet still transition to stage two after merely “going through the motions”;
- She described stage two as “basically an apartment”. However, if the resident sought support, then it was available;
- Ms. Armstrong agreed to the suggestion that an on-staff Clinical Psychologist could have been a benefit to the work they were doing at NWTC;
- She said that in her opinion, NWTC is for women who are ready to change, but it is not for “extreme cases”;
- She maintained that Nicole Redhead did not present with cognitive functioning that was obviously different than the other residents. She also felt that she was presenting as if she was doing well and was managing herself well;
- Ms. Armstrong said that NWTC does not really have the resources to do training. She also said that staff turnover is a problem and results from low salaries. She believes they would provide better service if they had more staff and better trained staff;
- She also agreed that formerly “exit interviews” were not conducted with departing residents and feels that they should be conducting on-going interviews of this type to find out what residents are learning and to consider what improvements can be made to service delivery.

Wanda Ferland McKenzie (Formerly a Social Worker at NWTC)**Testimony May 15, 2013**

[159] Ms. Ferland McKenzie was employed at NWTC for 13 years until 2013. She has a degree in Social Work. Ms. Ferland McKenzie did a variety of jobs at NWTC from intake to trauma counselling. Her only involvement with Nicole Redhead resulted from Ms. Redhead having taken one of the programs that she taught.

[160] She said that:

- She tried counselling Nicole Redhead and met with her on two occasions, but “there was a brick wall there”. She felt she did not “get through” to Ms. Redhead. As well, on some occasions, Ms. Redhead did not appear for scheduled counselling sessions;
- That she found it very difficult to break through with Nicole;
- She never saw the assessment report prepared by Dr. Ducharme;
- Ms. Ferland McKenzie felt that Nicole Redhead could not “process what was being asked of her”. She came off “like a little girl”. She was suspicious that Nicole Redhead was suffering from FASD and FAE and was not comprehending the material;
- That she did not develop specific relapse prevention plans for residents unless the resident specifically asked for it and Ms. Redhead never did;
- That in her time at NWTC, she assisted in two room checks. On one of those checks, a woman was found to be in possession of marijuana. She was asked to go to a treatment centre;
- She acknowledged that the residents did not always sign out when they left the facility;
- She was not surprised to hear that residents were using drugs at the Centre;
- In her opinion, at the time she transitioned from stage one, Nicole Redhead was not ready to be a resident in stage two;

- She felt that it would be helpful in terms of the work of the facility if regular random drug testing was conducted. She said “that if we had that information, it would help us determine how best to work with that client”.

Marie Sutherland (Outreach Worker at NWTC)

Testimony May 16, 2013

[161] Ms. Sutherland has been an outreach worker at the facility for 11 years.

[162] She said that:

- She does not remember residents coming back to the facility when intoxicated while at stage one;
- That although she had served as the addiction counsellor at NWTC and had taken addiction training, she had no training as to FASD or FAE;
- That although she was not aware of a formal FASD diagnosis as to Nicole Redhead, she was concerned that this was a problem for the young woman. She said that when she dealt with her, she had to make things simple and had to repeat things;
- She met with Michael Wood from Awasis on two occasions. She believes she took notes, but if she did, she could not locate them;
- As to changes since the death of Jaylene, she says they now have three after-hours staff that are on duty all weekend and every evening. Additionally, staff has taken training in improving their skills at file documentation. She said they now have many more forms and she feels this will assist workers in providing service;
- She said she had no concerns as to Nicole Redhead’s relationship with Jaylene;
- She admitted that at the time when Nicole Redhead lived at NWTC, “several residents were a problem due to their alcohol use”;

- She said that it did not appear that there was a CFS worker for Nicole for two to three months and that she only ever saw a CFS worker on two occasions;
- That she does not remember whether she knew Jaylene was with her grandmother on weekends;
- That as far as CFS involvement, there was a “big blank” after Michael Wood for one to two months;
- That she does not remember either Shelley Poiron or Ithan Bullard;
- She says she did not search rooms for drugs and alcohol and did not believe anyone else was doing that, but that the current practice is to search if there is any suspicion of use;
- Ms. Sutherland believes that NWTC should have the right to demand blood and urine tests to search for drugs and alcohol;
- Ms. Sutherland feels that a “sniffer dog would be of value at NWTC”. She also believes that more one-on-one counselling and a family approach to counselling including partners, would be of benefit;
- She also said that NWTC is just now starting to do “exit interviews”;
- She said that in the four months Nicole Redhead was in stage two, she had 12 counselling sessions with her. As well, she saw her every day in the facility and the client never complained to her of being overwhelmed;
- She noted that Jaylene was a happy, well-behaved child;
- She said that she never noticed bruises on Jaylene.

Daphne Penrose (Acting Supervisor of the Child Protection Branch)

Testimony July 17, 2013

[163] Ms. Penrose has a Master’s Degree in Social Work. Prior to her current duties, she was manager of quality assurance for the Child Protection Branch.

[164] Pursuant to Section 8 of the Service Purchase Agreement (SPA) (Exhibit 5), between the Government and NWTC, Ms. Penrose conducted a Quality Assurance Review audit on NWTC. The review was done in a period from May, 2011, to December, 2011, and was overseen by an Advisory Committee. That committee included the Executive Director of NWTC, Lucille Bruce, Annetta Armstrong from NWTC, as well as an NWTC board member.

[165] Ms. Penrose testified that:

- The audit uncovered amongst other concerns, that NWTC was not reporting issues concerning the safety of children at the Centre to the relevant mandated child welfare agencies. As well, they reported that children were being left in babysitting situations in the care of women who posed a safety risk;
- Ms. Penrose said that the audit also raised a concern about the ratio of children living at the Centre to the staff on duty. This was particularly the case after hours, as most parent-child visits happened at night or on weekends and NWTC staffing levels were at their lowest at that time;
- Additionally, the audit discovered that NWTC was not following their own policies as to how to handle women who were returning on passes from the Centre under the influence of drugs or alcohol;
- That the Child Protection Branch raised the above safety concerns with NWTC and were satisfied that the Centre addressed them appropriately;
- The Quality Assurance Review is found at Binder C2, which is part of Exhibit 2. At page C5, there is a list of 14 recommendations;
- Recommendation number four suggests that staff at NWTC should have access to regular clinical supervision to assist in case planning. Ms. Penrose told the court that most of the therapeutic tools used at NWTC were self-assessment tools and this was traumatic for clients and should have been overseen by someone with clinical training;

- Ms. Penrose agreed that in many cases, “counsellors” and others at NWTC who were placed in positions of trying to provide rehabilitative therapy, were not qualified to be serving those functions;
- That recommendation number five reflected concern that record retention at NWTC was lacking and particularly as to “record retention requirements for CFS generated documents”;

[166] Recommendation number six reads as follows:

“6. That NWTC be encouraged to improve the quality of services by developing and implementing a regular schedule for auditing client files to ensure that:

- File information is well organized and accessible;
- Files contain all required forms and documents;
- Documents/case notes are dated and signed;
- Forms are completed as intended;
- Information is documented clearly and objectively;
- Files provide a complete record of client activity and progress; and
- Closed files contain all documentation pertaining to the client.”

[167] Ms. Penrose indicated that this recommendation speaks to the inadequate file maintenance that had been carried on at NWTC.

[168] Further, she testified that:

- That the audit also determined that practices at NWTC had not been adequate as to incident reporting;
- The Quality Assurance Report included at recommendation number eight suggestions as to training and orientation for staff, particularly as to “prioritize the safety and well being of children” (C-26);
- The audit also recommended that NWTC amend their procedures around parent-child visits at stage one, residents caring for other resident’s

children, admission of residents under the influence of drugs and alcohol and minimum staffing coverage on weekends and after hours;

- Recommendation number ten required NWTC to overhaul its admission/intake processes “to ensure there are mechanisms in place to help assess the agency’s ability to both meet an applicant’s service needs and mitigate any risks the applicant may pose to the safety of others in the facility”;
- Recommendation number 12 deals with the suggestion that NWTC needs to “develop more formal service agreements with referring CFS agencies”. This recommendation suggested changes to assure that service expectations were clear and well understood;
- Ms. Penrose also said that their review revealed that NWTC client files were incomplete, forms were missing, visits were not documented, etc. She said that she is satisfied that since this review was conducted, NWTC has made significant progress in improving file recording;
- Ms. Penrose said that NWTC staff, when interviewed, made complaints that CFS workers were not making regular contact with their clients;
- Ms. Penrose accepted the suggestion that in light of the evidence heard at the Inquest about “rampant” drug and alcohol use in both stages of NWTC, that it is incumbent on the Child Protection Branch to take a very serious look at whether mandatory drug and alcohol testing or some other mechanisms should be put in place at NWTC to ensure that it truly is a “safe house” and an alcohol/drug free facility.

Barry Reid (Drug and Alcohol Technician at Addictions Foundation of Manitoba)
Testimony September 9, 2013

[169] Mr. Reid testified that he is a qualified and certified Department of Transport specimen collector. He has been managing the Addiction Foundation of Manitoba’s (AFM) specimen collection program.

[170] He also said:

- That AFM does two forms of specimen testing: urine and breath/alcohol;
- That 63% of the testing they do each year is commissioned by CFS agencies;
- That in the year 2013, they performed 548 tests;
- That the breath test tests only for alcohol and provides information as to whether the tested person has had alcohol in their system within the past six to 12 hours. The urine test can test for cocaine (shows presence within two to four days) and marijuana (up to ten days for infrequent users and up to 30 days for longer time users);
- That the frequency of requests for this testing has gone up in the last ten years;
- That the charge for the breathalyser test is \$50.00. The cost as to the urine test depends on how many drugs are being screened for, but generally the cost is between \$100.00 to \$140.00;
- That the process of collection is relatively straight-forward and they have in the past sent collection kits to social workers, etc., who have conducted the tests independently of AFM;
- That as of October, 2013, AFM will no longer be performing this testing, but these services are provided by five other testing facilities in Winnipeg.

Dana Fae (Drug Tester)

Testimony September 11, 2013

[171] Ms. Fae runs a testing service which does urine and hair analysis testing for the presence of drugs.

[172] Ms. Fae said:

- That her company charges between \$80.00 and \$100.00 for urine sampling. The higher price includes testing for all the common drugs and for alcohol. Additionally, they do hair follicle testing for drugs. That test can show the

presence of drugs ingested within the last three months (hair from the head) or one year (bodily hair);

- Ms. Fae testified that she has previously done testing for child welfare agencies and feels that she can absorb much of the testing work that the AFM is no longer doing;
- Ms. Fae said that certification to become a drug/alcohol tester can be obtained by on-line instruction.

Heather Mitchell (Director of AFM for Eastern and Central Manitoba)

Testimony September 12, 2013

[173] Ms. Mitchell explained that the AFM was no longer prepared to do alcohol/drug testing because this work was no longer a priority. She said that their decision to stop was not based on the costs of the testing or lack of viability from a funding perspective.

Elsie Flett (CEO, Southern Authority Child and Family Services)

Testimony September 10, 2013

[174] Ms. Flett testified that she is the Chief Executive Officer of the Southern Authority which is the organization that oversees First Nation child care agencies in the southern part of Manitoba. She has 36 years of experience in child welfare.

[175] She testified that:

- CFSIS is a provincial child welfare data base developed in the early 1990's as a case management system. It is a province-wide system that collects data on children in care and families who are consumers of child welfare services. She said that the agencies of the Southern Authority have been using this system for the last five to six years;
- The system allows involved professionals to enter data about children and families and other involved participants to access that data all over the province. As well, it allows workers who are taking over a family's file to go on CFSIS and access all previous reports and other information that has been compiled on that file;

- She said that in the last few years, the Southern Authority has trained approximately 1,700 staff people as to how to use CFSIS;
- That all southern agencies except one, use random drug and alcohol testing as one of the tools to assist them in child protection work;
- She said that drug and alcohol testing is used sparingly, but it can be valuable if the clients are co-operating. She considers it an important tool. The decision as to whether to use it is done on a case-by-case basis;
- That FASD and its consequences are becoming an increasingly big problem in child welfare and agencies have to adapt by developing treatment plans that are tailored to people with this affliction;
- External reviews after the Phoenix Sinclair death recommended that each agency have an FASD specialist. Funding is not available at that level and instead there is one specialist for each authority;
- That the Southern Authority has emphasized FASD awareness for front-line workers, but workers with heavy caseloads cannot do the follow-up work necessary to deal with this issue. She sees the development of more FASD expertise as an urgent requirement that would be cost effective for government;
- She said that the level of awareness and understanding of FASD amongst frontline workers is not adequate;
- She agrees that there should be mandatory training for workers and perhaps specialized training for issues such as high risk families;
- Ms. Flett said that workers dealing with FASD affected mothers have to approach that relationship differently. "You cannot just tell them to do something and they will do it". She said FASD affected clients are easily agitated, have difficulty focusing and their learning environment has to be different than a non-affected client;

- That 80-85% of mothers with children under child welfare protection with the Southern Authority are addicted to drugs or alcohol and more than half of those maintain their addiction through pregnancy;
- She feels that a foundational policy or provincial standard should be in place as to drug/alcohol testing so that a policy can be applied in a reasonable manner;
- That she supports the development of an improvement to CFSIS or to CUREM (a new system being developed as a potential replacement for CFSIS) that would allow a worker to type in a child or family's name and have immediate access to all file material. It would also eliminate the possibility of loss of notes because all the worker's notes would be on the data file. Ms. Flett believes this is achievable and may only be a few years from fruition. She also supports access to child welfare files (subject to some limitations) by satellite agencies such as NWTC, group homes, etc., so that professionals working with a child or family can readily access file material without struggling with the difficulties of connection with agency workers;
- Ms. Flett said that the Southern Authority does not have a policy that prohibits pursuit of a Permanent Order as to a child if the parent or parents want to continue to try. She said that with the agencies of the Southern Authority, the protection of children is preeminent. She said they are committed to trying to keep the parents involved after a Permanent Order takes effect, and there is always the possibility of return after a Permanent Order.

Dr. Garry Fisher (Clinical Psychologist)

Testimony September 12, 2013

[176] Dr. Fisher told the court that he is an adjunct professor at the University of Manitoba. One of his responsibilities is to supervise students and counselling at the university. Additionally, he conducts court ordered assessments pursuant to Section 34 of *The Youth Criminal Justice Act*, and also does FASD assessments. In addition to his work at the university, Dr. Fisher is employed on a full-time basis at

the Manitoba Adolescent Treatment Centre (MATC). He also co-ordinates youth counselling at the Manitoba Youth Centre and two other locations.

[177] He testified amongst other things, that:

- He provides training to agencies and groups as to how to identify and how to improve communication with FASD affected individuals;
- Dr. Fisher said that FASD people have certain common traits, including:
 - They repeat mistakes and fail to profit from life experiences;
 - They are impulsive and do not think ahead as to the consequences of their actions;
 - They “leap without looking” and tend to “blurt out” what they are thinking. They do not have an internal dialogue filter;
 - They have a poor working memory. He gave as an example someone going down to the basement and forgetting that he/she went down there to get a hammer;
 - That they tend to “shift” or move from one activity to another;
 - They have great difficulty in changing routine.
- Dr. Fisher also said that the child welfare system and our health care system do not currently have the tools to deal with people with FASD. We have a mental health system, but FASD does not fit within that system;
- He said that those involved in trying to design effective programming for people with FASD should realize that structure and structured programming is important;
- Dr. Fisher said that “it is quite possible to help people who are either cognitively limited or FASD affected, but the kind of help required is very different than for a non-affected person. FASD needs a higher intensity intervention even than people with cognitive limitations”;

- Dr. Fisher believes that formal testing and assessment (which is not done in Manitoba for anyone over the age of 18 years unless privately funded), is not necessary. He believes that front-line workers can be trained to conduct “working assessments” of individuals to red flag FASD and identify strengths and weaknesses of the individual with the objective being to provide better service to them;
- Modelling and visual reminders can be very effective in teaching people with FASD;
- Dr. Fisher testified that people affected with FASD can be helped with “compensatory training”. This training recognises problems and teaches strategies on to how to compensate for weaknesses. He gave as an example an affected person who cannot remember to change a baby’s diaper. If the person is taught to put a timer on and to change the diaper whenever the timer goes off, then this can get around the initial problem.

Bernice Cyr (Executive-Director of NWTC)

Testimony December 16, 2013

[178] Ms. Cyr testified that:

- The NWTC is a facility designed “for the empowerment of women”. It is to provide residential support to aboriginal women and also to provide service pertaining to trauma, addictions and counselling;
- That the CFS agencies think that NWTC is a treatment facility, but it is not a treatment facility;
- That subsequent to the death of Jaylene Redhead, the Centre has brought about some significant changes. Amongst other changes, they now do in-house drug screening through urine testing. They also do alcohol testing with a breathalyser machine. Ms. Cyr said Centre staff are also now doing regular room checks;
- That if a prospective resident fails the initial drug test, then the treatment plan is amended accordingly; sobriety is not a prerequisite to admission as almost all residents are dealing with addictions;

- That NWTC now conducts drug screening on residents in stage two of their facility if they have a suspicion of drug use;
- That drug and alcohol testing began at NWTC in October of 2013. At this point, they test: on admission; after 90 days as a resident; and on suspicion of drug use. This pattern is applicable to both stage one and stage two;
- That in response to a recommendation from the Quality Assurance Report done by the Child Protection Branch, NWTC has applied for and been granted funding to hire a resident Clinical Director. It is planned that that person will oversee programs and provide quality control;
- That the administrators of NWTC acknowledge that stage two was never staffed properly and that when Nicole Redhead was there, it was only really “an apartment block”. They have rectified that situation and now believe that it has better staffing levels that it did when Nicole Redhead was resident;
- That in general, however, she believes that NWTC remains under-staffed;
- That they have recently developed and started to utilize case management software to monitor client files;
- That where formerly “incidents” such as alcohol or drug use were not necessarily reported, they are now striving to have all occurrences reported internally and to the relevant CFS agency;
- That the urine tests that the NWTC is using cost between \$4.00 and \$6.00 to purchase. They have had six positive tests so far (October 2013 to December 2013) in stage one and two out of eight tests in stage two. In Eagle Women’s Lodge, which is another residential facility administered by NWTC, they have had two out of nine positive tests. The testing is conducted at the facility by a designated staff person;
- That she considers the drug testing to be a “good conversation starter”, meaning that “we don’t have to do that dance anymore”. A positive test does not mean ejection from the program, but it does mean that the drug or alcohol use is out in the open and can be realistically addressed;

- The information concerning drug/alcohol testing is provided to the CFS agency relevant to the particular resident;
- Staff at NWTC feel more secure with drug and alcohol testing because they want to know where these problems lie;
- NWTC is prepared to administer drug/alcohol testing at the request of child welfare agencies;
- She acknowledged that she still receives feed-back from residents that they are disturbed by drug and alcohol use by other residents living at NWTC;
- Residents are now being searched for alcohol and drugs on returning from trips away from the Centre;
- That stage one should include a treatment component with treatment beds because some of the residents need more actual treatment than what the facility presently provides;
- That stage two should be a family care model designed to assist the re-unification of families;
- That NWTC now insists that CFS agencies with clients in the Centre provide them with an up-dated case plan every 90 days;
- That pursuant to recommendation number 13 of the Quality Assurance Report, NWTC now has a children's counsellor on staff. The role of that person is to support the mother/child unit. This job also involves looking for suitable available resources to assist clients in both stages at NWTC;
- That they are now trying to be more sensitive to women afflicted by FASD and are trying to adjust the language of instruction to be more accessible;
- That NWTC at this point basically operates on the assumption that all women coming into the facility have some cognitive deficit;
- Because FASD people learn differently, they are now asking staff to continually assess whether the women taking the programming are actually absorbing the content of the training material;

- They are now training staff to realize that if someone repeatedly struggles with tasks, assume that an alternative approach is needed;
- She said: "I have seen lots of women who have numerous certificates from CFS as to parenting, who as I watched them, picked their child up by the arm. They have been there, but the message has not gotten through. We are now trying to improve our staff awareness as to identifying these women and then once identified, to try to use more effective techniques to enhance comprehension". As an example, Ms. Cyr says they have found that touch and affection and eye contact are effective in assisting communication with FASD clients;
- That "we are not experts at FASD, but if we realize our resident has that issue, then we bring in outside resources";
- That their NWTC employee wage levels are far below MGEA standards and that makes it harder to attract qualified staff;
- She acknowledged that front-line NWTC staff needed to be better trained and more professional;
- That formerly, training of staff was not a priority;
- That when Nicole Redhead was at NWTC, it was enough for a resident to have done the programming to qualify to move to stage two and have children returned. This has changed. Currently, women do not move from stage one to stage two unless NWTC is satisfied that the client has both stabilized and absorbed the programming and can demonstrate that they understand how to keep themselves safe and maintain sobriety.

John Charles Rodgers (CEO, General Child and Family Services Authority)

Testimony December 17, 2013

[179] Mr. Rodgers is the Chief Executive Officer of the General Child and Family Services Authority. The General Authority is the body responsible for the administration and delivery of child welfare services to all persons not receiving services from another authority. The General Authority provides guidance and

oversight with respect to the administration and delivery of child welfare services from all non-Aboriginal agencies and also regional offices.

[180] Amongst other matters, Mr. Rodgers testified that:

- The single biggest factor in the successful provision of child welfare services is securing the trust of families and working collaboratively to engage with the families;
- That the safety of children is at the forefront of everything that they do;
- That the General Authority now has nine “leading practice specialists”. These are individuals who are highly experienced and trusted to design curriculum;
- These people then take a “best practices curriculum out to staff and mentor them and coach them on an everyday basis”;
- That national studies indicate that 16% of pregnant women in Canada drink while pregnant;
- As to FASD, they have a specialist who is centred in Winnipeg. She supports the provision of FASD services to all their agencies. They have designed a two-day FASD “foundational training program” taught by the FASD specialist. This is basically a mandatory program;
- Beyond that, each agency has individuals who go on for advanced FASD training which is up-dated every year. These people are known as FASD team leaders and are available to consult with their colleagues in each agency;
- As a result of training from their original specialist and other provided training, they now have over 20 FASD specialists amongst their agencies. The Authority has received positive feed-back about this program. Training took two to three years to put in place. All their front-line workers have received training as to identifying FASD affected persons;
- Every year the Authority sends the FASD specialist and some of the team leaders to a highly regarded national conference on FASD to learn about

the latest research, as well as to take training in “best practices” as to dealing with FASD;

- That every worker in the General Authority receives an FASD handbook. This document is in a question and answer format to support workers in a user friendly way as to decisions needed to be made as to FASD;
- He feels that FASD positions should be created that allow FASD specialists to carry caseloads;
- Respite for FASD parents should be re-addressed and looked at as being required life-long, rather than on a limited basis. An example is the “Stepping Out on Saturdays” program which allows respite for FASD parents one day per month;
- He thinks a more widespread application of FASD training for parties who are frequently dealing with FASD affected persons, such as lawyers, would make services provided more effective;
- That the General Authority has made FASD training available to a variety of outside agencies;
- That training in regards to FASD being given to workers is normally the first FASD training that they have ever received;
- That FASD awareness is growing year by year and is much further along now than it was in 2008;
- They have created specific standards for the agencies of the General Authority, as they did not feel the government standards were adequate and because their workers told them that the government standards were too hard to read and were not helpful;
- They also developed a “flow chart” to help front-line workers with all levels of decisions workers are faced with as they work through their files;
- The focus in modern social work is not just on the client attending programming, but must be concerned that they are retaining or absorbing something from the material.

WINNIPEG FIRE AND PARAMEDIC SERVICE REPORT (Dated June 29, 2009)

[181] In addition to all of the foregoing evidence provided by witnesses who testified at the Inquest, it was agreed by all counsel that the Winnipeg Fire Paramedic Service Report (Exhibit A18 from Binder IA) would be entered as evidence.

[182] This report dated June 29, 2009, provides the narrative of Paramedic T. Brown MS75 (lic 1635, reg 4059) which states as follows:

“Arrived at 203-116 Robinson Street simultaneously with R6 and P-41 (22:40 hrs). Walked up to 2nd floor apartment and found apartment with heavy smell and smoke with odour of marijuana. Was directed into first bedroom of hallway...WFD members had arrived moments prior and were starting CPR. Due to limited space – child moved to front entry – living room area and CPR – resuscitation attempted.

Initial rhythm asystole, see history of events in treatment area.”

AGREED STATEMENT OF FACTS RELATING TO THE NATIVE WOMEN'S TRANSITION CENTRE

[183] All counsel agreed that certain information which had been gleaned from Exhibits 17 through 23 (log books from NWTC) would be presented in the form of an Agreed Statement of Facts, which became Exhibit 26 in these proceedings. This Agreed Statement of Facts can be found as Exhibit 26 herein.

TO DETERMINE THE CIRCUMSTANCES RELATING TO JAYLENE'S DEATH

[184] Jaylene Redhead died as a result of being suffocated by her mother. At the time of her death, she had significant bruising on a number of areas of her body, as well as human bite marks on her inner thighs. I am satisfied that some of the significant bruising on the child's lower body resulted from the television in her mother's suite falling onto her. It is possible that some of the bruising may have resulted from resuscitation attempts by emergency medical personnel. It is also possible that some of the bruising resulted from the normal mishaps of a 20-month old child. I believe the human bite marks and possibly some of the bruising resulted when Jaylene's mother, Nicole Redhead, left the child with

inappropriate babysitters. I also find it likely that some of the bruising resulted from the mother's abuse of this child.

[185] I base my finding that the mother abused Jaylene on a number of things, including her admission to her boyfriend in a phone call, a transcript of which is before the Inquest as Exhibit II F5, p. 20 lines 23-25 and p. 21 lines 1-3, wherein she said:

"I have to Preston, man. I can't live like this, man. Seriously, man. I've always fucking – I'm always stressing out, and when I stress out, I'm taking it out on Jaylene. And look what happened? She was crying so much, I fucking covered her mouth and she stopped breathing, man. I covered it too long".

[186] I believe these comments reflect Nicole Redhead's growing frustration. Also revealing as to perhaps how far Ms. Redhead had fallen in caring for Jaylene, is another portion of the phone call between she and Preston Tran, p. 15 lines 23-25 and p. 16 lines 1-2:

Preston Tran: "You told me before she cried until she went blue the one time and stopped breathing. But you were there to see her. Remember, you were there to see her. That's why you stopped her and helped her. This time you weren't in the room to help her."

[187] Additionally, the mother had, with no explanation and not long before the child died, pulled the child out of the NWTC daycare, despite her stated desire to have as much respite as possible. Dr. Phillips, who testified as to the autopsy results, said that most of Jaylene's bruises appeared recent.

[188] Evidence from a number of other residents at NWTC spoke about Nicole Redhead appearing to become increasingly frustrated and unhappy. As well, despite her testifying at the Inquest that she would never strike her child, she admitted to Dr. Dell Ducharme, who did a psychological/parenting assessment of her, that she had previously "abused" (her word) an earlier child.

[189] There is evidence from Nicole's testimony that on the day of the child's death that she had twice purchased crack cocaine and had at one point left Jaylene at a house where she had gone to buy crack. It would appear that during the time Jaylene was left at that house, the child was bitten on the upper inner thigh. It was also noted at the autopsy that the child had pinch mark bruises on

the clitoral hood. These bruises, along with the human bite marks found on Jaylene's body at the time of the autopsy, and their location, invites speculation as to whether Jaylene may also have been sexually violated.

[190] Nicole Redhead testified that she smoked crack cocaine in her suite on the night of the child's death and that she had smoked crack in her suite "many times".

[191] All of these circumstances combined with the comments made to the boyfriend in the call she made to him that evening, reveal a level of stress and frustration consistent with abuse.

[192] The above circumstances are the immediate events at the time of Jaylene Redhead's death. The broader circumstances, which involve an examination of how she came to be in that situation in the first place, require an examination of the child welfare services that were provided to her. That examination will be done in response to the October 25, 2011 letter from Chief Medical Examiner, Dr. T. Balachandra, to Chief Judge K. Champagne, wherein the Chief Medical Examiner asks that an Inquest be called:

- i) To fulfill the requirement for an inquest as defined in s. 19(1) and s. 19(2) of *The Fatality Inquiries Act*;
- ii) To determine the circumstances relating to Jaylene's death;
- iii) To examine the function and operation of "safe houses" with regard to (but not limited to) the following factors:
 - (a) Staff/client ratio;
 - (b) Supervision; and
 - (c) Criteria used to determine which child/children can be reunited with their parent/parents (who, most often, are in need of services themselves) and when; and,
- iv) To determine what, if anything, can be done to prevent similar deaths from occurring in the future.

THE DECISION TO RETURN JAYLENE TO HER MOTHER

[193] Nicole Redhead has given birth to four children, including J.R. and T.R., both of whom were born before Jaylene, and B.R., who was born shortly after Jaylene died. All three living children are now Permanent Wards. At the time of Nicole's pregnancy with Jaylene, she had been a resident of the Native Women's Transition Centre on three previous occasions. As she acknowledged to Dr. Dell Ducharme when he did a psychological/parenting assessment of her, she had either left that facility or been asked to leave each time because of drug or alcohol abuse. Both J.R. and T.R. had been born in withdrawal from drugs and T.R. was born when Nicole was a resident at NWTC and thought to be doing well.

[194] Jaylene was born after a gestation where the mother had only one pre-natal visit and she acknowledged that she had been using drugs. Jaylene was also born in withdrawal and was apprehended at birth.

[195] Nicole Redhead herself, and Awasis Agency personnel (Shelley Poiron and Darla Spence) and staff from NWTC, acknowledged that Nicole had a pattern of having children, entering NWTC in an attempt get them back, apparently doing well for a period of time, and then relapsing with a return to drugs.

[196] In light of the above pattern, one might well ask why the Awasis Agency, as the apprehending authority, did not just proceed through court for a Permanent Order and seek a permanent placement for this child. Even Awasis social worker, Shelley Poiron later testified that "she had never had anyone as deeply troubled as Nicole Redhead". As well, this same worker had placed on Ms. Redhead's file the question "why are we doing this?" as to Agency efforts at re-unification.

[197] The reason provided by Awasis workers as to why efforts were made to re-unify despite Ms. Redhead's background was that the Awasis Agency believes that as long as the parent wants to try, then they will try as well (this philosophy is not shared by Elsie Flett, CEO of the Southern Authority who testified at the Inquest that the Southern Authority operates on the principle of protecting the child first and if they see a situation as hopeless, then they proceed for a permanent order even if the parents are opposed).

[198] If Awasis, or any child welfare agency, is going to operate with the “never quit” philosophy, then it seems to me this has to be done with great caution. If dealing with a known addicted parent under similar circumstances to this case, then the situation must be considered high or extreme risk and that designation should not change until significant time has passed and the parent involved has emphatically established that the risk to the child has considerably diminished.

[199] In this case, Nicole Redhead did what she had done with both previous children and what she had done on each of her three previous stays at NWTC; she continued to drink and use drugs. As a result, the child, Jaylene, was placed in dangerous situations. Jaylene was left in unsafe circumstances where it appears she was being physically and possibly sexually abused. As well, it appears that she was being physically abused by her mother in the last days of her life and neglected such that she was being left alone at only 20 months of age while her mother shut herself in the bathroom becoming “very high” on crack cocaine.

[200] Evidence from the Inquest tells us that while in stage one at NWTC, Nicole was regularly drinking alcohol. She admitted that she was drinking even at the time when she was taking day classes at Pritchard House for alcohol/drug rehabilitation. As well, we heard that during one of her previous stays in NWTC, at the time when her child T.R. was born, she had been caught drinking in the facility. One of Ms. Redhead’s fellow residents at stage one, Cindy Einarson, testified that Nicole Redhead had relapsed with crack while in stage one. Skye Sanderson, the child’s paternal grandmother, had testified that Nicole asked her to take Jaylene on weekends “because she wanted to party”.

[201] Nicole herself admitted that she smoked crack many times in stage two.

[202] The Awasis Agency developed case plans (Exhibit II, D13 and D14) which were filed for court purposes when the matter appeared in court on October 31, 2007. These plans set out requirements that Ms. Redhead attend for residential alcohol treatment and consent to random drug and alcohol treatment. Obviously both of these requirements related to this woman’s history and apparent status as a drug addict. Around the same time this plan was being developed, Ms. Redhead checked herself into the Native Women’s Transition Centre. The Agency saw this as a positive step and they were encouraged to continue to work with her. At some point, appointments were made for her to attend intake sessions at

River House, which operated as a residential alcohol and drug treatment facility operated by the Addictions Foundation of Manitoba. These appointments were not kept (on one occasion, Ms. Redhead's appointment conflicted with a court appearance) and the residential treatment plan was set aside and replaced by a plan that involved rehabilitative counselling at a day program at Pritchard House. The Agency indicated that this change was made because they felt she was better accommodated by living at NWTC and she would lose that spot if she went into residential treatment. As we now know, Ms. Redhead was drinking while she was at NWTC and while attending Pritchard House, but neither NWTC or the Agency knew that at the time.

[203] The random drug testing component was also dropped at some point because the Agency felt that it was no longer necessary as Nicole was apparently living in a "safe house" where no alcohol was allowed. The Agency did not know that not only was Nicole drinking on the premises at NWTC, but that after 90 days of residence, she had weekend passes which allowed her to be absent from the Centre from Friday at 4:30 p.m. to Sunday at 8:30 p.m. when she had Jaylene, and to 10:30 p.m. before she had Jaylene.

REVIEW OF AGENCY CONTACT WITH NICOLE REDHEAD

[204] In 2007, the Agency became aware that Nicole Redhead was pregnant again after contact with her on July 27. They met with her in advance of the birth on July 30 and August 30. The worker saw Nicole twice at the hospital on October 19 and 20 at the time of Jaylene's birth. There was a face to face meeting at Awasis on October 31. Further contact took place on November 7 when Nicole Redhead was served for court, November 28 at court, and December 12 at court.

[205] In 2008, the following contact took place between the Agency and Ms. Redhead: a case conference was held at NWTC on January 30, 2008, which included Gloria Nobiss and Rene Sinclair from Aboriginal Health and Wellness. Other similar case conferences took place on February 19, 2008, March 27, 2008, May 5, 2008, June 2, 2008, November 6, 2008 and December 4, 2008. As well, Darla Spence met with Ms. Redhead and Jaylene on July 10, 2008. Michael Wood, from Awasis, met with mother and child on September 12, 2008.

On December 16, 2008, the Agency served Nicole for court.

[206] In 2009, Michael Wood met with Nicole Redhead at NWTC on February 13. As well, Ithan Bullard visited Ms. Redhead on April 28, 2009, to conduct a Safety Assessment. On June 15, Frances Swampy from Awasis visited Ms. Redhead.

[207] Throughout this 23-month period, the Agency and Nicole met face to face on 16 occasions other than contact for the purposes of serving her for court or seeing her at court or at the hospital. Two of those occasions preceded the birth of the child. Seven of these occasions were case conferences that involved meeting with personnel from NWTC as well. This means that after the birth of Jaylene Redhead, the Agency and Nicole had face to face, one-on-one contact on seven occasions.

[208] In addition, there was telephone contact on eight occasions: January 18, 2008; February 7, 2008; February 13, 2008; July 16, 2008; October 29, 2008; November 19, 2008; March 11, 2009; and June 8, 2009. At least three of these calls were initiated by the client.

[209] It is always difficult after the fact to second guess decisions made in social work situations. But on the face of it, this does not appear to be adequate face to face contact for someone as high risk as Nicole Redhead. The Agency met relatively regularly in case conferencing at NWTC (other than the gap from June 2, 2008 to November 6, 2008 and apparently none in the six months preceding the child's death), but there is very little one-on-one between worker and client. Perhaps this is why when Nicole testified at the Inquest, she said she barely knew the Awasis workers.

[210] It is also noteworthy that both John Rodgers and Elsie Flett said that the most important component of good social work is establishing a good connection between the worker and the client.

[211] As stated earlier, sometimes it is difficult to judge these matters after the fact. In this case, it is made more difficult to criticize involved Awasis workers in this regard as they felt that significant contact and monitoring was taking place between NWTC staff and Nicole, and as well they were being told regularly by NWTC staff that Nicole and Jaylene Redhead were doing well.

[212] From the Agency's perspective, Nicole Redhead had completed outpatient alcohol programming at Pritchard House, she had participated in a Psychological Assessment as requested and she had attended required programming at the Transition Centre. As well, the Agency did not receive any negative reports from NWTC as to Ms. Redhead being absent from the facility or concerns about her sobriety. Hindsight now tells us that the Pritchard House programming was taken while Nicole Redhead was regularly drinking, that the programming at NWTC had so little affect on her that she testified she barely remembered taking it and she was drinking alcohol regularly while at stage one (other than perhaps for the first three months before she was given weekend leave) and using drugs on the same basis as when she was at stage two. However, the Agency did not know all of that and it is unknown whether more regular contact would have revealed that information.

[213] The report of the Children's Advocate Office states that the Awasis Agency "did not fulfill its mandate". It then goes on to detail the social work and acts of commission and omission by the Agency. In my opinion, this tragedy did not arise because of poorly kept files, not enough planning or contact, or frequently transferring workers. The Inquest spent a considerable amount of time focusing on these issues and I believe this was time well spent. But if any answers have emerged, they are not found by looking at the day to day work of the Agency.

REVIEW OF NICOLE REDHEAD

[214] The Agency did not know that Nicole Redhead had not maintained sobriety in stage one although this apparently was known to fellow housemate Cindy Einarson. Additionally, after Jaylene was returned to her mother and the mother was leaving her regularly (Ms. Sanderson said "every weekend) with the grandmother, the grandmother said that in her opinion on approximately six occasions the mother was either stoned or drunk when dropping the child off or picking her up.

[215] The fact that random drug and alcohol testing was not required in this matter was later described by Psychologist Dr. Ducharme as "a major miss". Several of the involved lawyers in this matter, in making their final submissions, suggested that this failing led directly to this child's death. This issue will be looked at in more detail at a later point in these findings.

[216] As a result of Ms. Redhead being a resident at NWTC and having gone to and completed a day program at Pritchard House, the Agency dropped the requirement of random drug testing. The Agency, through social worker Shelley Poiron, fairly regularly contacted NWTC and on every contact were told that Nicole Redhead was doing well. Apparently, the criteria for doing well was that for the most part Ms. Redhead was doing chores as required, was maintaining her suite as expected and was attending mandatory programming.

[217] Repeatedly, Agency personnel stated that their reasoning in moving forward with access, increasing access and eventually re-unification, was the fact that NWTC reported all was well with Nicole and that she was going to programming.

[218] Unfortunately, there is some question as to just how much Nicole was getting from the programming.

[219] Nicole described herself to Dr. Ducharme as being “alcohol affected” from her mother’s gestational drinking. The Agency file indicated early on that FASD was suspected as an issue for Ms. Redhead. Both Agency worker Shelley Poiron and supervisor, Darla Spence, suspected that she was FASD. Gloria Nobiss from NWTC said that she did not think that Nicole Redhead understood the material she was supposed to be learning. Ms. Nobiss also reported that Nicole did not do assignments that she was assigned. Fellow resident Dawn Simmons said that it was clear that Nicole was not engaged in the programming. Bernice Monkman, who dealt with Nicole, said that she never got past Nicole’s FASD and made no “headway” with her. Wanda Ferland McKenzie, who also dealt with Nicole Redhead at NWTC, said that there was a “brick wall” around Nicole. “It was very hard to break through with her”.

[220] Wanda Ferland said that she did not believe that Ms. Redhead could process what was being asked of her. “I did not think she was comprehending”. She said Nicole “played like a little girl”.

[221] Marie Sutherland, counsellor at stage one and later at stage two, was also suspicious that Nicole was suffering from FASD.

[222] Nicole Redhead testified at the Inquest that she could not remember having taken counselling as to addictions at the NWTC.

[223] Despite almost unanimous awareness of Ms. Redhead's status as an FASD affected person, there is no evidence that either the Awasis Agency or NWTC modified their treatment of her accordingly.

[224] Elsie Flett, speaking from many years of experience in child welfare, testified at this Inquest that workers dealing with FASD affected mothers have to approach that relationship differently. "You cannot just tell them to do something and they will do it". She said FASD affected clients are easily distracted and their learning environment has to be tailored to their needs.

[225] John Rodgers, CEO of the General Authority, said that until recently social workers assumed that if the client attended programming, then all was good. He said with a growing awareness of the problems of FASD people it is not just about the "butt in the seat", it is about actually helping them to be better parents.

[226] Dr. Garry Fisher, psychologist from the Manitoba Adolescent Treatment Centre, listed clinically accepted character traits of FASD afflicted persons. Those traits are set out earlier in this decision under a summation of his evidence. Suffice it to say that many of the traits he enumerated were evidenced in Ms. Redhead. Dr. Fisher also testified that specialized programming is necessary for FASD afflicted persons. He said "it is quite possible to help people who are either cognitively limited or FASD affected, but the kind of help required is very different than for a non-affected person. FASD needs a higher intensity intervention even than people with cognitive limitations".

[227] The previously mentioned summation of his evidence gives other examples of how programming can be designed to assist FASD individuals. He also suggests methods to provide training and assistance to front-line workers in the recognition of and adaptation to affected clients.

[228] Justine Grain testified at the Inquest and said that Nicole as an FASD person, should have been serviced with some recognition of her affliction and should have been dealt with differently.

[229] There is no question that there is now greater awareness of FASD/FAE than in 2008 and 2009 when Ms. Redhead was at NWTC. At that time, front-line workers had literally no training. Shelley Poiron acknowledged that she had no FASD training. She said that even though she suspected Nicole was FASD affected, she did not modify the way she provided service to her. Gloria Nobiss says she had only limited training in FASD matters. She also said that even after she read the Psychological Assessment of Nicole Redhead, she did not modify the way she treated her. Ithan Bullard, Awasis worker, said that even if he had known that Nicole Redhead was FASD affected, he would not have treated her differently.

[230] Elsie Flett testified that currently the level of awareness of FASD issues is not adequate. It is certainly true that in this case there was very little awareness as to FASD and its impact. It is also arguable, as was suggested in the submission of Jurgen Feldschmid, counsel for the Northern Authority, that Ms. Poiron did not have the qualifications to deal with someone like Nicole Redhead. This point could arguably be extrapolated to include all of the social workers and as well staff at NWTC, as none of them had literally any FASD training. Annetta Armstrong, former executive director of the NWTC, said that her facility is not designed nor is it suitable for the “extreme cases”. It would appear that Nicole Redhead was an extreme case and one whose FASD affliction was either not noticed or was not dealt with appropriately.

[231] When Nicole Redhead testified before the Inquest, she said that she did not get the help she needed. She said the only help she got as to parenting advice was from other women residents. She said that she felt the Agency should have met with her more often. She said: “I did try to ask for help, they either said wait, or they told me to hold on” (as to assistance requested at NWTC). Gloria Nobiss told the Inquest that she thought Nicole Redhead needed more support from the Agency. The Agency says they tried to conform to contact once a month, while acknowledging that they missed May of 2009. Several witnesses told the Inquest that the Provincial Child Welfare Standards dictate that contact with a parent should be minimally once a month if the parent is considered low risk. If the parent is considered high risk, then contact should be once a week at minimum. While Awasis pegged Nicole Redhead as “high risk” at the time of Jaylene’s birth, they downgraded her to low risk shortly after she moved into the

Transition Centre. They did that because they believed the NWTC was a “safe house”. As it turns out, NWTC was not a safe house and Nicole, based on her history, etc., should never have been seen as anything but high risk.

[232] It is difficult to understand how Nicole Redhead could see herself as not being supported at NWTC. While that facility may have fallen down in other areas, at no time did evidence from the Inquest suggest that NWTC was not a supportive atmosphere. Each of the NWTC employees who testified were aware of Ms. Redhead and most of them had fairly regular contact with her. Nicole Redhead not only was in contact with NWTC staff through the required programming, but additionally she was provided opportunities for one on one counselling and to meet with Awasis personnel and NWTC staff at a series of case conferences. As well, there were regular meetings held with NWTC staff to discuss her situation. As to counselling, although it appears that towards the end of her stay in Memengwaa Place she had stopped going to counselling, there is evidence that she had 12 counselling sessions during the four months she had been there.

[233] There was some evidence that on some occasions Ms. Redhead did go to Gloria Nobiss of NWTC with complaints. In addition to the contact she had with the Agency personnel and NWTC staff, she also had a relationship with Rene Sinclair from the Aboriginal Health and Wellness Program.

[234] Ms. Redhead was involved on a daily basis with NWTC staff who seemed very open to listen to her. There is little evidence to indicate that she was complaining about her situation.

[235] Ms. Redhead in being interviewed by Ms. Dawson for the O.C.A. Report and in testifying at the Inquest, said that the Agency should have met with her more frequently and given her more support. When she was asked directly as to what she meant by support, her answer was “respite”. This despite the fact that at stage one she had regular babysitting and throughout the time she had her child with her, she was leaving her with the grandmother almost every weekend.

[236] Ms. Redhead’s assertion that she had little support was not supported by the evidence. It appears that she was not good at asking for help. It is also

possible that if there is a discrepancy between her perception and reality this might once again be indicative of her cognitively challenged status.

[237] The report of the Children's Advocate talks about the many missing, wrongly and inadequately prepared documents in the file of the Awasis Agency. As well, literally all of the workers and supervisors from that Agency testified that they had made more file notes, but they appeared to be lost. We also heard testimony from one former Awasis worker who, after lamenting that the Agency did not have a file clerk, told the court that at the time she left, there was a room at the Agency filled with file notes and materials stacked on the floor.

[238] It was acknowledged by both the Awasis Agency and the NWTC that their documentation left much to be desired. While this issue will be discussed in the recommendation section at a later point in this report, and while lack of documentation is never a good thing, it does not appear that poor documentation played a direct role in the death of Jaylene Redhead.

[239] The report of the Children's Advocates Office suggested that Awasis Agency abdicated its child welfare responsibilities to the NWTC. While it is understandable how the O.C.A. could come to that conclusion after conducting a file review of the Awasis file, I believe that conclusion is erroneous for the following reasons:

- i) No one from Awasis before the Inquest or in any of the file materials ever suggested that they were ceding responsibility to NWTC. While Awasis worker Ithan Bullard described NWTC as a "one stop shop", I, unlike Ms. Grain, did not see that as meaning that NWTC was taking over all responsibility in this case. I believe that all Mr. Bullard meant was that NWTC could provide Ms. Redhead with a residence, programming and a safe environment. While he may have been wrong as to the last of these features, I think his belief was understandable;
- ii) Although Awasis had what arguably could be described as infrequent face to face contact with Nicole Redhead, they did maintain relatively frequent contact of some kind with her. As well, they did have contact with staff from NWTC, at which time Awasis people asked as

to the well being of the client. Arguably the Agency would have had more regular contact if the reports they received from NWTC were not favourable;

- iii) Ms. Grain felt that the fact the Agency did not ensure that access visits between Nicole Redhead and Jaylene Redhead were supervised meant that they had turned this over to NWTC. I believe that there was a misunderstanding between Awasis and NWTC as to re-unification visits. Awasis, somewhat understandably based on statements made by NWTC staff, thought NWTC was monitoring the visits.

[240] What is surprising, for an area as important as this was, is that there is no evidence that the Agency ever asked who was supervising visits, nor did they ask to speak to or get a report from the person who was supposed to be supervising visits.

[241] This perceived lack of attention may have resulted from over-work. The Inquest heard testimony from every Awasis employee that they felt their service suffered from excessive caseloads, over-work and stress. During the 20 months of this child's life, her mother had four different Awasis workers, three different Awasis supervisors and arguably there were two periods where there was a gap between workers where no worker was assigned. (During one of these gaps, a period of almost three months, the Agency maintains that Ithan Bullard was the assigned worker. He says that he was not. He claims that whatever work he did on the file at that time was only on an on-call basis).

[242] It is noteworthy that there are no Agency records as to parent-child interaction from the time when visits were taking place. In any event, if the Agency had enquired, they would have been told, as was the Inquest, that staff at NWTC saw Ms. Redhead as being attentive and appropriate with her child.

[243] Once again, Jaylene Redhead did not die because her re-unification visits were not supervised, or because the parent/child interactions were not documented.

[244] As stated above, there certainly were areas where attention to the file could have been better. Dr. Ducharme testified that after he was engaged by Awasis to work with Nicole Redhead, he asked the Agency to provide additional background material. This was not forthcoming. Additionally, once his report was prepared, Dr. Ducharme invited Agency personnel to call him to discuss the report and he did not hear from them. Dr. Ducharme told the court that this lack of participation by the Agency was unusual. He says he now refuses to do reports of this nature unless the Agency provides background materials and the worker meets with him “face to face” to discuss it.

[245] Further, there is evidence that upon receipt of the report, it was not read by Awasis personnel for some time and at a later case conference, Ithan Bullard appeared for the Agency without having read the report. Additionally, the supervisor at the time, Darla Spence, acknowledged that she had only ever superficially read the report.

[246] Additional concerns around the psychological assessment stem from the fact that it was the document upon which the Agency relied to start visits between the mother and the child and to eventually return the child outright. The Agency appeared to rely on it without being mindful of the conditions Dr. Ducharme placed on his recommendations. He said that the child could potentially be reunited with her mother, “but only if the mother continued with rehabilitative therapy and that she continued to benefit from treatment”.

[247] I believe Dr. Ducharme now realizes that his language may have caused problems for the Agency. It is questionable as to whether Agency personnel either understood the limitations on the recommendation or could assess whether Nicole Redhead was continuing to benefit. Arguably all the reports they had were that she was sober. Without drug/alcohol testing, there was really no way to know whether she was benefiting from treatment.

[248] As well, by the time Ms. Redhead had been in stage one for some time and Jaylene was visiting, she had started to regularly miss programming and particularly the alcohol/addiction programming. It is unclear, and probably unlikely, that the Awasis Agency were told of this, although arguably if they had been more closely monitoring the situation, they would have been aware.

[249] There was evidence from several of the other women who lived at the Centre with Ms. Redhead and from Ms. Redhead herself, that she was frequently away from the facility. Nicole herself testified that in addition to being gone on weekends, she sometimes was away even overnight during the week. It is unclear whether Awasis personnel even knew that Nicole was getting weekend passes. They definitely did not know that she was placing Jaylene with Skye Sanderson each weekend. There is no evidence that the Agency ever asked as to where she was when she was away from the Centre. We now know that she was “partying” while the child was with the grandmother.

[250] Further as to the Agency’s involvement, while there were approximately seven case plans eventually found on Agency files, none of them were dated, making it difficult to determine their place in the narrative. (The Agency says that initially they were attached to a pink form which would have had a date. This form was not attached in the material provided to the O.C.A. or to the Inquest). Awasis worker Shelley Poiron said that she did not believe that the Agency had adequately trained her for the documentation requirements of the job. There are no notes on the file as to discussions between the Agency worker and staff at NWTC. There was apparently only one risk assessment done. Arguably in these circumstances, risk assessments should have been done regularly.

[251] The only risk assessment was done by Ithan Bullard in April of 2009, two months before Jaylene died. He assessed Nicole Redhead’s risk as low based on the fact that she was in NWTC. He provided no background as to what criteria he used for making this assessment other than the fact that he visited her at NWTC and she and the child appeared to be doing well and that all reports from NWTC were positive.

[252] It is also arguable that after Shelley Poiron was no longer the worker, there was a gap of approximately three months where there was no assigned worker. Mr. Bullard acknowledged that whenever anything needed to be done, he did it. However, he testified that whenever a file is dealt with by a caretaker rather than an assigned worker, the service to the client suffers.

[253] Several of the witnesses who testified before the Inquest, including John Rodgers and Elsie Flett, said that success with assisting child welfare consumers is dependent on face to face contact. They said it is important that the client and

worker make a connection. In this case, Ms. Redhead told us that she was barely aware of her Awasis workers, that most of her contact was “hello, good-bye” and she did not feel that she received what she needed from the Agency.

[254] An example as to the lack of connection in this case is that some time shortly after or at the time Nicole Redhead entered the NWTC, she became pregnant and had an abortion. She then became pregnant again and was pregnant at the time of Jaylene’s death. Two of the women who lived with Nicole at that time testified that Nicole had expressed frustration and that she was becoming overwhelmed. It is arguable, as was suggested by Justine Grain, that the new pregnancy had added to the stress Nicole Redhead was feeling. When asked about this pregnancy, Agency worker Shelley Poiron was not sure how she had found out about it. There is no evidence to indicate that either the abortion or the new pregnancy impacted on Agency case planning or involvement with this client.

[255] Frances Swampy testified that she took over the file when she started work in June of 2009. She said that she met the client for the first time knowing very little about the file. She said she was unaware that there had been a Supervisory Order and she was unaware that a psychological/parenting assessment had been done on her new client. She said she was not given time to adequately prepare or to learn about Nicole Redhead.

[256] The person who was hired to drive Jaylene Redhead to visits with her mother was not asked to supervise the visits, even though she had been engaged to do that by the Agency on other files, but was asked to write down anything significant. She told the court she had no background on the case and had no idea what the Agency’s expectations were or what they considered to be “significant”.

[257] Darla Spence was the Awasis supervisor who dealt with the file from 2007 to 2009. She testified that her knowledge of NWTC came from having read a pamphlet about it and having a relative who had once been a resident there. Once again, perhaps revealing as to the lack of communication between the Agency and NWTC is that Ms. Spence would not have just called NWTC to find out more about that Centre. This is particularly poignant in light of the fact that she thought that NWTC was monitored by a house mother. The reality is that NWTC

does not have a house mother in stage one and the house mother in stage two had almost no monitoring role. She also testified that she was unaware that residents at NWTC could go out on weekends. In this case, this is critical information in light of the fact that the Agency was dealing with a person with a significant crack cocaine addiction. Additionally, Ms. Spence admitted that she never actually checked on Nicole Redhead's state of sobriety and even though she thought Veronique Bourgeois was supervising visits, she never actually asked. This is particularly significant because in this case the social worker role had changed twice and had been ostensibly vacant for two periods. In that situation, it would appear reasonable to assume that the supervisor would absorb some of these tasks. Ms. Spence also said that she never went over the Psychological Report thoroughly. Ms. Spence acknowledged in court that random drug testing should have been done.

[258] Lack of Agency knowledge of the circumstances of Nicole Redhead's life was also evidenced from the testimony of worker Ithan Bullard, who testified he thought NWTC was a secure facility. He was clearly unaware that alcohol or drugs were being used at the Centre or by the residents when they were away from the Centre. He also said that he was not aware that Nicole Redhead had ever been considered high risk and that he did not know that Nicole Redhead had pulled the child out of the daycare facility in the institution. It seems to me an inadequate situation that neither NWTC or Awasis really investigated why Nicole Redhead had taken Jaylene from the daycare. This was a mother who was known by NWTC to have been regularly using other women to babysit for her. Additionally, NWTC may have known that she was leaving the child with the grandmother each weekend. Without a good reason, she now decides to take the child out of daycare. Apparently, she told NWTC she did this because the scheduling conflict with programming was a problem. Nicole Redhead was not going to programming. I believe this matter should have been brought to the attention of the Agency and should have been investigated fully.

[259] Evidence from Gloria Nobiss of NWTC was that they had regular "case consults" to discuss this case and others, but the information from those discussions never went to the Agency nor did the Agency ever enquire about what was dealt with. She said that as far as she was aware, no one from the

Agency ever went to Nicole Redhead's room. The Agency says that her room was visited several times.

[260] The Children's Advocate report at page 26 states that by June, 2008, Nicole Redhead was missing meetings and not doing chores. There is no evidence to indicate that her deteriorating performance was ever reported to the Agency.

[261] Of significance in looking at the circumstances of Jaylene Redhead's death is the fact that many of the people involved with her believed that NWTC was something that it was not. Dr. Dell Ducharme clearly believed that it was a safe, secure facility. It appears that all of the Awasis workers also thought that by being there, Nicole Redhead was remaining sober.

[262] Cindy Einarson, one of the residents who testified at the Inquest, in addition to describing multiple instances of drug and alcohol use at NWTC, also said that she was never aware of her room or anyone else's being checked. She also said that although the facility had a sheet of rules, they were never followed. Ms. Einarson was living at NWTC in the hopes of being reunited with her children after allegations that she had been physically abused by her domestic partner. She was there specifically to be kept away from her partner yet she told the court that she snuck him into the Centre and basically continued her relationship with him whenever she left the Centre. At one point, she was caught sneaking him in a window and her only consequence was to be moved to a higher floor and was grounded for a month. At another point, he was charged with physically abusing one of her children. She said that frequently residents went AWOL and many times they returned after curfew or returned stoned or drunk. She said that as to the sign in and out book, she was aware that some residents never signed in or out. A check of the relevant log book for the period when Nicole Redhead was resident there shows that she only ever left a contact number once. Ms. Einarson said she was never checked on when away from the Centre and she was with the person whom the CFS agency she was working with, thought she was not having contact with.

[263] Crystal Sutherland, another former resident of both stages at NWTC, also said that she was unaware of anyone checking rooms for drugs or alcohol. Ms. Sutherland had gone to NWTC to achieve sobriety and to try to have her children returned to her. She also said that she began to use crack at the Centre because

she fell in with other residents who were doing that there. She said that she and three other residents that she “smoked” with, accelerated their use until they were using about every second day. She said that she and the others did the crack in their rooms at the Centre. She said she also drank alcohol and did crack when away from the facility. Additionally, she testified that some of the drug users had their children with them and crack was being smoked in front of children. She, like Nicole Redhead, said that at stage two, “we could do whatever we wanted”. Ms. Sutherland felt that Alcohol Anonymous meetings should have been held at NWTC every evening rather than just once a week and that stage two would have been much more effective if there had been more rules and supervision. She poignantly stated “women in stage two suffered for the freedom”.

[264] Ms. Sutherland also expressed surprise that NWTC had not reacted more pro-actively to Nicole Redhead saying at a group session that she was becoming overwhelmed due to Jaylene’s behaviour.

[265] Another former resident, Amber Sanderson, also confirmed that there were basically few or no rules. She said “All of the girls did anything they wanted and no one did anything about it”. She also said residents were regularly doing drugs and sneaking abusive men into the facility. Ms. Sanderson, who was only ever in stage one, said that Nicole Redhead “barely went to the programming, she was always in her room”.

[266] It was noteworthy that Daphne Penrose, who prepared a Quality Assessment Review of NWTC (which is found in binder E at 160) said that one of the complaints Child and Family Service social workers relayed from their clients about the NWTC was about the drug use in the facility.

[267] NWTC logs which were filed at the Inquest, contain multiple mentions involving the use of drugs and alcohol in the Centre or residents returning to the Centre intoxicated. Annetta Armstrong of NWTC agreed with the thought that residents in stage two could freely use drugs in their rooms.

[268] The emergency medical personnel who responded to the call to assist Jaylene Redhead the day she died, reported a heavy smell of marijuana in the facility that night. (There was some suggestion that perhaps someone had

“smudged” or burned sage, which smells similar, but there was no evidence that had taken place that night and most residents said that normally happened, when it happened, in the mornings).

[269] Wanda Ferland McKenzie of NWTC, who said that she was not surprised to hear of drug and alcohol use at the Centre, said that she felt that the Centre should have the ability to insist on drug and alcohol testing.

[270] Even Graeme Young, counsel for the NWTC in questioning witnesses, acknowledged “rampant” drug use at NWTC. Bruce Sychuk, Inquest counsel, described the situation as “the inmates running the asylum”.

[271] All of the above paints a picture of the NWTC as a place far different than the “safe house” it was considered to be. Anyone hearing the testimony as to drug use, lack of rules or enforcement of rules, almost unrestricted coming and going, etc., would agree that the label “safe house” implied something that the NWTC was not.

[272] This misapprehension of just what NWTC was is one of the reasons for the tragedy of Jaylene Redhead’s death. While it may be that the Awasis Agency should have known more about where Nicole and Jaylene were going when away from the Centre, they cannot be faulted for believing that NWTC was a safer environment than it actually was. Many of the counsel involved in this matter and the court itself have been familiar with “safe houses” and NWTC in particular, for many years and I believe all of us were very much taken aback with the revelations as to drug use, lax enforcement of rules and lack of security at that facility.

[273] The difficulties in this case included communication problems between Awasis and NWTC as to what each expected of the other. Communication problems also prevented an appropriate exchange of information both before and during the 20 months of Jaylene Redhead’s life.

[274] Another area of difficulty between Awasis and NWTC was touched upon by NWTC’s current chief executive officer, Bernice Cyr who said that she believed that Awasis erred in sending Nicole Redhead to a non-treatment facility for treatment. A further example of the disconnect between Awasis and NWTC was

the suggestion by several Awasis people that NWTC puts the interest of children first. In contrast, even the statement of purpose for NWTC speaks of the “empowerment of women” and that their function is to assist women.

[275] Historically, when the NWTC began operating, it was exclusively for adult women. It was only later that children were allowed to reside with their mothers. As well Awasis, like Dr. Ducharme, thought that NWTC was “safe and secure”, wherein the reality is that NWTC repeatedly testified that “we are not a jail”. Throughout the Inquest, NWTC staff were asked about a perceived attitude that slips and transgressions by residents were either not dealt with or not reported to relevant CFS agencies. Staff accepted that the residents were not wanting to “rat out” their fellow residents. The impression gained was that this attitude also extended to the NWTC staff who worked at the time Nicole Redhead was there.

[276] Counsel for NWTC conceded that “we have failed this family”. Ms. Cyr described record keeping at the Centre as embarrassing and said that the centre had not provided a quality service and by so doing had done a disservice to aboriginal women. She also felt that “light weight” programming that only focused on attendance, not retention of material, was a disservice to the residents.

[277] Counsel for NWTC said that they tried to be “all things for all people” and in so doing missed the mark for specialized cases like Nicole Redhead. He also suggested that the women who end up at NWTC are “the worst in the child welfare system” and accordingly, require more than superficial treatment.

[278] I agree with counsel as to these observations. The relationship between Awasis and NWTC appears to reveal poor communication of information and accordingly, poor information. Unfortunately, the reliance upon this information was high. High reliance on poor information creates situations fraught with risk.

[279] This Inquest has taken place a considerable period of time after Jaylene Redhead’s death. If there is a positive to that, it is that the systems involved have had significant time to make appropriate changes. In this matter, we heard from Dr. Ducharme, Awasis and the NWTC as to things they have learned and changes they have made subsequent to this tragedy.

[280] The Quality Assurance Report prepared by Daphne Penrose of the Child Protection Branch spoke to NWTC'S preparedness to make changes in light of Jaylene's death. I also found that NWTC attended the Inquest with an open acknowledgment as to what they may have done poorly and an acceptance that changes needed to be made. As part of the Inquest, the court party toured the NWTC and learned firsthand of many positive changes that have taken place since Jaylene Redhead died.

[281] This report will not enumerate all of the systematic changes that NWTC has brought about, as there are many, but I do wish to comment on a few significant changes.

[282] Both Gloria Nobiss and Bernice Cyr told the Inquest that staffing levels have increased. As well, some of the new staffing hours are being applied to increased monitoring of residents. NWTC personnel testified that the facility is now placing a greater emphasis on required training for staff, particularly training as to recognizing and dealing with FASD matters. As well, the organization is responsive to the suggestion that many staff were "para professionals" who were not qualified as to what they were doing regarding counselling, etc. and subsequently NWTC has tried to recruit new staff members with more formal education and training.

[283] From a systematic approach, NWTC reports that they will no longer accept referrals from child welfare agencies unless they are provided with a case plan and a risk assessment. Ms. Cyr also indicated that NWTC is no longer merely waiting for agencies to provide material. She said they are now conducting their own risk assessments and adjusting their service accordingly. Both NWTC and Awasis Agency recognise that in the Redhead case, there was a joint misunderstanding as to respective roles and have said that they now enter service contracts between them, making expectations and responsibilities clear.

[284] Marie Sutherland, a counsellor for Nicole Redhead at second stage, when asked if she knew why Nicole Redhead had lost her first two children, said "I have no idea". To avoid that kind of situation, NWTC now passes resident's files from stage one to stage two. Formerly, Nicole Redhead had one file in each stage and what was known about her in stage one did not travel with her when she moved

across the lane to stage two. As well, NWTC now holds a transition case consult between moves.

[285] NWTC also indicated that they are insisting on fuller, more complete intake information and that material, in addition to the case profile and notes from case consults, are put in the client's file, which is now being kept in the front office readily accessible to all staff.

[286] NWTC reports that they now have a residential support worker throughout the day. Where formerly residents automatically achieved weekend passes after 90 days, the facility now holds a meeting to determine whether the passes are appropriate. Gloria Nobiss said that a request for weekend leaves would be denied if the resident is "not following through with programming".

[287] It is clear that for Nicole Redhead, the weekend passes proved to be too great a challenge to her sobriety. Many of the women working with her thought she was doing well. Some thought that she was attending programming as required. It is clear that NWTC will have to do a better job in the future of determining whether residents are merely going through the motions with counselling and program attendance. It will also be important for NWTC to make sure that sobriety is not being jeopardized by liberal opportunities to be away from the facility. Essentially, NWTC counsellors will have to try to penetrate or learn more about the people they work with. It can no longer be enough to say "she was a brick wall" and just go forward as if all is well.

[288] Also encouraging was the acknowledgment from NWTC's Annetta Armstrong who was formerly assistant director, acting director and program co-ordinator until 2012, who said that NWTC is now making a better effort at finding out something about the resident's partners. She said that she is hopeful that NWTC will include partners in case planning and develop a family plan incorporating all members of the family. This is a welcome change. Residents are leaving the Centre on a daily basis and for entire weekends. It would appear counter-productive to have a woman who works on her sobriety until 4:30 every afternoon from Monday to Friday, and then spends from 4:30 to 10:30 p.m. each weekday and all weekend in the company of a drug/alcohol addicted partner.

[289] Marie Sutherland and Bernice Cyr both told the court that NWTC now has three after-hours staff who are employed seven days a week. Hopefully, this will improve the situation where the court heard that even at stage one, residents were coming and going at all hours of the night and partners and others were being smuggled into the building at night.

[290] Marie Sutherland reported that all staff at NWTC have subsequently been given considerable training as to improving documentation on files. Obviously, this training is needed to improve what Ms. Cyr describes as files which were "embarrassing".

[291] Ms. Sutherland also seemed to suggest that the facility has accelerated its policy as to checking rooms for drugs and/or alcohol. She says they will now search rooms if there is any suspicion as to a resident. Various NWTC staff suggested that that is the policy NWTC always had. One questions this policy, as no one at NWTC had any suspicion about Nicole Redhead. Perhaps if actual random checks had been done, she would not have been as likely to be drinking in stage one and smoking crack in stage two. Additionally, it would appear that NWTC needs some form of policy where residents are actually spoken to when returning in the evening or after weekends. Considerable evidence heard at the Inquest suggests that residents were frequently returning to the facility intoxicated. If these people were actually spoken to by some reasonably trained staff person, then these problems could be realized rather than hidden. NWTC may wish to consider the policy used at the Behavioural Health Foundation wherein upon return, each resident must report to a specified person for a brief interview to confirm sobriety.

[292] As well, Ms. Sutherland said that the facility is starting to do exit interviews with departing residents. They are doing this to try to improve their service. Formerly, a questionnaire was provided to graduates, but it does not appear that the form was either filled out or returned. No one from this organization was able to say what, if anything, had previously been learned from these forms. It seems to me that the current residents and graduates are the best source of feedback as to the experience at NWTC. I would suggest that NWTC do everything possible to access this valuable resource.

[293] It is interesting that when Ms. Cyr testified about their recently increased attention to soliciting feedback from graduated residents, she acknowledged that one of the complaints heard from those polled is drug/alcohol use in the Centre.

[294] Another positive change effected at NWTC is their recent implementation of drug and alcohol testing. Ms. Cyr reported that new residents are now required to provide a urine test on admission. As well, all residents are tested again after three months in the Centre. Ms. Cyr says in addition to these required tests, NWTC will also test an individual if there has been a concern or suspicion raised as to that person's sobriety. She also said that all test results are provided to the resident's relevant child welfare agency. The test used is obtained by NWTC from a pharmaceutical supplier at a cost of between \$4.00 and \$6.00 each.

PREVIOUS REPORTS AND RECOMMENDATIONS

[295] Child welfare issues in Manitoba have received much scrutiny in the last number of years. While this Inquest was never meant to be a detailed examination of the Child Welfare system, some elements of the child welfare services provided to Jaylene and Nicole Redhead do fall within the parameters of the "circumstances relating to Jaylene's death" (as set out in the charging letter from the Chief Medical Examiner to the Chief Judge of the Provincial Court). Accordingly, what follows is a brief review of some of the recommendations from earlier related reports which dealt with areas of concern in this matter.

[296] In 2006, the Office of the Children's Advocate published a report called "Honouring Their Spirits". One of the recommendations made by that report suggested that a standardized risk assessment tool needed to be developed and risk assessments needed to be prepared throughout the life of child welfare matters. Additionally, the report recommended that FASD experts be made available to provide assessment of FASD and that resources be provided to follow through with services in support of the assessment. Further, the report suggested that training be provided for social workers to assist them in recognizing the signs of drug and alcohol abuse.

[297] Another document which previously made recommendations relevant to this matter is the previously mentioned Inquest Report prepared by Judge John Guy as to the death of Tracia Owen. This report from January of 2008 included

recommendations relating to file maintenance, case planning, assessments, etc. and also made the following recommendations:

“Recommendation Thirteen

That steps be taken to ensure all of the child in care files are entered in the Child and Family Service Information System and the files be updated and maintained” (page 54).

Recommendation Seventeen

That the agency, with the assistance of the Province and the Southern Authority, ensure that all of its staff be fully trained in CFSIS and the Intake Module and that both are fully used within the agency.

Recommendation Eighteen

The agency with the cooperation of the Southern Authority, should provide training to staff in the following areas:

- How to manage and maintain a case file
- How to complete comprehensive assessments, make diagnostic statements and then develop case plans based on such an assessment
- How to develop goals and services for contract planning in casework
- How to maintain the primacy of a child safety focus in the intervention while still considering the needs of the family.

(Edited for relevance).

[298] While the above recommendations were made in reference to a child in care to a different child welfare agency and to a different Authority, it was clear from the evidence at this Inquest that many of the issues denoted above continue to be of concern in the provision of child welfare services even now, six years later.

[299] The 2006 report from the Office of the Children’s Advocate quoted above, talks about the need for improvement in risk assessment. In 2011, the section 4 Operational Review of Awasis Agency conducted by the Northern Authority (Exhibit 2, H11) recommends:

“That the agency adopt some type of protocol for determining and documenting risk. Once adopted, this protocol should be applied to every new intake, case opening and case re-opening”.

“That the agency ensure that every open file has a completed Risk/Safety Assessment”.

[300] I have earlier stated that under the circumstances of the risk presented by Nicole Redhead, that more risk assessments should have been done. Evidence at the Inquest showed that the only case reference as to a risk assessment is from the brief case notes of Ithan Bullard dated April 28, 2009.

[301] There is a document on the Awasis file entitled “Family Assessment Model” dated March 22, 2009 (found at Exhibit 2, D54), which includes several references which underscore the risk presented by Nicole Redhead. Found under the heading “Life Experience Affecting Family Members”, is the following:

“All apprehensions of all children are due to Nicole’s continued addiction issues which perpetuate her transient lifestyle and involvement with the justice system” (D 54.2).

[302] Under “Weaknesses of Family” is found the following notation:

“Nicole’s history does show that she does not possess the life skills necessary to maintain a healthy lifestyle, however, the life skills that she does possess are more of a survival nature” (D 54.9).

[303] It is somewhat difficult to reconcile these kinds of observations with the fact that the Awasis Agency eventually downgraded Ms. Redhead’s risk from high to low. It is also difficult to understand how in the assessment done by Mr. Bullard one month after the entry of the above comments, she was considered low risk.

[304] It is also particularly concerning to look at the entry under “General Conclusions”:

“By Worker:

At this time, Nicole does not have access to Jaylene and with a special request, T.R. visits with mom every 3 to 4 months. Nicole is attempting to make some positive changes in her life, however, this worker also understands that Nicole’s

history does repeat itself. It is the worker's observation that Nicole has shown the Agency that she is on the right track to parent. She has fully cooperated with NWTC's house rule. Nicole also admitted that she is expecting again and her ECD is August 7, 2009. The worker has placed a birth alert on her pregnancy for further assessment whether or not is (sic) she could parent the child."

[305] This document, signed by both Michael Wood as worker and Ithan Bullard as supervisor, does not reflect that as of its date, March, 2009, Jaylene had been having overnight visits with her mother for eight months and had been living with her mother for four months.

[306] The foregoing would appear to indicate poor file maintenance. Apparently, parts of earlier documents found their way into this document. It is most surprising that both the worker and the supervisor would put their signatures to a mistake like this, on the very page that contains the erroneous information.

[307] The Operational Review of Awasis conducted by the Northern Authority also contains the following recommendations:

"That the agency ensure that every open file has a case plan, appropriate case notes and assessments and that all notes are signed and dated.

-That social work staff be reminded that all interactions with a client must be documented and kept in the child or family's case file

-That supervisors hold regular case review meetings directly with their staff to review cases and offer feedback regarding cases and that these meetings occur directly in the community." (Exhibit 2, H 11, page 8)

[308] Other than that Nicole Redhead's file did appear to have appropriate case plans, although not dated, the balance of the recommendations above quoted would be applicable to the Agency's carriage of this file.

[309] Additionally relevant is the following recommendation:

"That the agency conduct an audit of caseloads/workloads to determine if staff complements match the level of work found in that service area".

[310] This caseload/workload issue is an area of concern that was raised by literally every witness connected with the Awasis Agency. I will say more about this issue in the Recommendation section of this report.

[311] The Manitoba Ombudsman's Office dealt with the issue of risk, amongst other things, in the report entitled "Follow-up Report on the Process for the Review of Child Welfare and Collateral Services After the Death of a Child (March 2013)".

[312] That report says that the Ombudsman's Office "has identified that a recurring theme in recommendations made by the O.C.A. continues to be risk assessment as it pertains to the case planning process" (page 22).

"Until recently, Manitoba did not require or use a standardized risk assessment tool to determine the level of risk of maltreatment to children. It was incumbent upon agencies to ensure that staff received the appropriate training either through the provincial core competency-based training program or a recognized equivalent. Unfortunately, it has been demonstrated over time and across Authorities that without a thorough risk assessment, a solid case plan and the development of interventions that are both realistic and workable are much less likely to occur during the life of a case.

According to Manitoba Child and Family Services Standards, assessment begins at the first contact with a case and is ongoing. It includes information on the strengths, needs and resources of a person or family and could include family and community resources. Assessment becomes the basis for case management. Part of the case management process is planning, which ensures that risk factors identified in the assessment are addressed to keep children safe and strengthen family functioning.

I am pleased to report that a positive development to Manitoba's approach to risk assessment and case planning has been the introduction of the Structured Decision Making (SDM) Model. This integrated model of practice incorporates a series of tools to assess families to determine the safety status of the child and immediacy of response required during initial contact with a family, and also supports ongoing assessment and reassessment for future risk. The availability and use of a standardized assessment tool will provide front line staff and supervisors with additional tools that support consistency in the assessment of child safety. This integrated model of practice is evidence-based and, therefore, provides an approach to working with families that improves outcomes for children, families and communities. My office has been advised that Authorities and their respective agencies have been preparing for the use of the SDM across the child welfare system, and that some agencies are currently working with the tools in the SDM model to assess risk".

[313] The Inquest heard from both John Rodgers of the General Authority and Elsie Flett of the Southern Authority as to their agencies Authority using the Structured Decision Making Model. Mr. Rodgers said that his Authority has been using this tool for the same reasons as outlined above in the quote from the Ombudsman's Report. Additionally, he said that his Authority has modified these tools to be specific to Manitoba. The CEO of the General Authority told the court that his organization has developed a General Authority Practice Model by way of developing better tools to assess safety and risk to children. The Structured Decision Making (SDM) tools to assess safety, risk, strengths and needs are one of the three essential components of the Authority's Practice Model. Mr. Rodgers said that he believed that the use of these tools will assist in standardizing the assessment of risk from situation to situation, worker to worker and agency to agency. While this Inquest did not hear enough evidence as to SDM tools to justify a recommendation in this regard, it is of interest and significance to note the enthusiasm of John Rodgers, Elsie Flett and the Provincial Ombudsman in this regard. It would be hoped that perceived deficiencies as to the frequency and quality of risk assessment as to child safety issues will be ameliorated by the development and use of these tools in all the Authorities.

[314] Another area of concern that emerged from this Inquest was the disagreement between the Office of the Children's Advocate and the Awasis Agency as to whether Awasis was given an adequate opportunity to respond to the findings of the O.C.A. This dispute is particularly concerning in light of the following quote from the previously mentioned Ombudsman's Report of 2013:

"The OCA has also made other administrative improvements to the process of child death review investigations. Increasing discussions between the OCA and agencies and Authorities in the course of the investigation process has helped to avoid disagreements regarding facts or case events once an investigation is concluded. Also, the OCA has begun to draft reports with the respondent agencies and Authorities to ensure that there is an opportunity for input prior to any recommendations being issued. This has further helped to improve both the administration of the investigation process and the resulting SIRs, such that the recommendations made are current, relevant, and achievable by those entities to which the recommendations are directed".

As indicated above, the Awasis Agency in this matter maintains that it did not have an adequate "opportunity for input" and despite the intent of the

Ombudsman Report as stated in the above quote, a disagreement in this regard has not been avoided.

[315] In the aftermath of the death of Phoenix Sinclair, a five-year old child who had been involved with the Child Welfare system, a series of external reviews were conducted on the Manitoba Child Welfare system. Over 200 recommendations were made by those reviews. Three areas from the Reviews and their recommendations are specifically relevant to this Inquest, those being FASD, caseload/workload issues, and the use of CFSIS.

[316] The external reviews made seven recommendations specific to FASD. The FASD recommendation of most significance to this matter is as follows:

“That comprehensive training in FASD, specific to the child welfare system, be undertaken by all child welfare agencies.”

[317] Shelley Poiron testified before the Inquest that she had no training specific to dealing with clients affected by FASD. Similarly, Gloria Nobiss told the court that there was no training for staff at NWTC as to FASD issues and that there is still only now a “proposal” to “provide training in FASD awareness”. The evidence from this Inquest would suggest that despite the 2006 recommendation as to the training quoted above, in the years preceding Jaylene Redhead’s death, this training had not happened either in the child welfare system or as to related satellite providers.

[318] Nevertheless there is optimism for the future, as the Government of Manitoba in 2010 announced a comprehensive FASD strategy and it is hoped that this initiative will bring effect to the 2006 recommendation that comprehensive training in FASD specific to the child welfare system be undertaken by all child welfare agencies.

[319] Other recommendations from the external reviews dealt with the problem of overly high caseloads. In the document “Changes for Children: Strengthening the Commitment to Child Welfare” (Department of Family Services and Housing, October 13, 2006), which is the government’s response to the external reviews, there are comments dealing with this issue:

“Without question, the reports indicate that high workload is one of the most significant challenges facing the current child and family services system. Workload has been a long-stranding issue that has contributed to high rates of staff stress and low retention rates in most child welfare systems across the country. Addressing this as a priority is critical to ensure that child protection workers are able to follow recognized best practice approaches in their work. Simply stated, workers must have more time in their day-to-day work to assess situations, engage with their clients, and support children and families.

The Government agrees with the review finding that workload must be reduced to a manageable level.”

[320] Despite the government’s agreement that workloads must be reduced, we heard evidence at this Inquest from every Awasis worker and supervisor that they felt that service provision suffered at their Agency because of the high caseloads and resultant stress.

[321] Additionally, the government response document said:

“As recommended, the Department of Family Services and Housing will immediately establish a fund for hiring additional staff specifically to reduce the high workload demands on front-line child protection workers”.

[322] The Inquest did hear testimony from Darla Spence that during her time at Awasis there had been an increase in the number of workers at the Agency. Perhaps those workers were hired out of the above noted fund; in any event, even though personnel has been added the Awasis staff all testified that caseloads were significantly above other comparable child welfare agencies.

[323] Finally, the external reviews recommended a standardized comprehensive file information system. About that recommendation, the government said:

“The reports cite the importance of child protection workers having access to comprehensive file information in a timely manner. A system-wide electronic information system is a vital component of any modern child and family services system.

...The Government will immediately review the capacity of the Child and Family Services Information System (which was put in place in the early 1990’s) and the more recently created Intake Module. Priority will be given to upgrades that will **expand access across the province, enhance the quality of information**

available, and reduce time needed for collecting data. This, too, should result in workload reduction and more effective use of time by professional child protection workers and supervisors”.

[324] Once again, despite the stated intentions of the government to emphasize the importance of a comprehensive information system, there was evidence at the Inquest that only one of the Awasis personnel utilized CFSIS (Ithan Bullard) and he only in a limited way. Other Awasis workers said that it was not available to them. While information and data collection was not crucial to the death of Jaylene Redhead, the lack of file maintenance was a problem in trying to determine what happened. Witnesses who were asked about the value of such a system were unanimous in suggesting that its use can be of real value in maintaining file information.

[325] The government’s intentions as quoted above, did not translate to practical application in the case of the Awasis Agency and their dealings with the Redhead family.

CHILD WELFARE SERVICES PROVIDED

[326] As previously stated, I do not believe the Inquest heard evidence to justify considering Nicole Redhead as anything but high risk throughout the 20 month period of the life of Jaylene Redhead. Based on her oft-repeated history of periodically appearing to stabilize and then to subsequently relapse, I believe that this woman should have been placed under the greater scrutiny of a required long-term residential treatment facility and of random drug and alcohol testing. The Agency says they worked with her within the context of the NWTC because that was her facility of choice. They also said they worked with her because she wanted to have her child(ren) with her. The following quotation taken from the Tracia Owen Inquest from the testimony of Billie Schibler, who at that time was the Children’s Advocate for Manitoba, is relevant:

“Recognizing that children need to be in a safe environment, I think it is really important to know that while the whole philosophy in child welfare supports or should support that the primary focus should be on preservation of families, at no point should a child’s safety and well-being be compromised in order to have that happen”.

[327] Child welfare agencies have to continue to put the best interests of children first and be very careful that a desire to preserve parental rights does not come at the expense of the safety of a child.

[328] While this report has included detailed information as to the testimony of witnesses, it is hoped that the information included has been relevant to the issues that related to the charging criteria of the Chief Medical Examiner's letter. This report has not conducted an in-depth examination of the child welfare services provided except as they relate to the circumstances of the child's death.

[329] I am satisfied that for the most part, the level of services and supports provided to Nicole Redhead were consistent with those provided to most consumers of child welfare services in Manitoba. It is arguable that Nicole Redhead required a greater level because of her more complex needs and higher level of risk, but it may be that rising to that level for "extreme cases" may be unattainable.

[330] The final criteria of the charging letter from the Chief Medical Examiner asks that the Inquest examine the question of "what can be done to prevent similar deaths from occurring in the future".

[331] I hope that the preceding report has dealt with my findings in this regard. I summarize as follows:

- When a birth parent's history results in an assessment that they present as high risk, particularly when that risk factor flows from an addiction, then that individual should be treated as high risk until they have been determined to no longer be high risk after extensive detailed risk assessment;
- When a birth parent is considered high risk, they should be monitored as per the Manitoba Child Welfare standards with minimally one contact each week;
- If a birth parent presents with an addiction issue, then that parent should be subject to preferably long-term residential treatment and random drug/alcohol testing and at the least, on-going random drug/alcohol testing done on a regular basis;

- That our child welfare system needs to considerably enhance its awareness of FASD and awareness of identifying those who suffer from the affects of FASD. Once identified, these individuals should be serviced directly and indirectly by child welfare workers who have specific training in FASD as it relates to child welfare matters.

[332] The Inquest heard many references from witnesses as to positive steps that the involved agencies, Authorities and collateral service providers have taken in the years subsequent to Jaylene Redhead's death, to address the above noted issues.

SUMMARY

[333] What follows is a number of recommendations which flow from the evidence heard at the Inquest.

[334] In summation, Jaylene Redhead died at the hands of her mother. The mother's behaviour appears to have been a result of accumulated stress, frustration and drug abuse. Nicole Redhead was not happy to be living at NWTC. It is clear that she went there in the hopes of reunifying with her child and achieving sobriety. Despite achieving the former goal, it is clear she was far from the latter. She testified that she did not like NWTC, she did not feel comfortable there and wanted to live in the community. She did not remember much of the programming there and was either not interested in the programming or was not able to understand it. Basically, her entire stay at the facility other than perhaps her first three months, were lived under the misapprehension by her caregivers that she was sober. In reality, she was drinking and to a lesser extent using drugs in stage one, and was regularly using crack cocaine in stage two. Once Jaylene had been returned to her, she was leaving her almost every weekend with a caregiver and partying.

[335] While this was going on, the NWTC was providing programming, most of which Ms. Redhead apparently did not understand, and reporting to Awasis Agency that the mother was doing well.

[336] The CFS agency, relying on the information received from the "safe house" and coupling that with a psychological/parenting assessment they had

commissioned, increased access and eventually returned the child to the mother. Workers for the Agency had downgraded her risk factor from high to low and accordingly, were in contact with her only approximately once a month and sometimes only on the telephone.

[337] Meanwhile, the jeopardy for the child increased as the mother appears to have become frustrated over being forced to live where she did not want to be. Her full blown addiction does not appear to have abated or if it did, it was only for a relatively brief period after initially entering stage one at NWTC. Additionally, her stress level appears to have been exacerbated by the later months of pregnancy.

[338] This dangerous situation escalated to the point where the mother was regularly smoking crack cocaine in her room while caring for the child. Additionally, the mother was leaving the child in the care of unsafe caregivers. The child, Jaylene, was abused by a caregiver and as well, was apparently physically abused by her mother.

[339] The NWTC and Awasis Agency had been providing programming to Nicole Redhead in a manner which was basically either unaware or unable to adapt to the fact that she self-identified as FASD affected and all indications pointed to this assessment being accurate.

[340] Nicole Redhead's third attempt at parenting was a high-risk situation from the beginning. Many would question why, under the circumstances of two previous failed attempts at rehabilitation with previous children and with Jaylene born in drug withdrawal, Awasis Agency would not have made permanency planning the only possible plan. However, that is not what happened as the Agency, following its policy of giving a parent who wanted to try, a chance, embarked on a re-unification plan. While many would argue that this policy is a good one and that everything that can be done should be done, if there is any chance to preserve the parent/child bond no one would argue against the suggestion that in circumstances as fraught with peril as this one, all possible safeguards should have been employed.

[341] In this case, all possible safeguards would mean that the "high risk" label would remain with the mother until a lengthy period of sobriety justified its being

re-examined. When a matter is high risk, it is incumbent upon the Agency, in complying with the foundational Provincial Standards, to visit the parents at least once a week. Additionally, because it is a high risk case, plans, risk assessments and case notes would be required on a more frequent and regular basis. As well, being high risk due to serious long term addiction issues, it would have been appropriate that the mother be required to take residential addiction counselling in an actual treatment facility and/or would have been randomly drug/alcohol tested. It is my understanding that Winnipeg has available treatment facilities where residents are not allowed to leave for some period of time unless escorted. This is done to ensure sobriety. If Nicole Redhead had been in one of these places, then she would not have been free to go back into the community from which she had come every day from 4:30 pm to 10:30 pm and after 90 days, every weekend from 4:30 on Friday to 10:30 pm on Sunday.

[342] If the Awasis Agency felt that NWTC was the preferable option for Nicole Redhead, then they simply had to make sure that she was randomly tested as to her sobriety. Because this was not done, the Agency moved forward with false information and the risk to the child was not perceived.

RECOMMENDATIONS

PROVINCIAL STANDARDS:

[343] This Inquest, and others in recent years dealing with child welfare matters, heard much about whether Provincial Standards were met. As has been the case previously (notably the Tracia Owen Inquest), it has been said both by workers and by the two CEO's of authorities who testified at this Inquest, that the current Provincial Standards are problematic. Complaints include that there are too many provisions, that they are hard to read and understand and that they are confusing. These are not isolated complaints. If the standards are to have any value, this perception must change. Some have suggested the standards need to be revisited, edited and made clearer. It appears that recognising the problems with the Provincial Standards has resulted in the General Authority developing their own set of standards. Additionally, aside from serving as a "best practices" guide, the standards do not appear to have a significant impact on the provision of child welfare in Manitoba. For years, situations have arisen in child welfare matters where there are allegations that Provincial Standards are not met. Most of the issues in this Inquest as to file notes, case plans, risk assessments, client

contact, etc. have all been raised in other similar situations. Each case is unique and circumstances are unique, but little value is served by criticising child welfare agencies for not meeting these standards unless there is a specific requirement that they must.

[344] Further, if the Provincial Standards are to be meaningful, they must be user-friendly. They should be examined and either edited or re-written so that social workers get the intended value from them. As well, it seems to me that some standards are appropriate as best practice suggestions, while others are more important and should play a different role. An example might be case notes. Perhaps case notes on files, as important as they are, can be left as a best practice suggestion. On the other hand, risk assessments and contact frequency should be required. The Provincial Standard for contact with a high risk parent is once a week. It seems to me failure to meet that standard runs the risk of putting children in jeopardy. I recognize that no one involved with child welfare wants a rigid system. All accept that flexibility is necessary to adapt to unique and unusual circumstances. The problem is that too often these important safety requirements are not met and children are placed in jeopardy.

[345] Recommendation No. 1: I recommend that the government work in collaboration with the Authorities to revamp the Provincial Standards so that they are more readily usable by workers.

[346] At present, the Provincial Standards are developed together between the government and the Authorities. Arguably once they are developed, the government has no further significant input in their compliance; it is up to the Authorities to ensure compliance. The government has no mechanism to assess whether the standards are being complied with other than a quality and assurance report on an Authority. Although currently underway on two Authorities, this has heretofore never happened. It seems to me that compliance with the standards would occasion better social work which would better protect children and families.

[347] Recommendation No. 2: I recommend that all Authorities provide training as required to each of their agencies as to the content and function of the Provincial Standards and make it clear to all agencies that these are the minimum levels expected as to service provision.

[348] It is clear that the current Provincial Standards do not govern satellite service providers such as the NWTC. It seems to me that if there is value in a set of standards, and all witnesses to the Inquest questioned as to the standards seemed to accept their inherent value, then there would also be value in having a set of standards for other participants in the child welfare system besides just social workers functioning at the Authorities.

[349] When satellite agencies are providing essential services, such as in this case with NWTC and Nicole Redhead, there is no question that the work they are doing with the consumer of the service is equally as important as the work done by front line social workers. Provincial Standards, even if not directly enforceable, still have a regulatory component and can provide a guideline to satellite workers as to best practices.

[350] Recommendation No. 3: I recommend that the government work collaboratively with a representative sampling of satellite service providers to develop standards for the provision of services to clients. These standards may or may not include a section of required services which are to be considered mandatory minimum standards of service provision. Compliance with these standards is to be monitored by the provision of regular yearly reports to the Child Protection Branch. It is to be understood that the satellite providers will either make files available or make themselves available to answer as to establishing compliance on randomly selected files.

DRUG/ALCOHOL TESTING:

[351] There does not appear to be any point to sending drug/alcohol addicted mothers to supposed “safe houses” if these people are going to have free access to the community without making sure that their sobriety is being tested. I understand from Jean Doucha, Executive Director of The Behavioural Health Foundation, that that facility frequently houses mothers and fathers who are suffering addiction issues and are working towards re-unification with children who have been taken by child welfare agencies. I further understand that no one who enters that program is permitted unescorted leave until they have been in the program for 90 days. In order to qualify for leave at that time, a meeting is held and the resident has to have demonstrated a commitment to the program. When the individual returns from any form of leave, they not only have to sign an

admission book, but they have to present themselves for a ten-minute discussion with an “expediter” (a senior trusted resident who is paid an honorarium to serve this function), who verifies that the returnee is not intoxicated. Further, Behavioural Health conducts in-house urinalysis testing both randomly and based on suspicion. The Foundation uses a test that costs \$20.00 and can be rapidly analyzed by staff. Ms. Doucha believes that random testing is also important to the objective of that facility. That objective is to help their residents achieve and maintain sobriety.

[352] Recommendation No. 4: I recommend that the government make available to all Authorities drug/alcohol testing kits at no cost to the Authorities.

[353] Once again, I believe that this issue is too important to leave to the vagaries of the budgeting issues of individual Authorities and therefore suggest that costs of these materials be borne by the government. This report contains several references to facilities using relatively low-cost testing materials. I heard no evidence to suggest that these materials were not serving their intended function.

[354] Recommendation No. 5: I recommend that the government, working collaboratively with the Authorities, develop Provincial Standards for random alcohol and drug testing and that a Provincial Standard be developed which requires that random drug/alcohol testing be considered in every child protection case involving a custodial parent with an addiction issue.

FASD:

[355] As stated earlier, it is clear that although Nicole Redhead self-identified as affected by FASD and several of those involved with her either thought she was affected or were suspicious about that, she was not counselled, instructed or in any way dealt with differently than she would have been if she was not FASD.

[356] Elsie Flett testified that 80-85% of the mothers of children in care with the Southern Authority are dealing with addiction issues. She also said that approximately one half of the above group maintain their addiction when pregnant. John Rodgers testified that national studies show that 16% of Canadian women drink while pregnant. These statistics tell an alarming tale. What they say is that there are many FASD children being born. Anyone who works in the

medical, legal or child welfare fields will tell you that the number of FASD affected people has grown immensely in the last number of years. A busy Manitoba lawyer who deals extensively with youth criminal court matters recently told me that he now starts with the assumption that every youth client he represents, charged criminally under *The Youth Criminal Justice Act*, is FASD affected. Despite these numbers, there is still limited awareness of this problem. As to Nicole Redhead, there was little awareness and as a result, she was exposed to programming which she testified she could not understand.

[357] We as a society can and must do better to accommodate people affected by gestational alcohol consumption.

[358] One of the recommendations coming from the Reviews which followed the death of Phoenix Sinclair, recommended that the government provide an FASD specialist to each child welfare agency. The government declined to do that, but did provide for a specialist for each Authority. While that was a step in the right direction, it was arguably a very small one. Additionally, it did not address the fact that the Authorities are very dissimilar. The General Authority, as an example, has slightly more than half of the number of children in care compared to the Northern Authority. Data from Family Services Annual Reports indicates that as of March 31, 2013, the General Authority had 1,697 children in care, the Northern Authority had 2,924 children in care and the Southern Authority had 4,330. One FASD expert in the General Authority can and has made a significant difference. The Authority has very effectively used a “pyramid scheme” of training whereby their expert trains other workers in each agency and they then provide training and information to the workers in their respective agencies. The result of the pyramid is that the General Authority now feels that the one expert has produced 20 experts and each agency under their umbrella has the benefit of specialized training. In addition, all 20 of the “new experts” are on a random basis sent to an international FASD conference and for other training. All of this is obviously of huge benefit to all those families and individuals involved with that Authority. Of further benefit to the wider community, these trained individuals are being called upon beyond the borders of child welfare to provide training to people in other professions and businesses who deal with FASD affected persons.

[359] While the model above noted has worked for the General Authority with its relatively smaller numbers of children in care, it may not necessarily extrapolate to the other Authorities who have many more consumers of services.

[360] Additionally, John Rodgers said that the system needs to recognize that FASD families will require life-long support; this will require not just additional personnel, but they must be trained personnel. As well, he said that it would be desirable if the FASD “experts” could actually carry caseloads so that these specialized services can be provided by people who have been directly trained. To do this, the system needs more FASD training, more focus on this issue and more FASD experts.

[361] Recommendation No. 6: I recommend that the government reconsider the issue of FASD specialists and provide resources sufficient to allow for enhanced numbers of FASD specialists for each Authority.

[362] Perhaps the General Authority’s already developed creative solution could preclude them from expansion in this regard. It would appear to me that each of the Authorities with larger caseloads should have anywhere from a minimum of four such designated experts to the previously requested one at each agency.

SERVICE AGREEMENTS:

[363] As has already been discussed above, there was inadequate understanding in this matter between Awasis Agency and the NWTC as to which agency was responsible for what service.

[364] Recommendation No. 7: I recommend that the Authorities encourage each of their agencies that when involved with satellite service providers, they enter into service agreements with those providers. These service agreements should include the following:

- i) That the satellite provider be provided with the Agency’s case plan, risk assessment and any up-dated risk assessments as produced;
- ii) That the satellite provider report every 90 days as to any significant events or changes in the life of the parent;

- iii) That the satellite report any significant event (such as intoxication, or a child being left with an alternate caregiver) as soon as they become aware of any such development.

CASELOADS:

[365] Several Awasis witnesses in this case spoke about the fact that ideally caseloads should be between 15 and 25 open cases and that other agencies in this province are functioning closer to those levels. Evidence at the Inquest was that Awasis caseloads at the relevant time were between 40-50 for each case worker. If that is the case, how can Awasis workers provide the same level of attentiveness to the Provincial Standards as can be provided by other agencies where the workload is perhaps half of theirs? As well, the Inquest heard that Awasis workers are paid approximately \$7,000.00 per year (approximately 13% of salary) less than other social workers doing the same work at other Authorities.

[366] There was testimony from several Awasis witnesses that the stress they work under is even greater than at other agencies because of the lower salaries and higher caseloads, both of which contribute to absenteeism and rapid staff turnover.

[367] Essentially all of the above indicates that in the Awasis Agency or any other child welfare agency in a similar situation, not only are staff working in an untenable environment with greatly increased stress, but there exists the likelihood that service provision will suffer. In the case of agencies where workers are underpaid, over-worked and over-stressed, there exists a strong likelihood that the child welfare services provided will be of a diminished quality.

[368] For all of the reasons discussed earlier, it is unacceptable that the autonomy of the Authorities has enabled a system where some agencies are working with much higher caseloads than others. It is my understanding that the government provides funding to all Authorities for front line staff at a set salary level. Each authority then has the autonomy to decide whether to conform to that standard or alter it to meet their needs. These decisions in the past have resulted in a discrepancy between the salaries of workers in certain authorities as opposed to the salaries of workers in other Authorities. It would appear that decisions made relating to the salaries of the Awasis Agency workers has resulted

in their salaries being approximately \$7,000.00 less than the government's suggested figure. This creates a two-tiered system where better trained workers are attracted to better funded jobs. It is incumbent upon the government to immediately examine this problem.

[369] Recommendation No. 8: I recommend that the government and the Authorities, working collaboratively, determine what is an appropriate caseload for front-line workers and try to secure an agreement that the agreed to caseload guideline be maintained.

[370] Recommendation No. 9: I also recommend that the above process work towards determining appropriate salary levels for employees of the child welfare agencies and work towards securing agreement from the Authorities that they will conform to the agreed upon salary levels.

[371] Whether this recommendation is enforced through funding agreements or by making all social workers provincial employees only for the purposes of compensation, I recognize that devolution means autonomy and independence and none of the authorities want to lose any of their independence. But if being independent means that some workers are over-worked and underpaid, then our province is left with a two-tiered child welfare system. Over-worked workers with untenable caseloads cannot provide acceptable child welfare services. This cannot continue. While obviously a Provincial Standard could be established as to caseloads, as stated earlier, there is no mechanism for enforcement of standards and accordingly, there is no reason to believe that this would achieve the desired result. This matter is too important to leave unregulated.

NOTETAKING/CFSIS:

[372] We heard much at this Inquest about lost or inadequate note taking. Once again, this is not the first Manitoba child welfare Inquest where this issue was revealed. Agency workers explained that they felt that their ability to document was limited by their overlarge caseloads. They also said that they believed many of their file notes had been lost. One former Awasis worker said that when she left the employ of the Agency, there was a room stacked from the floor with unfiled case materials. This situation is not consistent with good child welfare practice.

[373] It is my understanding that CFSIS is now being used by all Authorities and every agency unless limited by lack of internet service. I further understand that it is the intention of the government to go forward with CUREM, which is considered to be an improvement on CFSIS, particularly as to being user-friendly in terms of inputting data. The value in these systems is to provide a readily available mechanism for file documentation. Every Inquest witness who was asked about CFSIS testified that they either use it and value its use, or wished they could use it. In his final submission at this Inquest, Harold Cochrane, counsel for the Southern Authority and ANCR, argued that non-use of CFSIS puts children at risk.

[374] Whatever system is available, it must be available to all agencies and its everyday use must be considered mandatory.

[375] Recommendation No. 10: I recommend that all Authorities ensure that all agencies and their employees are made aware that regular note taking and data entry into CFSIS is mandatory.

NATIVE WOMEN'S TRANSITION CENTRE:

[376] It is clear from the testimony provided at the Inquest that the NWTC was not, as advertised, a "safe house". The Centre itself has gone a long way to rectifying perceived problems. The Awasis Agency understandably appears to have misunderstood how NWTC was being run. It should never be the case again that the rules and practises of that facility are left as nebulous as they were preceding Jaylene Redhead's death.

[377] Recommendation No. 11: I recommend that the government incorporate into its funding agreement with Native Women's Transition Centre that that organization meet collaboratively with them on a yearly basis to audit the practices of the Centre.

[378] NWTC serves a vital function in our community. While they have done considerable good work, they have not done a good job of documenting what they have done and they have allowed client monitoring and security to lapse.

[379] Additionally, the NWTC has not kept pace with modern problems such as FASD and drug addiction, and if they do not adapt they run the risk of no longer

providing relevant, appropriate service. A regular collaborative audit should be of assistance to the facility and to the public by way of quality assurance.

RISK ASSESSMENTS:

[380] Awasis was criticized in the O.C.A. report for insufficient risk assessments. It is significant to note that a risk assessment was conducted by Ithan Bullard in April, 2009. Mr. Bullard's *Curriculum Vitae* indicates that he is an experienced social worker, working towards a PhD and was a certified trainer in the use of provincial risk assessment tools. He assessed Ms. Redhead as being low risk. However, he also testified that he had never been aware that she had formerly been considered high risk or that he was aware as to why she had lost her previous children to Permanent Orders (February 27, 2013: Digital Audio Recording 2:24). He also said that at no time did he ever feel that he developed a meaningful relationship with Nicole Redhead. Mr. Bullard's testimony as to the risk presented by this woman was that she was low risk because she was in a safe environment, being monitored by the staff of NWTC and as far as they were aware, she was sober.

[381] It seems to me that a more complete risk assessment would have included some consideration of the client's history. To call what Mr. Bullard apparently did a risk assessment, is to use the term in only a superficial way.

[382] Recommendation No. 12: I recommend that the Northern Authority make its agencies aware of the significance and importance of doing regular risk assessments for children who are either in care or being supervised by an agency, but in the care of a parent.

[383] Recommendation No. 13: I recommend that the Northern Authority emphasize with its agencies that risk assessments must be comprehensive and the information relied upon and the criteria used must be documented.

[384] Recommendation No. 14: Finally, I recommend that all child welfare authorities examine their current training modules for conducting risk assessments and if necessary, implement training to ensure that the persons doing these assessments are doing them fully and completely.

COLLABORATION:

[385] At various times throughout the Inquest, counsel commented upon what seemed to be a prevalent “us vs. them” attitude amongst the various agencies, institutions and individuals in the child welfare system. An adversarial attitude was noted to exist between the Agency, NWTC, the Office of the Children’s Advocate, the Child Protection Branch and the government in general. An example of these difficulties is provided by the dispute between the Agency and the Office of the Children’s Advocate as to whether the Agency was adequately consulted as to the O.C.A. report. Additionally, references were made as to the inadequacies of the foundational Provincial Standards and their application and as to inadequate government funding. In some areas, the Agency believed that NWTC dropped the ball and in some of those areas and others, NWTC blamed the Agency.

[386] Generally, and perhaps understandably given the nature of an Inquest, witnesses presented with an attitude of being over-worked, under supported and under attack from other parts of the system.

[387] The submissions of counsel recognized this adversarial attitude and several called for change in this regard.

[388] It became clear from the testimony at the Inquest that the world of child welfare in Manitoba as it currently exists has moved forward from where things stood in 2008. For one thing, there is a much greater awareness of the tremendous problem created by FASD affliction. As well, I believe participants have realized that they must have better understandings between themselves as to responsibilities and better lines of communication as to who does what and as to what progress, or lack thereof, is happening. Evidence was heard that tools are being developed and utilized to help relieve the intense pressure on frontline social workers. The Structured Decision Making (SDM) Module which is working to assist in frontline decision making and the widespread use of CFSIS which should assist workers with regularly documenting files, are both welcome advancements.

[389] It does appear that NWTC and the Child Protection Branch have worked well together to take a serious look at the functioning of the NWTC and make

changes. Arguably, the policies and procedures of the NWTC have been completely revamped and are nothing like what they were in 2008. All evidence heard at the Inquest suggested that both parties worked well together in what arguably amounted to a “make over”.

[390] Additionally, the considerable public attention to child welfare through the various Inquests, the Phoenix Sinclair Inquiry and the various reports on child welfare, have helped to remind not only the public, but also participants in the system, of the tragic consequences that can be a feature of providing child welfare services. Each loss has been a learning opportunity and I believe it is fair to say that all participants have learned lessons and the system is better for them.

[391] Despite the considerable evidence of increased awareness and willingness to change, I do not believe that the evidence at the Inquest reflected an attitude amongst the parties that they were all in this together or that they believed that working collaboratively they could make the provision of child welfare stronger.

[392] At no point in this lengthy procedure was any evidence heard, even anecdotal evidence, of any form of conference, meetings or seminars which brought together the frontline social workers, both agency and satellite providers with other social workers from other Authorities, members of the O.C.A., members of the Child Protection Branch or members of the administration of the relevant government departments.

[393] The very valuable evidence provided by the two C.E.O.’s, Elsie Flett and John Rodgers, showed that each of those Authorities have made their own innovations and developments. In each case, the changes and improvements they made have been restricted to their Authorities. They told us that the C.E.O.’s of the four Authority’s meet on a fairly regular basis together with the government. Yet it does not appear that improvements made at one Authority are being followed by the others. There are undoubtedly good reasons for this as obviously each Authority is autonomous and has their own budgeting approach, etc. But one is left wondering why if something is a creative solution and working well in one Authority, it is not being picked up by the other Authorities.

[394] Additionally, while it is fine for C.E.O.’s to meet, one cannot help but think that the frontline workers of the various Authorities should have opportunities to

conference and share ideas. These people are working in one of the most difficult work places in this province and they need considerable support. One place to get that support is from each other in an environment that does not include the stress of being on the job. Further, if this kind of interaction could include staff of the O.C.A., the Child Protection Branch and satellite providers like the NWTC, one would hope that not only would this improve communication between all these people and their respective agencies, but it would go towards reminding them all that they are truly working for the same objective.

[395] I encourage the government to do everything possible to stimulate the possibilities as to child welfare participants working in a more collaborative manner. One obvious way is to bring them together for the purposes of communicating and learning from each other.

[396] It seems to me that any improvement in the various parties ability and desire to work collaboratively can only work to the betterment of the protection of the children of Manitoba.

Dated at The Pas, Manitoba, this 20th day of May 2014.

“Original Signed by:”

Judge Lawrence Allen

EXHIBIT LIST

Description

1. Compilation of materials filed by Inquest counsel:

Exhibit 1:

Letter to The Honourable Chief Judge Ken Champagne from Dr. A. Thambirajah Balachandra, Chief Medical Examiner dated October 25, 2011
Re: Calling the Inquest

Exhibit 2:

Eight Accordion Folders of Documents listed as Sections 1-VIII, A-H and included disk

Exhibit 3:

Copies of Correspondence provided by Awasis Agency of Northern Manitoba (20 pages)

Exhibit 4:

Curriculum Vitae - Dr. Dell E. Ducharme – 8 Pages

Exhibit 5:

Curriculum Vitae - Shelley Burnstick – 3 pages

Exhibit 6:

Child Protection Branch Agency Standards Booklet

Exhibit 7:

Missing Pages from Exhibit EX2 D

Exhibit 8:

Case Planning & Family-Centered Casework Competencies – 15 pages

Exhibit 9:

Resume of Frances Swampy (Copy) & attached certificates – 14 pages

Exhibit 10:

8 X 11 Photograph of TV

Exhibit 11:

WPS Interview of Jaylene Redhead from Native Women's Transition Centre (NWTC) with disc

Exhibit 12:

Curriculum Vitae - Darla Dawn Spence – 4 pages

Exhibit 13:

Additional document *EX2 D06* – 2 pages (filed within *EX2 D06*)

Exhibit 14 :

Curriculum Vitae - Ithan Bullard – 4 pages

Exhibit 15 :

Memorandum; 2 Pages

Exhibit 16:

Native Women's Transition Centre Floor Plan

Exhibit 17:

Logs from November 2007-March 2008

Exhibit 18:

Logs from March 13- June 30, 2008

Exhibit 19:

Logs from July 2008 – October 2008

Exhibit 20:

Logs from October 2008 – January 2009

Exhibit 21:

Native Residence sign in and out booklets; January 01, 2008-January 31, 2008

Exhibit 22:

Native Residence sign in and out booklets; August 01, 2008 – January 31, 2008

Exhibit 23:

Pre Trial Memorandum of Awasis Agency of Northern Manitoba vs. Nicole Rae Redhead and Paul Sanderson by Justice Everett

Exhibit 24:

Handwritten map by Gloria Nobiss of the Native Women's Transition Centre

Exhibit 25:

Email from Dr. Phillips – 2 Pages

Exhibit 26:

Agreed Statement of Facts dealing with *EX17-23*

Exhibit 27:

Executive Summary Quality Assurance Report in 7 Points

Exhibit 28 :

Address Book Note Report

Exhibit 29 :

Mission Statement of Children's Advocate

Exhibit 30:

Transcript of Phoenix Sinclair Inquiry – J.C. Rodgers – DR. EX.

Exhibit 31:

Report on the interview with Nicole Redhead dated January 05, 2012

Exhibit 32:

Children's Advocate Memorandum – July 07, 2011

Exhibit 33:

Children's Advocate Correspondence – July 08, 2011

Exhibit 34:

Draft 2 Report of Interview with Nicole Redhead – January 05, 2012

Exhibit 35:

Handwritten Notes of Julie Dawson - Contract Request

Exhibit 36:

Handwritten Notes of Julie Dawson January 23, 2012 Interview with Nicole Redhead February 05, 2012

Exhibit 37:

Handwritten Notes of Ms. Dawson June 05, 2012 Interview of Nicole Redhead

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Letter from Children's Advocate December 05, 2011

Exhibit 41:

Native Women's Meeting General Program Information

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July 18, 2011 Awasis Agency from Ithan Bullard

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Children's Advocate Memorandum – September 09, 2011 Meeting of Awasis and NWTC

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Intake Summary Report Current of December 01, 2010, bound Documents
Closing Case Reference Nicole Redhead completed June 01, 2010

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Documents of AFM – April 10, 2008

Exhibit 46:

Aboriginal Health and Wellness (bound document) – date of enrollment – February 22, 2005

Exhibit 47:

Native Women's Transition Centre 2013-2014 Operations

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Quality Assessment Report NWTC Summary of Findings Recommendations – December 2012 – 7 pages

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Handwritten Statement of Maggie Lynn Chastelaine (✓) Dated July 09, 2009

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Awasis Agency of Northern Manitoba Review Summary Report

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3 page correspondence from First Nations of Northern Manitoba July 16, 2013

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Exhibit 55:

Awasis Agency of Northern Manitoba – Directive Dated: April 20, 2012;
Filed by: J. Harris

Exhibit 56:

Certificates of Completion for Barry Reid – 2 pages

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Drug and Alcohol Service Authorization Documents, Consent of Release form of Confidential Information Document, typical drug detection times in urine chart, 5 Page – Drug Testing Custody and Control Form – Gamma Dynacare

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Document Transition Planning: Child and Family Services to Adult Supports

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