

## We Want Simple Answers

By Brian Giesbrecht

We want simple answers. But, sometimes, there aren't any.

Take Manitoba's child welfare system, for example. We want to find a solution to a problem that has plagued us for generations. What to do about the huge numbers of Indigenous children that are taken into the care of child welfare agencies each year.

Meetings are held in Winnipeg and Ottawa. New plans, and new funding arrangements are announced. Editorial writers and senior politicians indignantly declare that henceforth children should be left with their biological parents, instead of being apprehended. We have seen situations where, a child left with incompetent parents, suddenly dies.

This time, following an expensive inquiry, politicians and editorial writers sanctimoniously demand that children must be protected, at all cost. As a result, apprehensions resume with urgency. The numbers of children in care swell, and the cycle begins over again, while the editorial writers and politicians --forgetting that they only recently demanded the opposite--once again urgently vow to reduce the number of children in care by leaving children with their biological parents.

Meanwhile, the Indigenous advocates criticize the situation, and demand new "funding formulas". The cycle keeps repeating itself.

The fact is, there are no easy answers.

Consider a case I know well: A mother is about to give birth. She has already had babies born with Fetal Alcohol Spectrum Disorder (FASD). In fact, she is FASD herself. Sentimentally, it is easy to say that she should be with her baby, and her baby should be with her. But, the fact is that the children she has already given birth to are at a severe disadvantage because of their brain damage, caused by the mother's alcohol consumption while pregnant. They will, in fact, have a very difficult time trying to live any kind of a good life. Chances are they will do poorly in school, end up in jail or on the street, and live a compromised life. The unfortunate mother--at least in part because of her FASD--wants to stay away from alcohol and drugs, but always goes back to abusing drugs and alcohol.

So, what is a conscientious child care worker to do?

At one time, the child care worker was non-Indigenous. Now, she probably is Indigenous. It really doesn't matter. The choice she faces is the same. And the choice is terrible. Either she apprehends, and the child will

enter a child welfare system that guarantees nothing, or she doesn't, and the child has practically no chance of living any kind of a useful or happy life. The choice is that stark.

The politicians and editorial writers--in their comfortable offices--can self-righteously declare that Indigenous children should be left with their parents. The Indigenous advocates can criticize the government no matter what approach is chosen. Meanwhile, the child care worker has to make this Hobbesian, life-and-death, choice between two evils.

In Manitoba, we have had tragedies, like the “baby Sophie” and Phoenix Sinclair cases, where leaving the children with the parents cost the children their lives.

Here is another case that was just in the news—the case of the late Kierra Elektra Star Williams, a child from the Peguis First Nation, who died of internal bleeding as a result of an abdominal injury inflicted by her mother, Vanessa Bushie. Her father, Daniel Vernon Williams, was found guilty of manslaughter in Winnipeg, for failing to protect the baby.

Here is what the father saw: (as reported in The Winnipeg Free Press)

“By the time she died, Kierra was severely malnourished, her tiny body bruised and showing signs of prolonged abuse—including broken bones, a cracked skull, five missing teeth, a dislocated shoulder and an eroded nose.”<sup>1</sup>

It doesn't get much worse than this.

Kierra was a baby that had been apprehended by a child welfare agency but was returned to her parents a year before she died. So far, there is no significant outcry about the actions of the child welfare agency. In fact, there has been no outcry about anything connected with this case.

This is, indeed, surprising, after the furious tweeting of the Prime Minister and other minions in the cases of Gerald Stanley and Raymond Cormier (Tina Fontaine), and the rallies and protests organized by Indigenous advocates, which were attended by thousands of outraged people.

One wonders, where is the justice for Kierra Star Williams?

Apparently, there is not to be any. She is just another Indigenous child who has died at the hands of her natural parents. There was no “all white jury”, or non-Indigenous accused, so she merits only a side column in the newspaper. If *The Winnipeg Free Press* manages to write a half-hearted editorial about this case it will be the usual drivel about “colonialism”, “residential schools”, and the need for even more money for Indigenous agencies or chiefs.

Meanwhile, the front-line child welfare worker has to make a decision in other cases that have the potential to end in the same kind of tragedy. The bleatings of cabinet ministers and scoldings from indignant editorial writers about the importance of keeping children with their biological parents are of no help—and might actually persuade the worker to make the wrong decision and condemn a child to a premature death like Vanessa Bushie and Daniel Vernon Williams.

And what about the cases of older “out of control” children who find their way into the child welfare system. The tragic death of the late Tina Fontaine comes to mind. This girl was running wild when she was with her biological family, and she continued to do so when she was placed in the child welfare system.

The system failed Tina, but so did her alcohol addicted mother, so did her community, so did the Indigenous leaders. But, most of all Tina failed herself; she would not change her behaviour even when other people that her life was spinning out of control.

Even if the system was better, a case like Tina's has no easy answers. Cases like Tina Fontaine are made much more difficult by the fact that there are really two Winnipegs--the one that you and I know, the middle-class city, where people go about their busy lives. And the other Winnipeg that the Indigenous underclass lives in-- where little girls sell themselves to dangerous men, Indigenous and non-Indigenous, for drugs and alcohol.

So, child care workers are faced with profoundly difficult decisions.

It has been claimed that Indigenizing the welfare system would help solve the problem of having too many Indigenous children in care.

The system was completely revamped. Indigenous agencies replaced the existing non-Indigenous agencies. The price for taking this drastic action was very high, and Manitoba had to endure years of poorly trained and supervised child welfare personnel making many bad decisions. Tragedies like the cases of Phoenix Sinclair, and Tina Fontaine, are the examples that made it into the news, but there are many more that didn't make the news.

But even after paying that steep price, the numbers of Indigenous children in care has not gone down. In fact, the numbers went up quite dramatically after the Indigenous agencies took over. They are now at an all-time high.

And now there is yet another reorganization and new funding plan announced. The truth is that politicians--Indigenous and non-Indigenous--have very little control over how many Indigenous children are in need of protection. No amount of funding plans or reorganization--or even no amount of additional millions thrown into the system--can solve this problem, as long as alcohol and drug issues are such problems in First Nations communities, and as long as the spillover into urban centres, remain out of control. That is why the overwhelming majority of Indigenous children who need protection are in this dire situation. So, the politicians must do what they can, but they should resist the temptation to self-righteously criticize decisions made in good faith by child welfare workers, or even make the claim that their latest reorganizational plan, or new funding formula will solve this problem. Because when their newest plan fails, it will be very clear that they spoke empty words.

At least 150 years of isolation and dependency have resulted in alcohol and drugs becoming a way of life on reserves and in the inner neighbourhoods of major cities and this massive and intractable problem is not going away any time soon.

We need to admit that there are no easy answers.

## ENDNOTES

1. <https://www.winnipegfreepress.com/local/father-found-guilty-of-manslaughter-in-toddler-daughters-death-475226183.html>

## About the Author



**Brian Dale Giesbrecht** received his education at United College and The University of Manitoba, where he obtained his LLB in 1972. He worked with Walsh, Micay and Co., and then joined Legal Aid Manitoba in 1975 to become Senior Attorney and the first Area Director for western Manitoba in Brandon. Appointed to The Provincial Court (Family Division) in 1976, he heard child welfare cases and general family matters until he transferred to the Criminal Division in 1989. During his career he served on the National Family Court Committee, and various provincial court committees. He was an Associate Chief Judge from 1991 to 2005, and he became Acting Chief Judge in 1993. Among the notable cases he heard was the Lester Desjarlais Inquiry. His report strongly criticized the government's decision to devolve child welfare responsibilities to racially based child-care agencies. Following his retirement from the Bench in 2007, Mr. Giesbrecht has written extensively for various publications. His main theme has been the need to abolish The Indian Act and the separate systems of government that exist in Canada.