

Children First

The Aboriginal Advisor's Report on
the status of Aboriginal child welfare
in Ontario



Presented to the Honourable Laurel Broten,
Minister of Children and Youth Services

Advisor's foreword



In the fall of 2009, I was approached about the idea of becoming involved with Ontario's Ministry of Children and Youth Services as the Aboriginal Advisor to Minister Laurel Broten.

Although I did not have the formal background for such a position, I agreed. I had, as a motivator, the strong desire to see that our children were properly protected and that an efficient process for Aboriginal people to be heard by the Ministry was in place.

Prior to this appointment, I did some research and, after my appointment, I met with community members, frontline workers and key decision makers involved in child welfare in Ontario. I knew there were issues, but some of the data was eye-opening: for one, there are a disproportionate number of Aboriginal children in the child welfare system. Although Aboriginal people make up about 2 per cent of the province's population (2006 Census), we make up a far greater percentage of the children in care (estimates are from 10 to 20 per cent). The numbers here are difficult to determine because not all families or children choose to identify themselves as Aboriginal, and in some instances pre-Bill 210, the question was not asked and is still not always asked today.

In 2006, Bill 210 amended the *Child and Family Services Act* (CFSA) in Ontario. Often referred to as the Transformation Agenda, it outlined significant changes for child welfare service delivery, including but not limited to: differential response (family centred), Alternative Dispute Resolution (ADR) (alternatives to court), and permanency planning (kinship care, adoption). Bill 210 requires workers to ask whether the child has Indian or native status; however, there are still some shortfalls within the system for identifying our children.

The dialogue I participated in over the last year has been enlightening and educational. I have learned a great deal of what is often referred to as the "60's Scoop," a time when First Nation children were removed from First Nation homes and communities and fostered or adopted out in non-Aboriginal homes or, in some instances, out of the country.

Statistics from the federal Department of Indian Affairs and Northern Development (now called Aboriginal Affairs and Northern Development) reveal that over 11,000 Status Indian children were adopted between the years of 1960 and 1990. It is believed that the actual numbers are much higher than that. Of these children who were adopted, 70 per cent were adopted into non-Aboriginal homes. According to the department's reports, a substantial portion of these adoptees face cultural and identity confusion issues as the result of having been socialized and acculturated into a Euro-Canadian middle-class society. As one author put it, the identity issues of adoptees may be compounded by being reacquainted with one of the most marginalized and oppressed groups in North American society.

There is now a different kind of assimilation taking place that is referred to as the "Millennium Scoop." Let us learn from the past and not continue down the path that will lead to another lost generation.

Through the people I met over the last year, I observed and learned about positive cooperation between agencies; for example, in one part of the province a Native Women's Group provides a Children's Aid Society (CAS) with insight on how to best serve the Aboriginal children in their region. The Native Women's Group's program is further ahead in terms of the holistic nature of its services compared to a vast majority of agencies in the province. There are also examples of First Nation workers providing prevention services for families, reunification, coaching and a number of other services with a cobbled-together budget. The services being provided are on par with a number of other agencies that had much more in the way of monetary resources. I talked to agencies in the north where it is possible that a capable and responsive service can be provided to children in extremely challenging circumstances. In the placement of children at risk in the north, distance and remoteness contribute to high travel costs and logistical nightmares. Furthermore, embedded overall is the looming miasma of poverty and addictions.

Aboriginal CASs work with all aspects of culture and traditional values in their day-to-day business. This approach has proven to be effective and successful in many instances. In dealing with the issues that face our communities each day, culture, traditional values and the retention of language cannot be emphasized

enough. This cultural imperative applies to our children and their parents and grandparents who, in many instances, are displaying the effects of the residential school experience through inter-generational trauma that continues to this day.

I also see the need to explore the dynamic between the on- and off-reserve organizations. There is no doubt that off-reserve citizens of a First Nation are undeniably linked to their home community. However, given the scarcity of resources for First Nations, it is unlikely that there is enough funding and human resources available to attend to all of the needs currently being experienced.

First Nation organizations need to continue to exercise their jurisdiction in matters that involve their citizens. Urban organizations that are in place are dealing with the day-to-day matters of the urban resident, but both types of entities are an integral part of the social safety net for First Nation citizens.

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Through my community dialogues, I have learned that tension exists between Aboriginal groups and service agencies throughout the province. Since there are a large number of First Nation citizens living off reserve and in urban areas, a like number of Aboriginal children who are in care and in foster care do not have Aboriginal-run organizations as their care provider. This disparity is a great concern to Aboriginal leaders who believe these children are losing touch with their cultural roots. It is reported that, as their length of care increases, their sense of community and culture becomes more difficult to attain. This disconnect creates despair and confusion as the child ages within the system and eventually leaves it.

It is time for a role clarification to be undertaken in order that the best interests of the children and families are prioritized. First Nation governments have indisputable jurisdiction, while the urban organizations, such as the Ontario Federation of Indian Friendship Centres (OFIFC) and the Ontario Native Women’s Association (ONWA), have resources and networks in the urban areas. The constant state of tension brought about by the jurisdictional debate of who operates in particular catchments is taking valuable energy away from the job at hand: providing services to the people.

Typically, I hear a great deal of anecdotal evidence concerning the large number of children in care within the child welfare system. There are claims that the number of children in care today is equal to or more than the number of children taken during the height of the residential school system.

As part of my research process and through my discussions, a number of key themes presented themselves time after time. The first theme is that children are more at risk if the family lives in poverty — and poverty, as we know, is endemic on reserves across Ontario. The second major theme is the social challenge presented by drug and/or alcohol dependency. It is the perception of First Nation families that, when police are called and alcohol and drugs are involved, the children have a far greater likelihood of being apprehended than if they were non-Aboriginal.

As most Canadians know, Aboriginal people are historically found on the low end of the socio-economic scale in Canada. According to Campaign 2000 statistics, 10 per cent of Canadian kids live in poverty, while among First Nations the figure is even more disturbing: one in four. Poverty in First Nation communities is reflective of an array of other social problems. All of these issues combined lead to a stacked deck against our children, as well as a greater risk of our children entering the child welfare system.

The third theme is that the residential school experience has left a social impact that leads to the alarmingly high number of children in care. The system is responsible for creating generations of people whose identity, culture and language were stolen from them. And now they are parents with little or no parenting skills raising a generation of children grappling for identity.

There is some movement on behalf of the First Nation political organizations to develop their own laws regarding child protection. However, we need to do more.

There needs to be a cooperative exchange of ideas and solutions between all levels of government — federal, provincial, and First Nation — to discuss a strategy for change. Whether it is by re-examining child welfare laws or resolving jurisdictional issues, the strategy should help a collective move

forward towards the empowerment of First Nations over child welfare in their communities. There is a desire to make positive change, but we need a whole new paradigm shift within the whole system of child welfare. The framework for such a shift, which would involve jurisdiction, is provided for in Section 35 of the Canadian Constitution. This Section recognizes and affirms existing Aboriginal and treaty rights, providing constitutional protection. First Nations believe that there is an inherent right to care for their children under their own customs and traditions, and that that right is reaffirmed by Section 35. Current provincial legislation, the *Child and Family Services Act*, through its daily implementation, is sometimes viewed by First Nation leaders as infringing upon those rights. Adjusting the implementation of this Act to respect customs and traditions will alleviate some of those fears. A senior-level table needs to be created to discuss Section 35—jurisdictional issues and the 1965 Welfare Agreement—including a review of the funding mechanism and government-First Nation relations.

There are many First Nations and other organizations within the province that are doing a fine job of keeping children safe, reuniting families, and working at combating social ills within the community. In spite of this effort, the child welfare system as it currently stands is in need of an overhaul. Funding requirements are constantly escalating, while success measures are not showing improvement.

We have some communities prohibiting the CAS from entering their territories, but I am unsure if this is helping the children in the long term, especially if there is no alternative arrangement for child protection. There are examples of abuse at the hands of foster families; examples of grandmothers spending their life savings on legal assistance for custody of their own grandchildren; and of dedicated mothers who work to achieve various goals to get their children back only to have those goals changed during the next meeting with the CAS worker. The issues are many. Sometimes the problems seem insurmountable, but we do have many of the right people in the right place to make this change – they must be listened to and we must have the collective courage to act.

Once the barriers of discussion are removed, we can all move forward to provide a healthy and optimistic future for our children. After a year in my position studying the child welfare system and listening to concerned parents, leaders, Elders, frontline workers and decision makers, I have reached the conclusion that something needs to change. The recommendations in this report will take time, mettle and a sustained effort from all levels of government to implement. Change will need to occur incrementally, but work towards that change needs to begin now. I view this report as the catalyst for this necessary evolution. The child protection system in Ontario is broken for Aboriginal children and youth and it must be fixed. Throughout Ontario it was unanimous what needs to be done: we must put the child first.



John Beaucage
Aboriginal Advisor to the Minister
July, 2011

Background and objectives

In April 2010, Cabinet appointed me as Aboriginal Advisor to Ontario's Minister of Children and Youth Services, the Honourable Laurel Broten. I reported directly to the Minister with a mandate to act as a liaison between the Minister and Aboriginal leaders on Aboriginal child welfare matters.

I provided advice on Aboriginal child welfare policy matters and on engagement with Aboriginal leadership. I also assisted in broadening the Minister's outreach by communicating key information on the Ministry's activities to Aboriginal leaders and communities.

Over the course of the last year, I met with Aboriginal leaders and key decision makers, as well as knowledgeable Aboriginal partners and service providers across the province, including Political Territorial Organizations (PTOs), individual First Nations communities and Aboriginal Children's Aid Societies (CASs). Each session focused on current issues, challenges and strategies for moving forward.

These sessions formed the basis of my final report to the Minister.

In addition to the above activities, I had the pleasure of co-hosting *Together for a Better Tomorrow: A Summit for Aboriginal Child Welfare* with Minister Broten in mid-April 2011. This historic event, held in Fort William First Nation, brought together nearly 200 participants from PTOs, First Nations communities, urban Aboriginal organizations, Aboriginal and non-Aboriginal service providers plus Aboriginal youth to engage in discussions about how we can all work together to better serve Aboriginal children, youth and their families. The dialogue at the Summit was engaging and powerful; many dynamic practices and perspectives were shared to guide our way forward. I was inspired by the collective commitment to bring forth change. The ideas and challenges discussed at the Summit also helped shape this report.

To help me plan this event, I chaired a Summit Planning Committee comprised of representatives from PTOs, urban Aboriginal service providers, specific First Nations and Aboriginal CASs. This hard-working group provided valuable guidance and advice in the planning of this precedent-setting event.

The recommendations that follow are grouped according to theme: Best Practices, Capacity Building, Prevention, Funding, Governance, and Future Challenges. I have also identified as short term those areas where work can and should begin now to set us on the right path for longer term transformation.



Photo courtesy The Fort Erie Post

Recommendations

Best Practices – Short Term

1. Apply Jordan's Principle to include Aboriginal Child Welfare.

We must never remove a child if we cannot ensure that the situation will be better for that child, according to Dr. Cindy Blackstock, a leading advocate for the rights of Aboriginal children and Jordan's Principle. *(Jordan's Principle, a child-first principle, ensures that federal and/or provincial funding disputes do not interfere with First Nations children accessing government services that are available to other Canadian children. Jordan's Principle is one of the most widely supported children's policy movements in Canadian history.)*

Although widely adopted, no federal or provincial jurisdiction has fully implemented Jordan's Principle. It was a focal point of discussion at the Summit for Aboriginal Child Welfare, held in Fort William First Nation during the middle of April 2011. According to participants there is a perception that if the police or care workers respond to a call, an Aboriginal child will more likely be removed from an at-risk situation quicker than a non-Aboriginal child in the same situation. More often than not, the child is then taken to a non-Aboriginal foster care home. By implementing Jordan's Principle, families will view governments as being committed to Aboriginal children and families, ensuring equal access to quality children services, whether on or off reserve. Anecdotal information from parents who had children apprehended and individuals who were "in care" as children agree that strengthening and broadening Jordan's Principle would alleviate some of the detrimental effects in these situations.

It is also understood that Jordan's Principle was primarily developed for children with special needs and relates to funding; however, the concept can and should be widened to include all children at risk and the agencies, departments, and First Nation communities that need to be involved. Funding and inter-departmental and ministerial differences aside, the child comes first.

2. Culture is the foundation on which an improved relationship with the Aboriginal community will be based to help curb the excessive number of Aboriginal children “in care.”

There is a strong correlation between culture and identity. Identity is a sense of self, whether in a family, a community or the larger environment, that is interconnected, yet independent of one another.

It is well documented: the loss of language and culture within Aboriginal communities is a key factor in the breakdown of family values, addictions and anti-social behaviour, to name a few consequences. A concerted effort must be undertaken by all levels of government, including Aboriginal governments, to understand the families they service and aid in a repatriation initiative that will help individuals and communities return to their traditional

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values. Where there are Aboriginal children within the system, an effort must be made to understand and provide for cultural linkages where there are none. To this effect, the Ministry is currently collecting examples of existing protocols between First Nations and mainstream CASs, and is working also to establish new protocols, as a good start. The value of culture and identity cannot be overstated. The provision of cultural links and language must not be considered as optional.

This would include traditional teachings, ceremonies and the values that are the strength and root of healthy Aboriginal communities. One example is the Black River wilderness program, which was created in Naotkamegwaning (Whitefish Bay) First Nation by the community’s Elders in response to a number of suicides. It is an inter-generational program intended to connect youth to their spiritual/cultural roots by engaging with Elders. Through traditional tasks and ceremonies, the youth experienced an immediate and profoundly positive effect. Suicides have been reduced and graduation rates increased.

3. Off-reserve children and families are to be declared a matter of concern and steps are taken to address their issues. A province-wide task force should be established to serve urban Aboriginal children.

The number of Aboriginal people in the urban setting is growing at an unprecedented rate, largely because of lack of opportunity and housing on reserves. In many instances, the social issues found on reserves are being transferred to urban areas, resulting in many of the child apprehensions by CASs. These Aboriginal children require linkages to their culture and language, as well as to their home community. We cannot assume that because they are in an urban setting, all of their needs will be met and appropriate resources will be made available.

A province-wide task force should be established, with a mandate to review the state of Aboriginal children in care off reserve and make specific recommendations on their best interests. The task force would be best served through a diverse membership of frontline workers and leaders in the field.

At the point of entry, clients are informed that there is a link to their home community via an Aboriginal liaison worker, which establishes a connection to their community. It is recognized, however, that the home community does not always have the resources to provide service to that child and in an urban setting. When a CAS responds to a First Nation home off reserve, there is pressure on the CAS to provide culturally-appropriate services to these families. When such services are not offered, these families feel as though they have “fallen between the cracks” and the CAS is deemed culturally insensitive. More needs to be done to support non-Aboriginal CASs and First Nation families off reserve; specifically, improving cultural competencies in order to provide services according to each family’s cultural custom and tradition.

To alleviate these issues, service agreements can be developed that would see off-reserve child welfare workers take on Aboriginal cases or place First Nation workers in the non-Aboriginal CAS system. This arrangement would involve collaborative work with First Nations and First Nation/Aboriginal child welfare workers to ensure the best interests, culture and community connections are a priority in the plan of care. If families choose to remain with a non-Aboriginal CAS, linkages with their home community can be strengthened via cultural protocols and services agreements.

4. Wherever possible, customary care should be the first choice; only after exhaustive efforts prove futile should a child be placed within mainstream foster care.

The first element that should be stated here is that customary care belongs to Aboriginal families, from grandparents to extended family. Family caring for family is the first option.

Remove the home study programs, Parent Resources for Information, Development and Education (PRIDE) and Structured Analysis Family Evaluation (SAFE) in the First Nation communities until they can be modified to reflect Aboriginal values and culture. New standards need to be developed that are specific to First Nations and regions. As a promising start, the Ministry, in collaboration with the Tripartite Technical Table on Child Welfare, is working to develop a process guide on customary care to increase understanding and utilization of customary care by CASs and First Nations.



There needs to be some modifications to the training to take into account specific differences and cultural norms in First Nation communities. A budget line (see Recommendation #11) needs to be provided for Customary Care Resource Workers within the CASs that have First Nations within their catchments. These workers employed by the CAS would specifically be linked to the Aboriginal communities and in some instances would have satellite offices in the larger locations. Before anything, placement protocols where Aboriginal foster homes are first utilized must be reviewed and a new policy developed.

5. Recovery/Reunification coaches who have training in Alternative Dispute Resolution (ADR) must be a part of each CAS.

It is essential that the main goal of all CASs is to return the child to a safe and loving home within their own family/community. The concept that there will be a person responsible for recovery and unification is a major part of what the CAS does for families. In discussions many parents felt that the CAS did not want to reunify the family. There is mistrust. Goals were provided but never reached because of ever-changing milestones to successfully have families reunited. What was necessary to bring the children home was always out of reach, and the family felt they were never part of the goal-making process.

“It is essential that the main goal of all CASs is to return the child to a safe and loving home within their own family/community.”

A Recovery/Reunification coach’s only goal will be that of recovery and reunification. The coach, who will be a trained CAS worker, will be mandated to return the child home and work with the family to ensure goals are mutually agreed upon and reached within the timeframes originally set. A position such as the one identified here will clearly work as an advocate for the family, with clear explicit links to the home community, Elders and the main child welfare worker at the CAS. There should be clear objectives and retraining within the CAS to ensure client participation and community/Elder support. This process will alleviate family stress when a decision is made. It is also the holistic nature of treating the whole family which is the best way to serve the child.

Capacity Building

6. Strategize for the future, now.

Aboriginal child welfare strategy sessions should be planned for four regions in Ontario, the north, southeast, southwest and central to discuss capacity building in the regions and policies associated with the devolution of services to First Nation control. Out of the strategy sessions, establish advisory groups that will evolve into regional authorities which will develop policy that will lead a designation process. This section should work in conjunction with Recommendation #15.

While the Ministry has made efforts recently to clarify the CAS designation process, further work is required in this regard. The policy on designation must contain: a clear determinant of when designation can occur; the process required to move it forward; and roles and responsibilities of the First Nations, the regional office and the local CAS. Further, designation matters should not rest solely with the regions. The Ministry needs to adopt a more centralized approach to the designation of CASs.

The lack of both policy and procedure on the designation of new First Nation agencies creates unnecessary and time-consuming problems at the regional and First Nation level. The uncertainty that now exists in this area is due to the dynamics of mistrust and miscommunications that is endemic with this situation. One example is that of a First Nation passing a Band Council Resolution to prevent the CAS from entering their First Nation community, as an increasing and powerful display of frustration with regard to non-Aboriginal CAS practice on reserve. It is a double-edged sword for leadership. Unless the First Nation has the required expertise and resources to manage risk, the children of that community are not afforded the appropriate protection.

There are precedents being set across the country in terms of how new Aboriginal agencies are mandated; for example, British Columbia has the Designation Process and Procedure for new agencies and Manitoba includes Aboriginal groups as part of the mandating authority. In addition, British Columbia has a variety of initiatives underway to address the number of Aboriginal children in care. This progressive work includes the development of agreements between the province and First Nations communities to return historic responsibilities for child protection and family support to Aboriginal communities. These agreements are known as delegation agreements. Also, major restructuring of Manitoba child and families services were developed and were implemented through the Aboriginal Justice Inquiry - Child Welfare Initiative (AJI-CWI). The AJI-CWI recommended that the Government of Manitoba work with First Nations and Métis leaders to develop a plan that would result in First Nations and Métis communities developing and delivering child welfare services.

As First Nations develop laws and make the move to a comprehensive form of self-government, the jurisdiction for children will become clearer in terms of who is responsible for the child no matter where he or she lives. After the regional tripartite discussions there will emerge a clearer understanding of capacity building, as well as of jurisdictional and funding responsibilities.

7. Resource the capacity building required for designation of a CAS at the First Nation level

Not each First Nation strives to attain CAS status through designation by the Minister of Children and Youth Services, but it is evident that Aboriginal-run organizations are showing success, such as: Tikanagan Child and Family Services, Anishinaabe Abinoojii Family Services, Payukotayno-James and Hudson Bay Family Services, Weechi-it-te-win Family Services, Dilico Anishinabek Family Care, and Native Child and Family Services of Toronto. Weechi-it-te-win Family Services' programs are guided by the principle of "Naaniigaan Abinoojii:" children will come first. The agency's service model empowers the community and children by including community teachings and connecting children to their families and sacred lands.

Tikanagan Child and Family Services develops resources at the community level by supporting capacity development, such as staff training and foster homes. It provides culturally-responsive services that are supportive of traditional values and customs and involve regular interaction with Elders. Anishinaabe Abinoojii and Weechi-it-te-win provide for excellent provision of culture, traditions and language in their service area. Other organizations bring strength to their constituency in many different ways, but overall the move must be more towards First Nation authority and responsibility.

First Nations and PTOs can prepare business and strategic plans to outline possible funding resources needed for designation, such as development and implementation of programs and services, training in skills and competencies,



personnel development/recruitment and other organizational needs. Funding considerations will be based on geographical needs, population and caseload. The statistics are clear with regard to caseloads, and the success of these organizations can support the designation of additional Aboriginal CASs across the province.

8. Every effort should be made by all levels of government to re-institute the Band Representative program.

First initiated under the 1965 Welfare Agreement, the Band/court Representative was a successful program over the years and provided assistance for First Nations people within the court system.

Across the province, Aboriginal people are overwhelmed and under-supported through the court process. Once a service that was provided by a First Nation, the program was cut by the federal government, leaving many to seek guidance elsewhere, such as from First Nation leaders or other community representatives. Some political leaders are having to assume child welfare duties and are not qualified to do so, but feel compelled to take on the responsibility.



Currently, Ontario's *Child and Family Services Act* requires the CAS to contact a child's band or community when that child is in care with a CAS. Federal funding does not allow for the hiring of a Band Representative to act as the primary contact, leaving it up to a Social Services Director or a political representative to be the primary contact with the CAS and the courts. At times there are no primary contacts, leaving children without benefit of intervention by their community.

The Band Representative program and requisite funding need to be restored to First Nation communities. Recognizing the importance of this program, in March 2011, Minister Broten and Grand Chief Randall Phillips, on behalf of the Chiefs of Ontario, wrote a joint letter to the federal Minister of Indian and

Northern Affairs Canada, calling for his department to reinstate funding of band representation in child protection cases. As of the release of this report, they have not received a response.

Some time has elapsed since the program was in effect, and during that period many things have changed. It would be appropriate for the regional teams (see Recommendation #6) to decide how best to reinstitute the program.

In addition, an Aboriginal liaison should be stationed in each mainstream CAS to serve a primary role: serve as a liaison between the child's home community and the CAS to ensure the community's inclusion in decision-making relating to the child. This liaison would fill a service gap in the interim until the Band Representatives are in place again. Thereafter, it would coordinate with the Band Representative the community's involvement in child welfare matters pertaining to its young citizens.

Prevention

9. The Ministry of Children and Youth Services must work across all ministries to encourage new ideas and activate innovative solutions on major issues facing Aboriginal children and families.

Create an inter-ministerial process whereby representatives of government ministries meet regularly to discuss coordinated approaches to programs and services. They will influence the development and authority to direct budgets, develop policy and strategize on such issues as social, economic, education and child welfare issues.

This approach would ensure there is no overlap or duplication and would improve overall efficiencies in the delivery and accessibility to First Nations people.

When it comes to merging ministerial funding, tackling the unpleasant issues, and implementing intuitive ideas and solutions, there seems to be a deadlock, which gives the impression of a disconnect between Deputy Ministers, Ministers and key decision makers. Strategic planning sessions are an opportunity for Aboriginal leadership and the Ontario government to meet to address the issues.

A cross-ministerial budgetary allowance should be made available that allows for intuitive, tangible ideas to advance community-based programs and initiatives, such as prevention, mentoring and research. A budget allocation will allow funding for pilot projects for new and innovative ways of prevention, which is more cost effective than providing service in a formal system such as child welfare.

The system cannot subdue new initiatives, but needs to provide an atmosphere of encouragement that is non-judgmental, and provides for solutions that may take longer to see success than the current budgetary process allows.

10. Outline medium and long-term goals that recognize and address the key social issues that contribute to the over-representation of Aboriginal children in care.

There is no easy answer: the same social issues exist, whether the community is economically depressed or independently wealthy. Children at risk in Aboriginal communities face major issues that include but are not limited to addictions, lack of suitable housing, poverty, unemployment and one of the highest suicide rates in the developed world.

“The number of Aboriginal children in care is reflective of the social challenges faced by First Nation families.”

Until these conditions are addressed in a comprehensive manner, the risk to children’s welfare will always be present. These daily issues advance to a deplorable cycle that is almost impossible to end especially if there is a weak or non-existent coordinated plan from all levels of leadership. The number of Aboriginal children in care is reflective of the social challenges faced by First Nation families.

The federal and provincial governments can partner with Aboriginal leaders on developing a coordinated action plan that outlines the responsibilities of each partner.

It is not unusual for child welfare to be the only “organized” system in a community and become the catch-all entity. It is designed for a specific approach to services and case management; it was not designed to manage some of the issues it is expected to handle. Some of that responsibility, be it formal or informal, needs to fall on additional helping networks in the communities, which also need further development.

Funding – Short Term

11. A protected budget line should be developed for designated Aboriginal CASs.

There are numerous ways to provide prevention strategies that assist in parenting, substance abuse prevention and other social issues that are now being done in a number of ways by some Aboriginal agencies. These efforts are not part of the current funding formula and appear to reflect that Aboriginal agencies are inefficient according to current accountability measures.

“We need to jointly develop success indicators in conjunction with current Aboriginal agencies for Aboriginal children and families - standards that are sustainable and realistic.”

Specific funding would legitimize Part 10 of the *Child and Family Services Act*, the practice of Aboriginal child welfare, recognizing its uniqueness and provide a sense of ownership and accomplishment for Aboriginal agencies. There is a perception by some Aboriginal families and the community that Aboriginal child welfare is not a budgetary priority for the Ministry.

The success indicators for prevention are standards developed by the province and not by the people or group they supposedly apply to. We need to jointly develop success indicators in conjunction with current Aboriginal agencies for Aboriginal children and families — standards that are sustainable and realistic (see Recommendation #6).

Holistic measures to aid in prevention should be encouraged and patience must be exhibited in determining the success of these measures. It has been said that we need to measure our success by the generation, not by the fiscal year or political mandate.

We must also take into account the vast differences in costs of maintaining services in the north as opposed to southern Ontario. Above all, we must respect the variance in capacity across First Nations.

The new formula needs to include costs associated with program and service delivery with associated new positions. It must also include a budget that is reflective of the geography, remoteness and associated travel costs that current

budgets inadequately address. Currently, the funding formula is proportional to volume; however, if a program is prevention-focused and has success, it is penalized by receiving less funding for its smaller volume.

Prevention is an under-funded issue, which is something that the regional tables can readjust to appropriate levels that support the mandate of reunifying families.

Governance

12. Increase Aboriginal representation in CAS Governance - Create an Elders council in each CAS, and in every CAS region Aboriginal people must be a part of the board of directors.

Changes need to be made to the governance system of Ontario's CASs to take into account the higher than normal rate of Aboriginal children within the system.

In First Nations cultures, the grandparents are authorities on child care practices in Aboriginal families. Every CAS should also be encouraged to institute an Elders/grandmothers council that provides advice and guidance in child welfare matters. Although the councils exist in some regions, there should be more.

In traditional territories where a CAS operates, a protocol agreement should be drawn with local First Nation communities that provides for access to traditional cultural practitioners and/or ceremonies. This inclusive arrangement will reinforce the concept that it is the whole community that looks after the child.

There must be incentives for mainstream CASs to build Aboriginal capacity to service Aboriginal children. Provincial funding must support the program by funding the development and implementation of this addition to the governance structure at the provincial, community and agency level. This must become part of the corporate culture of the Ministry. This capacity development support is also seen as a short-term measure, since a major thrust of my recommendations is for First Nations to assume control of child welfare through implementation of child welfare laws. However, until that goal is reached, the mainstream agencies will still be servicing Aboriginal children.

13. The position of Aboriginal Advisor to Ontario’s Minister of Children and Youth Services should be made a permanent position.

I have held the position of Aboriginal Advisor for the past 15 months, exploring the various issues associated with Aboriginal child protection in the province. A level of trust was built as a result of the research and community outreach I did, and it should be encouraged to flourish as changes are implemented over the next few years. The Advisor’s visibility in the Aboriginal communities is key to successful communication between government and agencies. It is important that the position be regarded as a liaison, a position of action, an agent of change, and in the end, giving a voice to the Aboriginal community. It must remain independent of government directives yet maintain a direct connection to the Minister. As the Aboriginal Advisor’s role evolves, support staff will be needed to support this role as an advocate and voice for Aboriginal children, family and communities.

Future Challenges

14. A review should be undertaken to understand the group of children who were Wards of the Crown over the past 40 years, starting with the “60’s Scoop.”

During the 1960s, there were an unprecedented number of Aboriginal children adopted into non-Aboriginal homes and other countries. This was known as the “60’s Scoop” because the children were literally scooped from homes and communities without consent and/or knowledge of the families. A substantial portion of these adoptees face cultural and identity confusion issues as the result of having been socialized and acculturated into a Euro-Canadian middle-class society.

They may or may not have suffered abuse during their time in care and in many cases have been removed from extended family and their culture. It is believed that they may have suffered similar abuse to those that were forced to attend residential schools.





This is a cohort that draws little attention, but what may be common among its members is an estrangement from their family and home community which could have a strong detrimental impact on their quality of life and their future as well-adjusted and contributing First Nation citizens. What is the extent of the population in this category? Where are they now, and how are they doing? These are questions that we should have answered.

Through an inquiry, we can investigate the number of documented persons that were removed without consent, which could possibly lead to some form of reconciliation. The inquiry process would need to involve the federal government, and could be similar to that of the federal Truth and Reconciliation Commission currently documenting the experiences of Indian residential school survivors.

It has been brought to my attention that Manitoba has a repatriation program which seeks to unite birth families with children and youth that were apprehended during the Scoop. A high rate of satisfaction and success was reported by clients who accessed that service. Let us take action on this issue and not let it fester in a way that the residential school issue festered for generations.

15. Aboriginal Child Welfare Laws – The provincial and federal governments should have a plan in place to address and respond to the assertion of jurisdiction for child welfare by First Nations or a First Nation organization.

Political Territorial Organizations and First Nations such as the Union of Ontario Indians (UOI), Grand Council Treaty #3 and Mohawks of Akwesasne will soon be in a position to ratify their own child welfare laws pertinent to their nations. The provincial and federal governments must prepare themselves for legal challenges as First Nations seek control and autonomy over programs and services. It may be in the best interests of all governments to enter into tripartite discussions now, rather than later, to avoid longer term, costly legal battles to determine jurisdiction.

Inevitably, an assertion of jurisdiction will materialize. It is incumbent upon senior levels of government to prepare for productive discussions on how to make this work rather than prepare for legal arguments on why it cannot.

The way to recognize child welfare laws is through a tripartite negotiation process that supports the development, creation and implementation of those laws.



Summary

In this report, I have made a number of recommendations. Some are completely original while some have been around for a long time. All are an essential element in a blueprint for change for Aboriginal child welfare in the province of Ontario.

I believe that Ministry staff are committed to improving outcomes for Aboriginal children and youth. I have seen their desire to engage in discussions about how best to proceed and their willingness to collaborate with all partners. Some progress has been made: the Ministry is working to enhance the use of customary care and to improve the CAS designation process. It has also increased funding to the six designated Aboriginal CASs. Tangible progress must continue to occur.

“We must have the moral courage to act and understand.”

- Cindy Blackstock

One of my recommendations is the addition of new positions within CASs, such as Customary Care Workers and Reunification Coaches, that would provide more support and a slightly diverse way of looking at social responsibility within the Ministry and child welfare system. We cannot simply apprehend a child and think that our job is complete. The family must also be attended to. The transfer of parenting and life skills and perhaps incentives to attend addiction counselling may be the answer to family reunification.

There is a recommendation about reinstating the Band Representative Program that is sorely missed in most First Nations throughout the province. This was a program that allowed for people to be represented in the courts by someone they felt was on their side, not appointed by the court, but by their own community. It brought a level of comfort to people who were in a precarious position and were thrust into a foreign, frightening situation. I also talked about having Elders councils and Aboriginal Board Members as a normal governance process for all CASs. These measures are provided to help address the over-representation of Aboriginal children in the child welfare system. In order to cope with this social crisis, an understanding of the problem must be inherent at all levels of the system.

We need to continue healthy discussions between all levels of government on a tripartite basis. The senior-level parties will discuss topics such as governance, funding and jurisdiction issues, while at the regional level make decisions on implementation of jurisdiction, authorities, and success indicators. There must be agreement on how to implement best practices, funding models, and ensure that the children must come first.

Bringing key decision makers from Aboriginal communities into collaborative decision making will go far to ensure that there is complete buy-in and resultant success. Above all, the process is evolutionary, and success will lead to further success.

There is no quick fix, but if a concerted effort is maintained and the path is clear at the outset, every chance for a successful outcome will be entrenched within the process. As Cindy Blackstock said during her keynote address at the Summit for Aboriginal Child Welfare, “we must have the moral courage to act and understand.”

Another key component of the report is the recognition that mistakes were made by governments in the past in regards to the Residential School experiment and the “60s Scoop.” Assimilation was seen as a way for Canada to alleviate some of the problems with First Nation citizens. Children were taken from their homes and put up for adoption with non-Aboriginal families. In some cases, the children were placed in foster care until they reached adulthood, and were released into society virtually without family/community attachments or support. This practice led to many difficulties for this group of people. We must acknowledge their experiences and, where necessary, repatriation efforts should be carried out with their communities.

If I can put into words a couple of the main ideas that I learned over the past year: culture is the foundation to a strong community and consequently leads to stronger families and individuals. Prevention must be the mainstay to a responsive and healthy child welfare system. We must be proactive in our efforts to protect our children. In some of the more successful organizations



we do not see all of the successes, such as the families that are becoming healthy, and children going to school learning to become strong productive adults. We see only the statistics of children in care, court dockets, and forms completed within the prescribed timeframes—all of which indicate that this is not a productive system that fits within our model as Aboriginal people.

Simply put, child welfare is for dedicated, properly trained helpers. Lack of cultural competency could and may compound the trauma faced by families when they enter the child welfare system. Child welfare is a specialty that does not lend itself to uncertainty or confusion in role and responsibility. We need a well-trained, clearly responsible and expressly committed group of professionals and First Nation agencies committed to the long-term welfare of our children. Any ambivalence, lack of clarity or misdirected energy that is introduced in the process spells increased risk to the children. As we have seen in many inquests, introducing multiple players with divergent interests and multiple mandates serves only to increase risk to the children. Once again, it comes down to the surest form of action which is often the simplest: the child comes first.



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Above all, this report is dedicated to the children, Naaniigaan Abinoojii (The Children Come First).

Meegwetch!



