

THE
Foster Parent
Survival Guide

How to Navigate the
Child Welfare Matrix

Landy Anderson



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To my husband John, who stood with me in tumultuous times and inspired me with his love, strength, passion and conviction. Because he is my soul mate, his influence in my life, consciously and subconsciously is manifested in this book. While these are my words; they are his too.

To Jordan, Luke and Leana, who lived through the entire fostering experience and despite all hardships endured they continued to embrace the rewards of fostering and have become greater human beings for it.

To Joshua, who always accepted the foster children and unselfishly shared his childhood with them. His kind and gentle soul helped guide the children with his own brand of wisdom.

To Quincy, the family historian, who taught us humility and, unbeknownst to himself, showed us how to accept love and experience it unconditionally. He has become our child.

To my family, Linda, Leo, Tina and Gary, who never treated the foster children any differently than my own children and accepted them as part of our family, no questions asked.

To Mark, Joe, Shondell and Tyrone, who taught me patience and forgiveness.

To Crystal, Marianne and Tara, who continually remind me how meaningful relationships are in life.

Foreword

From the Canadian Foster Family Association

The Foster Parent Survival Guide is a must read book for both new and experienced foster parents. It is refreshing to have a Canadian-based guide to the Child Welfare System within our own country.

It provides insight on how others within the system view us as foster parents and explains ways in which we can develop a positive working relationship with the workers in our fostering lives.

Finally a book that “tells it like it is” with Canadian content. Wonderful, and interesting reading. The author’s personal experiences throughout the book make it more down to earth and real.

Landy Anderson stresses the importance of support and networking. I too believe that this is an important part of fostering. Every foster parent should be involved with their foster parent association. It is the group that speaks for foster parents, facilitates meetings, training, support, and information around fostering.

If you are reading this, you have purchased or borrowed or have received an excellent gift. I truly hope that you learn as much as I did from reading *The Foster Parent Survival Guide*. After 25+ years one would think that one would “know it all” and this book shows that we may not. If you are new to fostering, good for you for reading this. It will help you through the child welfare matrix – something many of us did not have when we first became foster parents.

Consider joining the Canadian Foster Family Association (CFFA). Memberships are available for individuals and organizations interested in supporting the CFFA. We are the national organization that speaks as a collective voice for foster families throughout the country to enhance the quality of care provided to children. Our vision is to have Canadian foster families respected and empowered to create the best possible environment for children in care. Visit us at: www.canadianfosterfamilyassociation.ca.

Sheila Durnford
President, Canadian Foster Family Association

From the Foster Parents Society of Ontario

Landy's enlightened and practical understanding of the child welfare matrix is a must read for any individuals who choose a career in the Child Welfare System.

Landy's experience as a former foster parent in both the public and private fostering systems, adoptive parenting, kinship parenting and now as a senior manager in the Child Welfare System have given her a unique understanding of this system. She can see a point of view of fostering that few in management can realize and she can view management from a perspective that few in fostering can.

All parties in the Child Welfare System view the resource home as "a therapeutic milieu and healing home, where all the child's developmental needs will be met (social, emotional, behavioural, physical, cognitive and cultural)" (page 111). Landy's candid revelations about her own life experiences and later reflections highlight some "difficult truths" that most resource parents tend to avoid.

- Importance of understanding the Children Aid Society's mandate based on the Child and Family Services Act
- Fostering as a career and the long-term implications
- The unequal power relationship between the agency and resource parents
- Legislation and resulting impact on fostering
- Public scrutiny of resource parents
- Self-awareness
- Cultural implications
- Understanding the "nuances of fostering"
- Risk management
- Skills/training/professional development
- Resource parents' challenges with the child welfare perspective vs. mental health perspective

- Investigations and the legal ramifications to the family (no amount of training can prepare a family for the potential devastation and stress), etc.

The Foster Parent Survival Guide, although written in Ontario, contains valuable information that highlights the fact that, although child welfare legislation may differ depending on where you live, the epiphanies that you will realize after reading this book know no boundaries. The concepts and ideas in this book reveal the human experience of fostering that will not be different no matter which country you live in despite variations in child welfare legislation.

I would recommend that *The Foster Parent Survival Guide* should be read and kept as a resource tool for all foster parents. It should also be a mandatory teaching tool for all of those involved in the Child Welfare System for a true understanding of the life of a foster parent.

Landy, congratulations. You have outdone yourself.

Cecile Brookes
President, Foster Parents Society of Ontario

From the York Region Foster Parent Association

The Foster Parent Survival Guide is by far the best book that I have read regarding fostering. Anyone who is a foster parent or works in child welfare should read this book. Each chapter has many great facts and pointers and helpful tips when it comes to fostering. This book as a whole, or even chapter by chapter, could easily be used as a great training guide. The knowledge in this book is amazing and informative. I was sorry when I turned the last page because I could have kept reading on and on!

I would recommend *The Foster Parent Survival Guide* to all foster parents new and old, workers, supervisors, executive directors, mentors and anyone else involved in child welfare. It's a must read when it comes to working with children and families. This book is a great read and it's easy to understand. Many, if not most, foster parents can relate to almost every chapter. In addition, many experiences expressed in *The Foster Parent Survival Guide* are ones that we all have been through. I have taken away something valuable from each chapter. It's a reading experience I'll never forget.

Thank you so much Landy Anderson for writing what we all feel and go through each and every day in fostering, and being part of such a diverse lifestyle and career. I enjoyed this book from cover to cover – thank you very much for allowing me to be a part of this incredible experience.

Nancy Barry
President, York Region Foster Parent Association

Author Biography

Landy Anderson is a former Foster Care Supervisor with 27 years experience in child welfare. She has worked as a child protection worker, supervisor, and manager in several Children's Aid Societies in Ontario for various departments, such as Intake, After Hours, Family Services, Placement, Kinship Care, Community Services, Customary Care, Foster Care and Adoption. Landy is a former Treatment Foster Parent and Licensed Group Home Operator. She has supervised staff operated group homes and foster care departments for various child welfare agencies in the greater Toronto area including an Aboriginal Children's Aid Society. Landy also teaches part time at her local community college.

Remarkably, Landy has been a foster parent to over 100 teenagers spanning a decade, where some teenagers stayed for days and others well into adulthood.

Landy's Aboriginal husband, John, has been a great support in sharing his experience with her as a child who survived Canada's Sixties Scoop. He provides incredible insight into the lived experience of what it was like living as a foster child under the rippling effects of inter-generational trauma of residential schools. He offers powerful and practical knowledge that can only be derived from being an Aboriginal child in care.

Landy's unique experience as a foster parent, child protection worker and supervisor contribute to her expertise and candid perspective in the delivery of quality foster care services. To this end, she is a strong advocate for foster parent rights and their inclusion as equal members of the service team. She is a dynamic speaker and has developed and delivered training in critical issues such as Behaviour Management, Investigations in Foster Homes, Foster Parent Advocacy, Customary Care, Placement Stability, Aboriginal Child Welfare and a Foster Parent's Role in Permanency Planning for Aboriginal Children.

Landy's training is attended by child welfare staff, clinicians, community service providers and foster parents across Ontario at conferences held by local Children's Aid Societies, the Foster Parents Society of Ontario, the Ontario Association of Children's Aid Societies and the Canadian Foster Family Association. She currently lives in southern Ontario where she continues to preserve relationships with her former foster children with some connections lasting over 20 years.

Acknowledgements

I am eternally grateful to the fostering communities and my colleagues who helped me nurture and develop my leadership skills – Children’s Aid Society of Toronto, York Region Children’s Aid Society and Native Child and Family Services of Toronto. It was a privilege to work and foster in these communities where my richest learning took place, now transformed into this book.

A special note of thanks goes out to my Peer Review Team who were busy with families and careers, and yet these dedicated individuals took the time to support and guide me during the last leg of my book. Their feedback shaped the final outcome and their contributions will reverberate in our Canadian fostering community for years to come. I am proud to be your friend and colleague. Heartfelt thanks to: Nancy Barry, Cecile Brookes, Sheila Durnford, Lori-May Gardner, Teri Johnstone, Erin Moe, Ann Marie Russell, Janet Seow and Janet Stonefish.

Preface

Foster parents open their hearts and homes to abused and neglected children who are in need of protection. The best intentions and altruistic desires motivate them to apply to become foster parents.

Once an individual steps inside the child welfare matrix, they are mesmerized, overwhelmed, traumatized and privileged to be a part of what is perceived by some to be the most important work in our society ... protecting the community's most vulnerable members. A foster parent's heroic efforts to help those in need can be met with admiration and scepticism. They are constantly scrutinized by the families, communities and Children's Aid Societies (CAS) that they serve. Expectations for foster parents are higher than an average parent in the community, hence the spotlight shining upon them. Not only do they live in fish bowls, but to worsen matters, on rare occasions foster parents are targeted with false allegations from the foster children, their biological families and others in the community.

Given the complexity of the work, stress and frustration of being a member of a complex system where the foster parent has the most hours of investment, the greatest degree of risk and the least amount of control, it is essential that foster parents are confident, qualified and have a clear understanding of their roles and responsibilities in the child welfare matrix in order to survive. The Foster Parent Survival Guide will:

- Build foster parent competency;
- Enhance and empower foster parents to work with increased confidence, independence and professionalism;
- Provide a straightforward account of the child welfare matrix leading to a healthier understanding of foster parents' roles, rights and responsibilities;
- Inspire foster parents to become leaders in their service teams and their fostering communities;
- Help foster parents become a preferred placement option;

- Help foster parents balance the foster children's needs while meeting the needs of their own children; and
- Help staff understand the reality of fostering.

This book provides a truthful account of the relationship between foster parents, their agency and the CAS, leading to a clear sense of purpose and increased foster parent satisfaction. If a foster parent is treated as a valued member of their agency and they are well trained and supported, these satisfied foster parents will act as emissaries for their agency and attract other community members to apply to become foster parents as evidenced by an Ontario study that deemed, "Foster families are the best ambassadors for fostering: they are instrumental in the recruitment of the next generation of foster carers" (Leschied et al., 2004, p 7).

Apart from the benefits of building a strong and healthy fostering community, the ultimate goal of *The Foster Parent Survival Guide* is to help foster parents build confidence and develop the foster parenting skills and expertise needed to achieve better outcomes for their foster children and their own families.

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1

The Child Welfare Matrix

The child welfare matrix is a complex system designed to protect and care for children using multiple intervention methods and services with a lexicon of legal terms and references that are unfamiliar to the general public. Child protection services range from unintrusive measures, such as referring families to community services and supporting families in the home, to the most invasive measure of removing children from their parents due to safety concerns. More often than not, the removal is temporary and typically children are returned to their families. When children can't go home they are raised as state wards, adopted or placed with other family or community members.

In Canada, there are approximately 35,000 foster homes (Canadian Foster Family Association, 2009) and about 76,000 children and youth in care (Child Welfare League of Canada, 2008). In fact, foster parents represent the largest group of service providers in Canadian child welfare (Brown, 2010). Given that foster parents are an integral part of child welfare, it's crucial for them to understand what child welfare actually is.

Services and Administration

Some child welfare agencies offer a full range of community services, such as children's mental health services, assessments, counselling, day care, community kitchen, addiction supports and counselling, marital counselling, domestic violence services, women's and men's transition

housing (shelters), children and parent groups, employment services, drop-ins, youth services, educational, recreational, cultural events, etc. Generally, child welfare is geared to the child protection function (including raising children in care) and relies on local community services to treat the family issues that interfere with healthy parenting and functioning.

Direct and Indirect Services

The child welfare matrix is an assembly of services and stakeholders intended to keep children safe and healthy by strengthening families and communities. There are both direct and indirect services.

The direct services include the following:

- child protection services
- child welfare court
- provincial legislation
- provincial advocate
- ministry governance
- adoption
- foster care (kinship and customary)
- staff operated group care
- residential treatment facilities (mental health)
- secure treatment
- crisis facilities
- foster parent associations and networks
- youth in-care networks
- internal and external complaint systems

And the indirect services are the following:

- children's mental health system
- health care system
- education system
- police system
- youth justice system
- criminal justice system

- community services to the child and/or family: substance abuse, domestic violence, parenting, sexual abuse, trauma, victim support, etc.
- community watch dog organizations
- religious, spiritual or cultural services

Within the Aboriginal Community

In order to fully define child welfare in Canada, it's important to identify how child welfare applies to the Aboriginal community. In Canada, provincial/territorial child welfare laws apply on and off Indian Reserves. The provincial/territorial government funds child welfare *off reserve* while the federal government funds it *on reserve*. Whether the government provides the service themselves, funds the service (transfer payment) or audits the service, they are ultimately accountable (morally, legally, financially) for the protection of children in their jurisdiction, even when the task is delegated to another agency.

Reserves are lands set aside for the exclusive use of registered or status Indians (Aboriginal people registered under the Indian Act) and only status Indians can 'own' land on a reserve, but not all Indian bands have reserves. Many communities prefer the term First Nation rather than Band in self-reference, however Band is the term used by the federal government to describe 'a body of Indians' in a community, residing on one or more reserves. (*The Canadian Encyclopaedia*, 2011).

Administration

Canadian child welfare is administered through five organizations.

1. Provincial government or "Ministry"
2. Designated authorities
3. Designated agencies
4. First Nation Designated Agency (FNDA)
5. Local child protection services known as Children's Aid Societies (CAS)

Each jurisdiction has local child welfare duties that are mandated by their province, territory or First Nation laws and protocols. The primary objective is to protect children from harm or risk of harm by determining if the child can safely live at home. From herein, all child welfare agencies will be referred to as "CAS."

Legal Parameters

Definitions of child abuse and neglect are found in the legislation of each province, territory or First Nation. The main categories of child abuse and neglect are physical abuse, sexual abuse, emotional abuse and physical neglect. Domestic violence is a subcategory of emotional abuse while poor parenting capacity is often associated with various forms of abuse and neglect.

Child abuse and neglect that require CAS involvement in Ontario are outlined in a glossary of terms from the Ontario Association of Children's Aid Societies (OACAS, 2010) and are excerpted below.

Physical Abuse (OACAS)

Any deliberate physical force or action (usually by a parent or caregiver) that results, or could result, in injury to a child. It can include punching, slapping, beating, shaking, burning, biting or throwing a child. It is different from what is considered reasonable discipline.

Sexual Abuse (OACAS)

Sexual abuse is any sexual exploitation of a child by an older person where the child is being used for a sexual purpose.

The *Criminal Code* of Canada identifies a number of types of sexual abuse, including:

- a. Sexual interference;
- b. An invitation to sexual touch;
- c. Sexual exploitation of a young person;
- d. Parent or guardian procuring sexual activity from a child;
- e. Householder permitting sexual activity;
- f. Exposing genitals to a child; and
- g. Incest.

Emotional Abuse (OACAS)

Emotional abuse includes all acts of omission or commission which result in the absence of a nurturing environment for the child. It occurs when the caregiver continually treats the child in such a negative way that the child's concept of "self" is seriously impaired. Emotionally abusive behaviour by the caregiver can include constant yelling; demeaning remarks; rejecting, ignoring or isolating the child; or terrorizing the child. Emotional abuse can be the most difficult to identify and prove.

Neglect (OACAS)

Neglect occurs when a caregiver fails to provide basic needs such as adequate food, sleep, safety, supervision, clothing or medical treatment.

Abandonment/Separation (OACAS)

When a child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights and has not made adequate provisions for the child's care and custody. It also occurs when a child is in residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.

Caregiver Capacity (OACAS)

No harm has come to a child and no evidence is apparent that a child may be in need of intervention, however the caregiver demonstrates, or has demonstrated in the past, characteristics that indicate the child would be at risk of harm without intervention. These characteristics can include a history of abusing/neglecting a child, being unable to protect a child from harm, problems such as drug or alcohol abuse, mental health issues or limited care-giving skills.

Although definitions of abuse and neglect vary somewhat across Canada, each jurisdiction clearly identifies the types of offending behaviours against children that categorize abuse and neglect. To learn more about Canadian child welfare see the Child Welfare League of Canada website (<http://www.cwlc.ca>) or the Canadian Foster Family Association website (<http://www.canadianfosterfamilyassociation.ca>).

Overall, CAS is entrusted to protect children from abuse and/or neglect. Despite the legislative differences, all CASs are legally bound to receive and/or investigate *all* allegations of harm or risk of harm to a child in accordance with their jurisdictional framework. The legal authority to act on child protection concerns is known as a "mandate" because it is governed by legislation. In Ontario, the legal definition of the age of a "child in need of protection" includes children under 16, while some provinces and territories extend this limit to youth under 19. Each CAS is mandated to conduct child protection services in their own jurisdiction with legislation determining the following:

- manner of investigation, including tools used to conduct investigations;
- timelines to respond to allegations and complete investigations;
- grounds to remove children from families; and
- criteria and timelines for making permanent plans for children in care.

A CAS investigation is commonly known as a child protection investigation. At the end of an investigation, CAS must conclude whether the child protection concerns are “verified” or “unsubstantiated.” CAS investigations are treated the same way for community families and foster families, meaning child protection concerns are documented and investigated using the same legislated timelines, methods and tools. Furthermore, all referrals and investigations are permanent CAS records. To learn more about child welfare in your area, contact the local child welfare authority or visit their website. Information on provincial/territorial child welfare and children’s advocates can be found on The Canadian Child Welfare Research Portal: Provincial and Territorial Assistance website <http://www.cecw-cepb.ca/help>.

If an investigation is required, at the conclusion of the child protection investigation, a CAS may:

- **Close the File;**
- **Remain Involved with Parent’s Permission:** (verbal or written contract) thus allowing the child to remain in the home;
- **Remain Involved through a Court Order of Supervision:** with terms and conditions that the family must comply with, thus allowing the child to remain in the home;
- **Remove the Child with Parent’s Permission:** by allowing another person (family/community member or person known to the child) to assume temporary care or legal guardianship/care of the child;
- **Remove the Child with Parent’s Permission:** by placing the child in CAS care through signing a temporary contract that is a voluntary agreement on a short-term basis, allowing the child to remain in care without court involvement. If the child is Aboriginal, there are laws and protocols directing CAS on how to remove a child from their Aboriginal parents and/or family. This includes consulting with the child’s Band, community and/or entering written a Customary Care Agreement (see below); and
- **Remove the Child Without the Parent’s Permission:** by placing the child in CAS care by apprehending the child with court involvement.

By and large, the community's perception of child welfare is that CAS workers forcibly remove children from families. In fact, this represents a small percentage of their work. According to the "Canadian Incidence Study of Reported Child Abuse and Neglect" (2008, p 2) about 8% of all CAS investigations resulted in the removal of a child.

- 4 % of children were moved to informal arrangements with a relative.
- 4% of children were placed in foster care or kinship care.
- Less than 1% were placed in a group home or residential/secure treatment.

Aboriginal Communities

The Statistics

Unfortunately, these statistics bear no truth in the Aboriginal community. Tragically, Aboriginal children are more likely to be brought into care in comparison to non-Aboriginal children. As 27,000 First Nations children are estimated to be in CAS care, which accounts for 30-40% of all children in Canada's child welfare system, Aboriginal children represent less than 5% of the child population (Blackstock and Trocmé, 2005). Aboriginal people include:

- First Nation – Status Indian;
- First Nation – Non-Status Indian;
- Métis; and
- Inuit.

[T]he most commonly used terms are Aboriginal and Indigenous, and these two terms are often used interchangeably. In some instances, the use of a term may reflect a particular time period. For example, in the 1950s and 1960s, the term Indian was commonly used, and hence, in discussion about that time period the term is appropriate. Later in the 1970s and 1980s, the term Native was common, and so literature and discussions arising from that time may involve that term. Since the 1982 Constitutional amendment, Aboriginal was often deemed appropriate, although recently, we see that Indigenous is being used more frequently (Sinclair et al., 2009, p 13).

Given these glaring statistics, the overrepresentation of Aboriginal children in Canada's child welfare system is clearly alarming, although the prevalence of this issue is felt differently in each province/territory. In *Connecting Research, Policy, and Practice, Child Welfare, 2nd edition* (2011), chapter 21 compares the overrepresentation of aboriginal children in care in selected provinces. For example in 2006, 13% of New Brunswick's children in care were Aboriginal, whereas 85% of Manitoba's in-care population was Aboriginal (Sinha et al., 2011, p 308).¹

Figure 1.1: Overrepresentation of Aboriginal Children in Care

Province	Aboriginal Children as a Percentage of All Children	Aboriginal Children as a Percentage of All Children In Care	Year	Source
British Columbia	7	50	2006	a,b
Alberta	8	38	2001	c,d
	9	57	2006	b
Saskatchewan	23	67	1999	c,d
	25	70	2006	b
Manitoba	20	78	2000	e
	23	85	2006	b
Nova Scotia	3	16	2006	b
New Brunswick	4	13	2006	b

- a. Foster, 2007
- b. National Council of Welfare, 2007, p. 86
- c. Statistics Canada, 2006
- d. Farris-Manning & Zandstra, 2003
- e. Aboriginal Justice Inquiry – Child Welfare Initiative, 2001, p. 7

Historical Relationship with Child Welfare

Since a significant portion of Canada's child welfare system serves the Aboriginal community, it's imperative that foster parents understand

¹ Sinha, et al., "Chapter 21: Overrepresentation of Aboriginal Children in Care in Selected Provinces, 1999 - 2006" in *Connecting Research, Policy, and Practice, Child Welfare, 2nd edition* (2011) , at p 308.

the historical relationship and implications between the Aboriginal community and child welfare. The history of the State and Church in creating residential schools lead to the annihilation of Aboriginal culture and in turn the destruction of healthy Aboriginal families resulting in poor parenting capacity, neglect, isolation, poverty and substance abuse. The Aboriginal community's distinct relationship with child welfare is unlike any other community in Canada.

For more information on the relationship between Canada's Aboriginal People and the child welfare system, visit the following websites:

- Aboriginal Affairs and Northern Development Canada: Royal Commission Report on Aboriginal Peoples "RCAP" (1996): <http://www.ainc-inac.gc.ca>; and
- The First Nations Child and Family Caring Society of Canada: <http://www.fncaresociety.com>

In The Canadian Human Rights Tribunal on First Nations Child Welfare: *Why if Canada Wins, Equality and Justice Lose*, Blackstock (at page 189) references various findings by many reviewers.

First Nations children are being placed in out of home care at 6-8 times the rate of other children (Auditor General of Canada, 2008; Standing Committee on Public Accounts, 2009). Research suggests that the overrepresentation of First Nations children in child welfare care cannot be accounted for by differences in substantiated child sexual, physical or emotional abuse reports between First Nations and other children (Blackstock, Trocmé, & Bennett, 2004; Trocmé, Knoke, & Blackstock, 2004; Trocmé et al., 2006). It is neglect that fuels the overrepresentation of First Nations children in child welfare and this form of maltreatment is highly associated with poverty (Blackstock et al., 2004; Trocmé et al., 2004; Blackstock & Trocmé, 2005; Trocmé et al., 2006). The good news is that these factors can be mediated by services. However, federal child welfare funding on reserves is inequitable and is particularly lacking with respect to the funding of services especially designed to keep First Nations children safely in their homes known as "least disruptive measures." (Assembly of First Nations, 2007; Blackstock, 2008).

Because of the overrepresentation of Aboriginal children in the Canadian child welfare system, there is corresponding and corrective legislation to address the country's past abuses. Therefore, every jurisdiction in Canada has child welfare legislation that speaks to the inherent rights of Aboriginal

people in preserving their culture, traditions and honouring significant relationships by maintaining an Aboriginal child's heritage through Band (Indian Reserve where the child is a member or has affiliation) and community ties. For example, Aboriginal children with Band affiliation may be eligible for Customary Care Agreements (CCA) as alternatives to being in "State Care." If an Aboriginal child needs to be removed from their family, instead of being raised by the state with state imposed sanctions, a CCA lets each First Nation define their standards and terms through a contractual agreement with the child's caregiver, mother's Band, father's Band, child (depending on their age), CAS and, in some cases, the Aboriginal community service providers. The CCA stipulates who will care for the child and how the child's needs will be met, including expectations for on-going involvement with the child's First Nation and conditions to preserve customs and honour relationships with the child's biological family, extended family and community. Predominately and historically CCAs are the way of Aboriginal people.

A term similar to a CCA is "custom adoption." A CCA or custom adoption is legally binding *only* when the legislation formally identifies it as an alternative to adoption and/or legal custody. Again, these are terms specific to the Aboriginal community and reflected in the Aboriginal section of the provincial/territorial child welfare legislation as placement alternatives to state care. In order for a custom adoption to be legally recognized (like a custody or adoption order) and withstand court scrutiny in other areas of life, such as insurance coverage, provincial/federal benefits for parents and children, travel abroad, medical consent, parental rights, etc., there *must* be legislation to support the caregiver's custom adoption status in that particular province/territory. For example, British Columbia legally recognizes custom adoption in the following manner (Ministry of Children and Family Development, Custom Adoption Facts, 2011):²

- Custom adoption is an open process that involves many people in a child's life, including birth parents, extended family, the Aboriginal community and those with a significant relationship to the child.

2 For more information on custom adoption in British Columbia see the Ministry of Children and Family Development website (<http://www.mcf.gov.bc.ca>). For all other provinces and territories, consult with the local child welfare provider to learn more about custom care or adoption in your area.

- Custom adoption has the same effect as an adoption order under the *Adoption Act* when the court makes this declaration pursuant to an application under section 46 of the *Adoption Act*.
- Custom adoption is a permanency option that can be explored with birth parents voluntarily planning adoption under the *Adoption Act*.
- Custom adoption of a child in continuing custody proceeds when custody of the child is transferred to prospective adoptive parents, under section 54.1 of the *Child, Family and Community Service Act* (CFCSA), if eligibility criteria are met.
- Financial assistance may be available to eligible families who have had custody of a child transferred to them under section 54.1 of the CFCSA.
- An adoption order under the *Adoption Act*, or the recognition of a custom adoption by a court does not affect any rights a child may have as an Aboriginal person.
- The court has identified criteria that must be met before it will declare that a custom adoption has occurred.
- Prospective adoptive parents of a child placed for adoption by birth parents, or guardians of a child whose custody is transferred from the director under section 54.1 CFCSA, work directly with the Band, First Nations or Aboriginal communities to meet the requirements of the court.

Permanent Plans

For all permanent plans, other than foster care, foster parents should seek legal advice beforehand. For instance, in Canada, there are a variety of options used for permanency planning that includes both in-care and out-of-care options. Each option carries legal ramifications for the child and caregiver, in turn affecting the child's and caregiver's rights both during and after state care, such as financial support and access to services or programs.

The types of permanency plans vary as each region has its own legislation and policies that govern how child welfare works with families (voluntarily or involuntarily), including time limits, parameters for a child's short-term

stay in care and long-term stay in care and placing a child for adoption. Children who are raised in long-term state care are commonly known as Crown Wards or Permanent Wards.

Involving the Judicial System

Apprehensions

Despite any variances, all apprehensions (forced removal) must go before the court because the court must determine if CAS acted in accordance with the legislation. Apprehending a child is an intrusive and offensive measure because it is done without the parent's permission. Therefore, court involvement is extremely stressful for all parties involved, particularly the biological parents. Occasionally, the apprehension is an "emergency," which means that the child is brought into care immediately and court proceedings follow or the apprehension is planned and authorized by the court through a court order to apprehend the child (the judge makes an order after hearing evidence that the child is unsafe in the parent's care). At times, apprehensions require police assistance, as the family may have a history of violence or the neighbourhood is known as a high-crime area. Whenever the police are involved in an apprehension, their presence during this traumatic event leaves an imprint that lasts through a child's life.

Taking a child into care is like starting a war. It is easy to fire the first shot, but even easier to lose control over the process that has been started by the apprehension. (Steinhauer, 2002, p 27)

Within the Court

After a child is apprehended, CAS proceeds to court. During court proceedings, CAS must prove that the apprehension of a child was a necessary means to protect the child, justifying that a lesser intervention would not suffice. The CAS must prove their case by documenting the reasons for apprehending the child, including the circumstances of the incident that lead to the apprehension along with historical events that demonstrate the parent's inability to adequately care for and protect the child. Once CAS begins chronicling all of a parent's flaws in the court documents, understandably the court process becomes adversarial for

families. Biological parents quickly become defensive, angry and frustrated with CAS and the court scrutiny/involvement.

Not only does CAS dredge up a person's parenting flaws, they may ask the court to place restrictions on the parent's access. The presiding judge will place conditions on how access will be monitored, which ranges from fully supervised at CAS offices to semi-supervised or unsupervised community visits, home visits, phone calls or letter writing. If concurrent criminal charges exist, a parent may be prohibited from having any contact whatsoever (direct or indirect) with their child. In this situation, the criminal court order would take precedence over the child welfare court order and no access would be permitted.

Apart from access orders, the judge may place other conditions on the family and/or CAS to address specific needs, such as the parent's participation in programs (drug, alcohol, parenting etc.) or testing on the child (psychiatric, psychological, developmental, educational, etc.).

The Child's Lawyer

Each party to the court proceeding (CAS, mother, father, and, in some cases, previous caregiver(s), foster parent(s) or an individual who has a vested interest may seek "party standing" by bringing a motion to apply for it) is allowed to participate in the proceedings, make submissions and have a right to be represented by a lawyer. While the child is not a "party," they may have a lawyer appointed to them. The child's lawyer is a court appointed lawyer who acts upon the child's wishes and interests – with certain powers to act in court. A child may be in opposition to the CAS, their parents, caregivers, or even the court. If the child is too young to be at court or their wishes differ from other parties, a lawyer may be appointed to represent them. The child's lawyer must consider the circumstances of the child's life, their views and interests and then take a position for the child in court. The court will then decide what is in the child's best interest.

The Child's Advocate

Another venue where a child's voice is considered is through the Provincial Child Advocate. The Provincial Child Advocate is an independent office of the legislature (appointed) who will receive, review and investigate complaints from children in care or custody of the government. The Provincial Advocate represents children individually or as a group and

investigates complaints of abuse, mistreatment, fairness or the death of a child while in state care. The Provincial Advocate's role extends to advocacy for systemic change, including bringing public education and awareness to the plight of children's issues, particularly the human rights proclaimed in United Nations Convention on the Rights of the Child.

The Saskatchewan Children's Advocate Office describes the objectives of the Canadian Council on Child and Youth Advocates on their website <http://www.saskcao.ca> (2011).

The Canadian Council on Child and Youth Advocates is an alliance of provincially appointed advocates for children from the provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Ontario, Yukon and Saskatchewan, as well as the Youth Services Section of the Nova Scotia Office of the Ombudsman and the Québec Commission des droits de la personne et des droits de la jeunesse. The Council member offices work to ensure that children and youth rights are respected and valued, and that their interests and voice, regarding services delivered to children and youth by provincial governments, are heard. Additionally, they engage in rights-based public education, work to resolve disputes and conduct independent reviews, and recommend improvements regarding programs for children and youth. The Council's work is based on its commitment to uphold the rights proclaimed in the United Nations Convention on the Rights of the Child. Although mandates differ provincially, Council members share a common commitment to further the voice, rights and dignity of children and youth.

Although the Provincial Advocate may not be a party in child welfare court and have no authority in child protection proceedings, they will be involved in a child's case (to varying degrees) once a complaint is launched.

The Court Process

The child welfare court process is a complex legal system with a plethora of rules, legislation and legalese. The specific terms differ across jurisdictions. Examples of jargon in child welfare court proceedings include, but are not limited to, the following:

- adjournment,
- appeal,
- court conferences (settlement, case management or trial management),
- hearing,

- motion,
- status review application,
- trial and
- variance.

Typically, CAS does not actively involve foster parents in the court process unless they are required as witnesses during trial. While court plans evolve and court dates are scheduled and rescheduled, until the court plan is finalized there is a prolonged period of uncertainty for the child, biological parent(s) and foster family. This means that the child is in a state of “Limbo” (Wilkes, 2002), which generates a degree of emotional instability and functional deficits due to the absence of a clear plan.

Even when foster parents aren't directly involved in court proceedings, they're impacted by the court dates and court decisions. For instance, there is usually a hub of activity before each court appearance because CAS is required to give the court an update on the child's progress. CAS relies on foster parents to inform them of the child's progress. Shortly before court, foster parents are asked to provide a verbal or written summary of the child's progress and there may be increased phone calls, visits or meetings preceding the court date. If the child is appointed a Child Lawyer, the Child Lawyer may attend the foster home or ask to see the child privately in their office. In addition to the logistics of preparing for court and the added tasks beforehand, foster parents must also manage the child's emotional response to the court proceedings. For example, when children are old enough to be informed of their plans, the child often holds the belief that the judge will give them permission to go home on the court date. If this doesn't come true, the child may be relieved or devastated with the judge's decision and will turn to the foster parent(s) for support before, during and after the court date. Children having an adverse reaction to the court decision tend to act out their anger, confusion and frustration in the foster home, school or community. Or the child may be pre-occupied by the uncertainty in their life and simply be unable to focus at school which impacts their ability to learn – also known as “functional deficits.”

Foster parents should be knowledgeable about the various pieces of child protection legislation that govern their province, territory or First Nation such as who is responsible for the administration of child welfare services. Their knowledge should include the tools and timelines for responding to investigations, the definition of a child in need of protection, as well as

understanding of the criteria to remove a child, the child's legal status for being in care, different types of court orders/proceedings and the amount of time the child is allowed to stay in care before needing a permanent plan, including the different in-care and out-of-care permanency options available in that jurisdiction. Foster parents need to know this information, because they are facilitating these services (directly and indirectly), but more importantly, to support the child in their care.

Since foster parents are not usually participants in the actual court process. They are often unfamiliar with the child welfare legislation, court terminology and sometimes they aren't even informed of the court date. Not only does legislation govern how children are raised in care, it also provides the framework for the legal rights of foster parents. Often, foster parents aren't familiar with their rights or simply hesitant to take part in the legal proceedings. Regardless, legislation allows foster parents certain rights such as when they are entitled to service of court documents and/or participation in the court proceedings, including the right of appeal, complaints, adoption and removal of children. Even if foster parents have no intention of participating in the court process, they should have an awareness of their rights in the event they may want to exercise them.

These rights should be documented in the foster parent's manual, provided to them by their agency. If not, foster parents should ask their agency to provide this information or educate themselves on their governing legislation. To review the child welfare statute that governs your province/territory, see the Administrative Structure of Provincial and Territorial Child Welfare Services in Canada as of 2008* in the Table that follows.

Figure 1.2: Child Welfare Governing Legislation

Province	Administration	Child Welfare Statutes	Age Coverage
Newfoundland & Labrador	The Department of Health and Community Services is responsible for the provision of child welfare programs and services. Child protection is provided through four regional integrated health authorities.	Child, Youth and Family Services Act	Under 16

Province	Administration	Child Welfare Statutes	Age Coverage
Prince Edward Island	The Ministry of Social Services and Seniors, Child and Family Services Division is responsible for child welfare programs and services. Child protection is delivered through four regional offices.	Child Protection Act	Under 16; 16-18 for children with mental, developmental or physical challenges
Nova Scotia	The Department of Community Services, Children Youth and Families Division is responsible for child welfare programs and services. Child protection services are provided through 20 child welfare offices, six of which are district offices and 14 privately run societies/family and children's services agencies. One of the agencies is mandated to serve the Mi'kmaw First Nation community.	Children and Family Services Act	Under 16
New Brunswick	Child welfare is the responsibility of the Department of Social Development. Child protection services are provided through 18 delivery sites in eight regions. In addition, there are 11 agencies providing services to the First Nations communities of New Brunswick.	Family Services Act	Under 16; under 19 for youth with disability
Québec	The Ministère de la Santé et des Services sociaux funds child welfare programs and services through 19 Centres jeunesse in 18 regions.	Youth Protection Act	Under 18

Province	Administration	Child Welfare Statutes	Age Coverage
Ontario	The Ministry of Children and Youth Services funds child welfare programs and services, which are provided by Children’s Aid Societies throughout the province. There are 53 Children’s Aid Societies,** which are governed by Boards of Directors elected from the local communities. Six children’s Aid Societies were fully mandated to serve First Nations communities on Ontario in 2008.	Child and Family Services Act	Under 16
Manitoba	Child welfare is the responsibility of the Ministry of Family Services and Consumer Affairs, Child and Family Services Division. Child Protection services are provided by four departmental offices, six private non-profit agencies, 14 mandated First Nations agencies and one Métis agency supported by four authorities.	Child and Family Services Act	Under 18
Saskatchewan	Child welfare is the responsibility of the Ministry of Social Services. Child protection services are provided through 20 service offices in six regions. There are 17 fully delegated First Nations child protection agencies in Saskatchewan.	Child and Family Services Act	Under 16

Province	Administration	Child Welfare Statutes	Age Coverage
Alberta	The Ministry of Children and Youth Services is responsible for child welfare programs and services. Child intervention services are provided through ten Child and Family Services Authorities; nine of which are regionally based and one provides services to Métis settlements throughout the province. In addition there are 18 First Nations agencies providing child protection services.	Child Youth and Family Enhancement Act	Under 18
British Columbia	The Ministry of Children and Family Development, Child Protection Division is responsible for child welfare programs and services. Workers in 429 Offices, in five regions, provide child protection services with support from the provincial office of the Child Protection Division. There are seven fully mandated First Nations child protection agencies in British Columbia.	Children, Family and Community Services Act	Under 19
Yukon	The Department of Health and Social Services, Family and Children's Services is responsible for the provision of child welfare programs and services. Child protection services are provided through 11 offices.	Children's Act	Under 18
Northwest Territories	The Department of Health and Social Services is responsible for child welfare programs and services. Child protection is delivered through eight health and social services authorities.	Child and Family Services Act	Under 16

Province	Administration	Child Welfare Statutes	Age Coverage
Nunavut	The Department of Health and Social Services provides child protection services to the communities in Nunavut. Child protection services are provided from three regional offices.	Child and Family Services Act	Under 16

Public Health Agency of Canada, Canadian Incidence Study of Reported Child Abuse and Neglect, Major Findings, 2008, p 10, Table 1:1

* Information was compiled through interviews with Ministerial Officials and information posted on provincial and territorial websites; this table represents the administrative structures in place at the time of data collection in October 2008.

** In 2008 there were 53 CASs whereas in 2012 there are 47.

The court process has significant implications for the child and the service plan as court plans are core to the larger service plan. All CAS decisions revolve around the court plan, including the anticipated length of time the child will remain in care. Not only do court decisions effect the child’s living arrangements, it also has a psychological effect on the child and their parents. For example, it means something very different for a child to be in care temporarily with plans to return home, as opposed to being a permanent ward of the state and raised in foster care. Therefore, it’s important for all members of the team, especially foster parents and clinicians, to monitor the court activities and outcomes in order to help the child understand their life story and come to terms with their living arrangements and long-term plans.

Clearly, the forced removal of children through the courts is an adversarial process that leaves permanent scars for children and families. Being a child in care alters the course of life for the child and their parents. Therefore, before apprehending a child, CAS carefully considers a less restrictive means to address the child protection concerns. Removing a child by way of a CAS apprehension means the protection concerns were such that no other less restrictive measure could satisfactorily reduce the harm or risk of harm to the child.

Voluntary Relinquishment of Parental Rights

There are times when a parent voluntarily relinquishes their child to CAS because they are simply unable to continue to care for them. These are exceptional cases. Cases such as severe mental health, death or isolation may be other legitimate reasons for CAS to take temporary or permanent guardianship of a child.

Plan and Status

Coming into care and determining the length of time the child should remain in care or return home can be a long and complicated process. It usually takes several years to develop a permanent plan for a child due to legal reasons or CAS belaboured efforts to find suitable kin and kith plans. Until it is determined that the child will be permanently removed from a parent's care, the goal is always to return the child to their biological parents. Waiting for a definitive answer to a child's long-term status and waiting for a permanent plan to be developed are separate yet similar issues. Both the status and the plan are intertwined (see Figure 1.3 for various options) and one drives the other. For example, if there is a viable plan, it will be approved and the status will follow. In the absence of a plan, the status of the child takes precedence and a plan is developed afterwards. Most likely when a child can't return home or be placed with another family member, the child will either remain in their current placement (grow up there) or go onto adoption.

Figure 1.3: Plan and Status Interconnected

PLAN	STATUS
Child to return home	Temporary Wardship – Court Temporary Care Agreement* – No Court
Child to be placed with a family member or significant person in the child's life (kin or kith)	Legal guardianship by family/ community member Or Adoption by family/community member

PLAN	STATUS
Child to grow up in state care (foster or group)	Crown Ward or Permanent Wardship
Child to be adopted	Adoption by unrelated person
Permanency for Aboriginal children	Customary Care or Customary Adoption

* In Ontario these contracts are referred to as “Temporary Care Agreements;” in Manitoba, they are referred to as “Voluntary Placement Agreements.” Again, this is an illustration of the different terms of reference that foster parents must be familiar with as they relate to their own region. Regardless of the name, these agreements are intended to be short-term care and voluntary.

The permanency *plan* is contingent on identifying whether the child can return home or needs an alternate long-term plan such as extended family, community, foster care, customary care, custom adoption or adoption, whereas the permanency *status* is contingent on family, Band, CAS and court agreement.

Before CAS will approve a child’s permanency plan, they will assess the child’s needs in accordance with the caregiver’s capacity. The long-term caregivers must understand the child’s needs and be capable of meeting them for the rest of the child’s life. It is an enormous commitment for another person to take on the responsibility of someone else’s child and a weighty decision for CAS to make without allowing the biological parents ample opportunity to turn their lives around. Therefore, court delays and repeated delays in permanency planning may be attributed to one or more of the factors noted below.

- The parent(s) requires time to attain treatment (counselling, parenting, additions, etc.).
- The parent(s)’s treatment is reliant on lengthy community referral waiting periods.
- The parent(s) is not represented by a lawyer and proceedings are delayed due to parent(s)’s need to have more time to defend their case and/or secure a lawyer.

- The court proceedings/adjournments are lengthy or complicated by new lawyers joining the case (parent(s) has a right to fire their lawyer on the case and get a new one).
- The court trial is a long and arduous process. Given the number of people and parties involved and the potential for conflicting views, there may be a variety of court adjournments to allow the parties or services to come to a consensus on certain decisions, such as length of time in care, access to parents, types of assessments, type of placement (residence), etc.
- Alternate family/community plans are considered, assessed or fail to meet CAS standards, which uses up valuable time while the child is waiting for a permanent plan to be developed, assessed and approved by CAS.
- Alternate family/community plans fail to be identified until late in the court proceedings, which means further time is needed to assess proposed plans.
- For Aboriginal children, CAS may be working with reserves/settlements from another province, who are unfamiliar with the case and need time to develop a family/community plan.
- The child's developmental needs are such that it is unknown what type of life-long treatment they require, hence the need to fully assess the child before choosing a permanent placement.
- If more than one CAS or province is involved, the communication difficulties and language barriers (terms of reference and dialects) slow the casework.

While the team is exploring the possibility of a permanent family/community plan, other permanency options are being considered concurrently for the child to remain a Crown ward (with or without access to their parent(s)/sibling(s)) or be adopted. Being a Crown ward or permanent ward means that the government is the child's legal guardian and responsible to raise them until they are an adult and reach the age of majority. In most provinces, children can refuse to be in state care at the age of 16 although the government is legally responsible to care for them until the age of majority (18/19) and may provide additional support (financial and case management) until age 21 and in some cases until age 24. There may be

exceptions if the child is developmentally delayed. In Ontario, support after adulthood is known as “Extended Care and Maintenance.”

Generally speaking, foster care is temporary by nature and the primary role of foster parents is to help a child return home or transition into a permanent plan. As you can see, developing a permanent plan is a complicated process that places a great deal of stress and anxiety on the child and their biological family. Until a permanency plan is developed and agreed on, the child remains, as Wilkes states, in “limbo” and foster parents must manage the behavioural issues the child exhibits as a result of their emotional turmoil.

If a child does not have a suitable permanency plan, then CAS looks to long-term foster care and foster parents are expected to raise that child into adulthood – a mammoth responsibility.

This Canadian structure of foster care (the provision of short-term versus long-term care) can also be applied to our American friends reading this book. The same child welfare and foster care structures exist in Canada and the United States, which means that child welfare legislation and foster care standards vary from province to province, territory to territory, state to state and, in some cases, First Nation to First Nation or Inuit and Métis Authorities. If we drill down further, you will be surprised and overwhelmed to learn about the regional, provincial, territorial, tribal and continental differences.

Despite geographical differences, there are universal precepts and notions that apply to all foster parents regardless of their locale. For example, foster parenting is about raising a child that was not born into your family and treating them as if they were your own. Herein lies the foster care quandary because parenting is very intimate and private, however foster parenting is very public and corporate. This is why fostering is so difficult, demanding, risky and complex. It is absolutely critical for foster parents to be properly trained in how to navigate the child welfare matrix for their own survival and for the health and well-being of the children in their care.