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NWT Standing Committee on Social Programs

I want to grow up in my community: A review of the Child and Family Services Act

Advisory Report | Cindy Blackstock, PhD

CONTENTS

HONOURING

My grandchild is two years old. She has a right to food, to housing, to a friend to play with. Stop band-aid solutions and focus on the positives. Show people how to change

Inuvik Consultation Participant

With great respect and appreciation to the First Nations, Métis and Inuit peoples who hosted me in their territories and the many caring Non-Aboriginal peoples who shared their dreams for their children. It was an absolute privilege to hear your contributions, visit your communities and be in the company of those who are committed to a better future for all children, youth and families in the Northwest Territories.

Aboriginal children account for 95 percent of the children in child welfare care in the Northwest Territories (hereafter "NWT") while representing 50 percent of the overall child population. Of the Aboriginal children in care, First Nations children account for the majority followed by Inuit and Métis children. The over-representation is fueled by neglect (51% of all reports in NWT), which is in turn, driven by poverty, poor housing and substance misuse, as well as, domestic violence reports (27% of all reports in the NWT). Abuse reports do not account for the dramatic over-representation of Aboriginal children in care in the NWT. Interestingly, social workers report only 5 percent of all children experience physical harm and 17 percent of children experience emotional harm. This means that according to social work reports a full 78 percent of children coming to the attention of child welfare often do not present physical or emotional harm issues. This pattern where over-representation is driven primarily by structural factors versus factors at the level of the child is consistent with what is occurring across the country.

Experts are calling attention to the fact that child welfare appears to be ill-prepared to effectively address neglect concerns particularly when they are driven by factors outside of the ability of many parents to control on their own (poverty, poor housing and substance misuse this can be linked back to residential schools). Too often, child welfare codifies poverty as a personal deficit instead of addressing the social problems that disadvantage families. The result is that the preponderance of child welfare intervention affects the poor. For example, 78 percent of all families who reported to child protection during the 2003 cycle of the Canadian Incidence Study on Reported Child Abuse and Neglect had incomes below $40,000 per annum. Income appears to play an even bigger role for families who have their children removed. A study of First Nations and non-Aboriginal children in Nova Scotia found that 95 percent of families who had their children removed during 2003-2005 came from families that earned less than $25,000 per annum even though less than one percent of these same families received any poverty reduction services from child welfare.

An important pattern for the Standing Committee to pay attention to is that the statute allows child welfare to intervene in cases where:

Section 7(h) the child has been subject to a pattern of neglect that has resulted in physical or emotional harm to the child;

Section 7(i) the child has been subject to a pattern of neglect and there is substantial risk that the pattern of neglect will result in physical or emotional harm to the child;

I would recommend cross referencing the report substantiation and removal cases with the specific sections of the act relied upon by investigating social workers as the NWT Canadian Incidence Study on Reported Child Abuse and Neglect (**CIS**) data seems to suggest that the majority of neglect complaints fall within Section 7 (i) versus Section 7(h). This raises questions as to how well trained and equipped social workers are to assess and respond to cases of neglect that "will" result in physical or emotional harm to the child. Ministry of Health and Social Services (hereafter "MHSS") staff advises me that currently social workers receive only one half day of training to deal

with all three topics of substance misuse, residential schools and mental health and there is limited specific training on assessing cases projecting physical or emotional harm.

Another area requiring significant reflection is the involvement of Aboriginal communities in the design and delivery of child welfare legislation, policy and practice. The provision of adequate funds to support their participation is also an issue. Across the country, there are over 100 First Nations child and family service agencies that deliver services directly to First Nations peoples in their regions. These models will be explained in greater detail below but it is important to underscore that the NWT is one of the few regions in Canada where child welfare is delivered exclusively by the NWT government and by authorized non-Aboriginal agencies. The provision in the act for community based committees, if fully implemented, would provide one option for Aboriginal participation in child welfare, but I would encourage the Standing Committee to amend the statute to make a broader range of options available that could be enacted over time.

The fact that the Commissioner of the NWT who is appointed by an Order in Council from the Federal Government (Indian and Northern Affairs Canada) approves the child welfare statute and also has provisions in the NWT Act that allow for direct child welfare involvement to open the door to the NWT in partnership with First Nations in the NWT to leverage the Canadian Human Rights Tribunal on First Nations Child Welfare proceedings by demanding federal funding at levels and in ways that best support First Nations children and families in the NWT to receive equal benefit.

Overall, unless the factors of poverty, poor housing and substance misuse linked back to the impacts of residential school are better addressed, and resourced, in ways that are directed by the respective Aboriginal communities, there is little evidence that substantial progress will be made on making meaningful reductions in the over-representation of Aboriginal children in care.

This review, which is informed by the feedback of communities throughout the NWT, provides an excellent basis for addressing these core issues whilst making some more progress on other factors that have undermined the ability of families and social workers to ensure the safety and well being of all children in the NWT. This report provides a synopsis of some models of Aboriginal child welfare delivery before setting out a thematic representation of the feedback I recorded from communities in Yellowknife, Inuvik, Fort McPherson and Ulukhaktok. The report ends with recommendations and a series of appendices outlining references, resources and a summary of documents I reviewed to prepare for this review.

ABORIGINAL CHILD WELFARE DELIVERY OPTIONS

The longstanding over-representation of Aboriginal children in the child welfare system throughout Canada has resulted in First Nations and Métis communities beginning to assert their traditional authority over their children. This has been done in a variety of ways that could be considered as options, or modified options, for implementation in the NWT. The following section reviews some of the models identifying the strengths and weaknesses of each approach:

DELEGATED (AKA MANDATED) AGENCIES

There are approximately 108 Aboriginal agencies operating under this model in Canada. The delegated model assumes that the province delegates authority for child welfare under the legislation to a band, tribal council, self-governing nation or non-profit authorized by the Aboriginal community. These agencies can operate on and off reserves. Those who operate off reserves are apportioned funding from the provincial government. On reserve, these agencies are funded by INAC These agencies began developing in the 1970's and operate primarily on reserve (due to federal funding restrictions) in response to growing community concerns about the mass removals of First Nations and Métis children from their community and their placement in often distant, and non-Aboriginal, care homes. There are variations within the delegated approach with some agencies providing a full range of protection services which are often termed fully delegated or fully mandated agencies and others that provide a more limited range of services under the child welfare act such as guardianship, foster home recruitment/retention, and family support. The vast majority of partially delegated agencies are in British Columbia as the small community sizes in that region often make operating a fully delegated agency difficult. Where necessary, partially delegated agencies work with provincial child welfare agencies to do investigations, removals and other statutory duties outside of their mandate.

There has been only limited research on the efficacy of these agencies with the most holistic and cross disciplinary review being completed in 2005 in what are termed the Wen:de reports (available at www.fncaringsociety.com). Emerging research and community reports agree that First Nations child welfare agencies are more successful at foster home recruitment, retention, and thus placement in community. They also do more culturally based work but the requirement of following provincial legislation and standards sometimes hampers their ability to innovate. On reserve, there are significant funding shortfalls that also hamper progress (see Auditor General of Canada report dated May 2008 on FN Child Welfare). The funding deficits are particularly acute in early intervention and least disruptive measures funding which results in many children going into care simply because the resources available to other children are not provided under the INAC funding formula. First Nations delegated agencies can be very successful, but provincial/territorial and federal governments should not undertake this as a cost saving measure – it should be undertaken in the spirit of ensuring the optimal safety and well being of First Nations children.

Many First Nations agencies operate community based committees as proposed in the NWT legislation and have significant experience in developing guidelines, support, and training programs for community committee members. This would be an important resource to tap into as the work of

establishing these committees in a more robust way continues. First Nations agencies have been recognized internationally for their excellence in service delivery. Here are just some examples of award winning approaches:

1) West Region Child and Family Services in Manitoba. Won the Drucker Award for social innovation for premising its programming on the Medicine Wheel. One particularly innovative program targeted high needs families where there had been, or would likely be, multigenerational child welfare involvement. This wrap-around program integrated an intensive program that provided families with cultural programs, employment, addictions treatment, child care, counseling and other supports all in one location as part of a holistic plan that fully considered spiritual, emotional, physical and cognitive wellness. The results were that many of these high needs families were able to get back on track and did not have future child welfare involvement. Unfortunately, the funding for this program was cut and it is no longer in operation. West Region also piloted a block funding program for First Nations child and family services which allowed it to invest in prevention and early intervention services to a far greater degree that is normally allowed under INAC funding arrangements. The results were that over a ten year period, West Region was able to cap the growth of children in care as a result of creating healthier family environments for children even though there was substantial growth in the child population over this period of time.
2) Mi'kmaq Family and Children's Services in Nova Scotia. Has developed a culturally based family conferencing program throughout all the communities it serves in Nova Scotia. The family conferencing program has been fully evaluated by Dr. Fred Wien of Dalhousie University and has been found to increase positive community,family involvement, and has diverted a significant percentage of cases away from the adversarial court system.
3) Mi'kmaq-Maliseet BSW program. When Mi'kmaq FCS established about 30 years ago there were very few Aboriginal social workers in Nova Scotia and staffing in remote and rural sites was dominated by non-Aboriginal social workers. Mi'kmaq FCS worked with Dalhousie University and later St. Thomas University to create a Bachelor of Social Work program for Mi'kmaq and Maliseet students. This program is delivered by a combination of internet based courses and in person intensive courses taught primarily by First Nations instructors such as Nancy MacDonald (Assistant Professor, Dalhousie University). This program now graduates about 30-40 Aboriginal social workers a year and the vast majority of staff at Mi'kmaq FCS have Bachelor of Social Work or Masters of Social Work degrees.
4) Caring for First Nations Children Society Aboriginal Social Work Program (www.cfncs.com) First Nations in BC were concerned that graduates of BSW or diploma programs in social work were ill-equipped to work in their communities. There are, of course, over 200 First Nations in BC speaking 30 different languages and there is also diversity in context with remote, fly in, or boat in communities, and other Nations situated in large urban centers. The BC Government funded a project where a FN advisory committee created a 13 week Aboriginal Social Work training program. This mandatory training program is a combination of intensive in person course work and field study (at the First Nations agency). Over 400 Aboriginal and non-Aboriginal social workers have now gone through this program and it has expanded to include supervisory training.
5) Yellowhead Tribal Services Agency (YTSA) Custom Adoption Program. Won several awards from the North American Council on Adoptable Children for this amazing program that was developed in consultation with Elders from Yellowhead Tribal Council communities. The program builds on a customary concept of adoption and over the past 10 years it has been operated over 100 children have been placed without one adoption breakdown. What is

particularly extraordinary about this is that the majority of adoptions through this program are high needs children who have disabilities, FASD, or are older children and teens. The holistic support provided for the adoptive family, community, and the birth family and community, as well as, the child have all helped. Dr. Jeannine Carriere (now at the University of Victoria's School of Social Work) along with YTSA Executive Director, Carolyn Peacock, were key developers of this innovative and award winning approach that has had such positive outcomes for children. They also have a customary care program for children in foster care.

6) Native Child and Family Services in Toronto. Award winning agency often considered the top urban Aboriginal child welfare agency in the country. Kenn Richard, Executive Director, has led the development of this urban agency that serves First Nations, Métis and Inuit peoples from all over Canada and the USA who live in the Toronto area. The programs offered are innovative and effective ranging from a youth rock band to Aboriginal Head Start and child protection services and addictions. This would be a great resource for exploring options for Yellowknife and other larger centers in NWT. This agency is also one of the leading pioneers on how to tackle housing and addictions issues.
7) Manitoba Aboriginal Justice Inquiry Child Welfare Initiative. Clients in Manitoba can choose to receive services from four culturally based authorities who share a common intake unit. This innovative model allows clients to choose the service provider they most feel could meet the needs of their families. It is also the only example in the country where First Nations and Métis peoples can receive culturally based child welfare no matter if they live in a province. Early results suggest that 85 percent of all clients choose their culturally matched authority.
8) Reconciliation in Child Welfare: Touchstones of Hope for Indigenous Children and Families. Experts in Aboriginal child welfare were brought together in Niagara Falls in 2000 to develop constitutional principles upon which a more effective child welfare approach for Aboriginal children could be built. The 200 delegates developed 5 principles (self-determination, holistic response, culture and language, non-discrimination and structural interventions) that are framed within a four stage process of reconciliation (truth telling, acknowledging, restoring and relating). Participants believed that child welfare had become an agent of colonialism and had to undergo a process of reconciliation in order to set the proper space for meaningful collaboration between Aboriginal and non Aboriginal peoples that would allow for more effective, and culturally based, approaches to emerge. The First Nations Child and Family Caring Society in collaboration with the Native American Child Welfare Association, the Child Welfare League of America and the Centre of Excellence for Child Welfare then developed tools for communities to interpret these principles in practical ways within the context of their culture. The Ministry for Child and Family Development in Northern BC and First Nations agencies in the area shared a concern that over 80 percent of the children in care in the North were First Nations. Many of the communities in Northern BC are rural and remote areas much like the NWT. They decided to begin the process of working together to implement the Touchstones of Hope using the following general steps:
    a. A joint committee composed of FN and MCFD representatives was convened to host a gathering of leaders active in child and family services (Elders, community members, social workers, Chiefs, youth etc) to share the Touchstones model and get their consensus on moving forward with the Touchstones approach. This was done in 2008 and all First Nations and MCFD reps agreed to proceed.
    b. An ongoing joint committee was established and FNCFCS was retained to do train the trainers' workshops in the North to create a pool of skilled and local facilitators

who could work with communities to develop child welfare approaches centered on their visions of healthy children and families. The committee has a full time staff member who works with the FNCFCS staff to carry out the project. This has been key as it really does require a person who is devoted to this task in order for the approach to be successful on a regional scale.

c. Community workshops were held centering the Planning Alternative Tomorrows with Hope model as this facilitation technique not only better defines the vision for healthy children in the community but also leads community members through a progressive plan for action. The other bonus with the PATH approach is that it is good for all ages and literacy levels. We have now completed four community sessions some in remote and rural areas all have been very well attended with an average of 100-200 participants (MCFD and community members).
d. The MCFD is simultaneously changing its funding structures, policies and staffing in order to support the community based visions.
e. A researcher has been hired to identify key themes across sessions that can help inform systemic and legislative changes.
f. Action plans are revisited with communities on a regular basis by the local facilitators and the Touchstones of Hope coordinator.

The results of this approach are just emerging, but there are encouraging signs with MCFD supervisors reporting that they are able to return children home much quicker than before as communities are more invested and engaged in child safely plans. First Nations have noticed positive changes in the way MCFD staff relate to them. It is much less colonial and "we know what is best for you" than it was in the past and MCFD staff are finding that the relationships with First Nations are more positive and productive. More information about the approach is available at www.northernbctouchstones.ca and key contacts at MCFD are Peter Cunningham, Assistant Deputy Minister; Brenda Lewis, Policy Analyst, Dianna Mould, Touchstones Coordinator, and the Joint Committee which can be reached via Dianna. Andrea Auger at the FNCFCS is also a key contact and can be reached at aauger@fncaringsociety.com or at 613 -230-5885.

The Touchstones model has also been used in the USA, Taiwan and Australia.

The First Nations agencies also have a lot of experience in dealing with the complications of doing child protection work in the community where you and your family live, in areas with few other resources, and in remote areas. I strongly encourage the Standing Committee and MHSS to attend some of the First Nations child welfare conferences and to visit some more First Nations agencies and programs to learn in greater detail about the options that are available.

OTHER JURISDICTIONAL MODELS FOR ABORIGINAL CHILD WELFARE

Delegated agencies make up the vast majority in the country, but there are other models operating under the authority of the band by-law. There are also First Nations who are developing, or have developed, their own child welfare laws (i.e.: Khanawake (PQ), Blood Tribe (Alta)). First Nations in Saskatchewan also created a First Nations province wide law, but it has never been fully implemented. These other models should be explored and given the self-government context of some of the First Nations in NWT. There is significant room for innovation in this area assuming sufficient resources (human and financial) are available.

NWT COMMUNITY FEEDBACK: THEMATIC GROUPING ACCORDING TO THE TOUCHSTONES PRINCIPLES

In the following section, I have grouped the feedback I recorded in the community sessions I attended in line with the Touchstones principles. This feedback, coupled with my own experiences and teachings from First Nations agencies across Canada have informed the recommendations at the conclusion of this report.

SELF DETERMINATION

We never conceded responsibility for families to the government. We have to take back responsibility for our families and we cannot leave that responsibility with government.

First Nations Leader, Inuvik Consultation Participant

- First Nations maintain that they have not ceded their right to care for their children to the Territory or Canada. Creating more opportunities for First Nations to expand their jurisdiction and delivery of services for children beyond the current authority to operate a community based committee is recommended.
- The skill, knowledge and experience of community members needs to be valued and respected by MHSS. Community members are in the best position to care for their children.
- MHSS and other government departments need to become better listeners. Community members do not always feel their concerns and feedback are taken seriously.
- First Nations feel that even when they are given some authority by the territory to work with families it is often very prescriptive and under-resourced.
- First Nations communities are taking action to intervene in their families, but this is not recognized or supported by social workers or territorial Social Services staff
- First Nations families often do not understand their rights under the act. Timely access to qualified legal counsel is needed and MHSS communication needs to be reviewed to ensure communication is accessible to persons of varying literacy levels and those who speak other languages. The lack of understanding that currently exists dissipates the ability of parents and extended families to ensure the safety of their children or get them back quickly if they are removed.
- The only community based committee in NWT is located in Fort McPherson developed out of community initiative not MHSS outreach. This indicates that MHSS may not have been proactive in ensuring its compliance with the requirement for community committees elsewhere in the province. Terms of reference for the Fort McPherson committee were very prescriptive and as community members were untrained volunteers they were not sure how to assess the terms handed to them by MHSS. The lack of training also impacted committee member's ability to do their work. There is a particular need for training that considers their context (i.e.: impacts of being a committee member in child welfare in the community that you live in).
- There are very few resources going from MHSS to First Nations to allow them to do their own work. Ditto for foundations as there seems to have been no support for First Nations to

reach out to foundations to access non-government funding sources to augment core government programs.

- Credentials of staff working in child welfare need review. Given the variable quality of BSW program content in terms of preparing people to work in child welfare there needs to be active research on what qualities, education and experiences best prepares a person to do child protection services in NWT. Training programs and hiring criteria then need modification and this should be done in tandem with Aurora College and other training institutions.
- More Aboriginal people would seek training for child protection and family support if they did not have to leave their communities for long periods of time to complete their degrees/diplomas. Augmenting the current program at Aurora College so it can grant BSW and even MSW degrees requires active consideration and curriculum should be reviewed to develop distance education options (University of Victoria offered a BSW program by distance for social workers in Northern BC so this might be a resource.)

HOLISTIC RESPONSE

We know in our hearts that when they are taken away we worry about them. We need to support and care for our children as there is nothing for them.

Elder, Ulukhaktok Consultation Participant

- Neglect driven by poverty and substance misuse is a key concern in all communities. MHSS must provide more training to staff on the impacts of various types and degrees of substance misuse on parenting. In addition, social workers need to be trained to differentiate when a parent is unable to meet the child's basic needs due to poverty and willful neglect. The former should not be grounds for removal, but rather calls for in home investments which are at least on par with what a foster payment would be to keep the child safely at home.
- Children are community members and when MHSS intervenes it too often divests the child of his/her community relationships assessing only the parent's relationship to the child.
- Many express concern about whether child welfare placement is a better option than a child remaining at home but with greater supports than were provided by MHSS. This is particularly the concern in terms of children who are sent out of their communities to Yellowknife, Inuvik and other larger centers.
- Residential school has multi-generational impacts that have never been properly recognized by government and child welfare. Child welfare workers often do not have the necessary training to understand the community and individual based trauma.
- Grandparents need support to care for their grandchildren and to deal with their children who are often actively using substances.
- Child welfare workers need to consider the impacts of removal as the child grows up. Several participants were in residential school and also in child welfare and remarked that there was no difference between the impacts of the two.
- Social workers need to work with health care workers, teachers, RCMP and other key stakeholders in the community when a child is removed or their family is in crisis. Participants in some communities report that social workers incorrectly interpret the confidentiality provisions to mean that they cannot tell teachers when a child has been

removed. Confidentiality provisions must balance the need for client privacy and the need to ensure people who need to know the information in order to provide for the child's safety and well being are given the information.

STRUCTURAL INTERVENTIONS

I was in a residential school and I was a child in care- there was no difference. Child welfare tells parents that they "will" do something but when it comes to offering support child welfare says it only needs to "try" to provide services- not must.

Inuvik Consultation Participant

- Poverty is a major factor in the lives of many families.
- Homelessness in Inuvik is a problem and the local shelter is not getting adequate funding from the territory. The local FN stepped in to give the shelter an additional 140K to provide housing to keep operating but this meant cuts in programs for community members. The Territorial government provided 2.5 million to build a dog shelter in Inuvik but under-funds the homeless shelter. This needs to change.
- Agreements on much needed social supports are wrapped into agreements on economic development which often involves resource extraction so sometimes the community may not want to agree to the resource agreement but feels compelled to sign in order to get the social supports from Canada and NWT.
- Substance misuse is a huge issue and there are few resources both treatment and after care. Many suggest the whole family needs treatment and social workers need training on substance misuse.
- Education for children in the schools is not at the level and quality that is needed. Too many are graduating from elementary and high school with limited literacy. Culturally based and equitable investments in education are critically needed to support children.
- Why are school schedules not structured around traditional activities instead of imposing the western holiday timetable?
- Community development approaches are needed where the community is consulted on what they want for their children and families.
- Camps and facilities for children on the land need to be supported and considered as alternative placements for kids (especially during weekends when there tends to be more drinking in the community).
- Family conferencing/mediation needs to be available to help families address problems before removal and to get things settled after a removal happens. This needs to be culturally based.
- Income support also needs to reconsider the revocation of shelter allowances when children are going into care particularly as housing is one of the key factors driving children into child welfare care. The loss of housing or downsizing of housing related to the elimination/reduction in shelter allowances can be an unnecessary barrier to having a child returned home.
- Social workers work in environments where fear is prevalent. This is due partially to the trend of driving child welfare policy by child death reviews. There are two problems with this approach: 1) there is no evidence child welfare can prevent child deaths and more

importantly 2) these cases are a clear minority and do not represent the vast majority of cases coming to the attention of child welfare. The impact on social workers of these death reviews can be to create an institutional climate where workers are afraid of making a mistake so they default to removal. This gets in the way of them using good professional judgment. Senior management in MHSS must take steps to reduce the fear climate in MHSS and support social workers (even when they make mistakes in high profile cases so long as the social worker was acting in professional and ethical ways).

- Mentorship of new social workers by experienced community members and social workers is important. Improvements to the level of clinical supervision are needed and there should be multiple avenues to receive clinical supervision in case it is unavailable or of marginal quality at the office level (i.e.: case consultation with senior staff at another community).

CULTURE AND LANGUAGE

Children need to learn the traditional way of life. Take the kids out on the land to connect with nature, Elders, and family. We have a lot of love for our children.

Elder, Fort McPherson Consultation Participant

- Culture and language are inherent rights for children
- Elders spoke about the importance of taking children out on the land. They are happiest there and this is an important intervention for the kids and their families.
- Placements of First Nations children should be with First Nations families and only in the most extreme circumstances should they be placed with non-Aboriginal families.
- Where non-Aboriginal placements are needed, extended family members and community members must be supported to work with the foster parents to ensure the child remains tied to their family and community.
- Networks of support for foster parents working with Aboriginal children should be strengthened.
- We need culturally based parenting programs – especially for teen parents.
- Teen parents need two types of support – one to teach them about parenting and the other to help them grow up. Too often programs focus on the former and negate the latter.
- Grandparents have lots of love for grandchildren and this needs to be acknowledged by child welfare workers and the system.
- Social workers, community members and all others working with children and families need support to do the work. This work is difficult and people need to feel valued and supported in it.

NON DISCRIMINATION

More services are needed to help Aboriginal families keep their children.

Yellowknife Consultation Participant.

- The child welfare system minimizes Aboriginal knowledge and ways of caring for children in their work. The system does not proactively check its western assumptions against community standards of care.
- First Nations children are taken from their homes at far greater rates and this seems to be normalized within the child welfare system. There is an assumption by some in MHSS that the child welfare system is fundamentally sound needing only minor changes whereas communities seem to be suggesting that fundamental change is needed to better respond to the needs of Aboriginal children and their families.
- Non Aboriginal social workers and foster parents need more education to understand that when they are working in communities they are working in a cross cultural situation where residential school trauma is present.
- Western foster care and adoption standards need review. Some are cultural value assumptions (i.e.: not allowing a child of a different gender to share a room) and may not have a sound basis in safety.
- Income support programs and pensions need to be reevaluated especially in terms of the way that foster care payments and honoraria for Elders to participate in community based child welfare. Too often community members are concerned that their income support or pension funds will be clawed back if they take a child in or participate in a child welfare committee.

RECOMMENDATIONS

SHORT TERM: MINIMAL INVESTMENT

- Support First Nations, Métis and Inuit community leaders to conduct community consultations to better define the needs of children, youth and families and how those needs could be met (Touchstones of Hope model is one option but communities may have their own models that should be given preference).
- Neglect driven by poverty and substance misuse is a key concern in all communities. MHSS must provide more training to staff on the impacts of various types and degrees of substance misuse on parenting. Social workers need to be trained to differentiate when a parent is unable to meet the child's basic needs due to poverty and willful neglect. The former should not be grounds for removal but rather calls for in home investments which are at least on par with what a foster payment would be to keep the child safely at home.
- MHSS should inventory its current range of services to determine how well they match the needs of the vast majority of their clients who are presenting for neglect driven by poverty, poor housing, and substance misuse. This review should also include an assessment of the cultural match of service structure, service providers and the clients.

- Training for MHSS policy makers and social workers on neglect, substance misuse, mental health, and multi-generational impacts of residential schools need to be substantially increased. Currently, MHSS allocates only one half day training sessions to deal with all three topics – this is woefully insufficient.
- MLA's and Ministers should all undergo mandatory training on child welfare with an emphasis on the impacts on Aboriginal children. This will better prepare them to develop progressive legislation relating to child welfare, deal with concerns raised by constituents and to respond in more productive ways to media inquiries.
- MLA's and Ministers must work with MHSS to reduce the culture of fear within child protection related to the possible consequences of making a wrong decision.
- MHSS needs more resources to collaborate effectively with other service providers such as First Nations, education, law enforcement, recreation etcetera.
- Work with the legislature and MHSS to create space and resources to implement the solutions communities generate.
- Community based committees must be supported and resourced appropriately by MHSS. MHSS must actively conduct outreach to communities who do not currently have committees and work in respectful partnerships to develop and sustainably resource these groups.
- More emphasis must be placed, and resources allocated, to ensure children in care are supported in the maintenance of their culture, language and connection to family.
- Work with foundations, the corporate sector and other funders (United Way) to forge relationships with communities so that they have access to funding sources beyond government and community based donations. (There is the Caring Across Boundaries program that promotes relationship building between FN, the philanthropic community and non-profits).
- The MHSS staff also needs more training on confidentiality and community committee provisions of the act so that they are sure to share information when it is in the best interests of the child to do so and also that they are working with community committees in ways that maximize their ability to contribute to the wellbeing of children.
- MHSS needs to evaluate the issue of "the climate of fear" in the organization so that fear is not one of the primary drivers of social worker decision making.
- Convene and expert group on neglect (this should include local community experts) and can be done via telephone to reduce costs. The goal here is to better differentiate between anticipatory neglect and neglect where there is evidence of harm and also to develop strategies to address structural risks (i.e.: poverty, poor housing, and multi-generational impacts of residential school).
- Adopt Jordan's principle at the legislature (private members motion). This will be important for First Nations with reserves in NWT.
- Develop an implementation strategy that ensures this review remains a front burner issue in the legislature (some kind of review process that activates in the new legislature, a review by the AOG of Canada, working with the NGO and FN sectors to develop an implementation plan).
- Consider how the current child welfare tribunal could be leveraged to result in increased resources for FN children in NWT. This will require working closely with the FN to determine any shortfalls of needed resources and this will need to be done quickly if it is to be included in the remedy order of the tribunal (i.e.: next 6-8 months). Although this will cost money as economists and other experts will need to be hired to determine the nature

and amount of funding required it will save the Territory in the long run if federal government is held accountable for providing culturally-based and equitable funding.

MEDIUM TERM (UNDER 2 YEARS) OR MODERATE COST

- Review the programs currently funded by the NWT government and provided under contract to the public to determine how well these services align with the cultural context of the local community and the key drivers of the over-representation of children in care. Adjust accordingly ensuring there is language in the contracts that compels active integration of community standards and measures the impacts on reducing the factors driving the risk to children and families.
- Implement the child welfare outcome measures and work with researchers to develop concurrent measures for the families of children impacted by child welfare.
- Change MHSS funding policies so that they are responsive to programs developed by communities to address issues. The BC Government is looking at funding programs according to the Touchstones principles instead of rolling out programs centrally that may, or may not be relevant, to all groups.
- Explore whether the inclusion of domestic violence in the NWT legislation is actually making children safer. There is emerging research to suggest that including domestic violence in child welfare acts is a deterrent to abused spouses reporting the problem as they are afraid their kids will be taken away. Child welfare is typically not well positioned to respond to reports of domestic violence.
- Explore a second tier judicial review for cases of anticipatory neglect. Social workers should always be able to apprehend if there is a clear and present danger to the child, but if there is no evidence of physical and emotional harm then there should be something akin to the social worker requiring a warrant for removal. The granter of the warrant should not necessarily be a judge alone – rather a group of people who are experts in community resources and understand the dynamics of neglect should review cases and only order removals when they are convinced all other options have been exhausted and the "worry" about future harm is well defined as is a plan to address the problem.
- Family conferencing programs that are culturally based need to be developed and implemented. Resourcing for things like family travel will be needed to ensure the efficacy of the program as will the training of family mediators. Mediation as in the "agreement of the lowest common denominator" should be avoided.
- Kinship care programs need to be developed in concert with communities and compensation for care must be non-discriminatory in terms of relative status. The Supreme Court of the USA ruled that it is discriminatory for child welfare to provide less funding for relatives to care for a child than it would to a stranger as the former is actually much better for the child.
- Policies of social assistance and pension need to be changed so that parents are not thrown into further crisis that serves to increase the risk to children. Also there should not be penalties for community members to participate on child and family service committees.
- A comprehensive review of all resources available to MHSS to do its work needs to be undertaken and a plan to address resource gaps needs to be seriously taken up by the legislature. There is no way MHSS can improve services on the basis of the shortfalls in prevention and family support services that are being reported in this review.

- Efforts to educate and engage other stakeholders such as teachers, RCMP, mental health and addictions must be undertaken.

LONG TERM (5 YEARS) OR MODERATE/HIGH COST

- Where First Nations, Métis and Inuit communities have identified models of participation that go beyond the current committee structure allowed for in the legislation, these should be implemented and adequately and sustainably resourced.
- Services for youth are also critically needed in some communities. Attention should be paid to ensure there is a gender balance of activities as historically most public recreation facilities favor male participation.
- Implement recommendations of the specialized panel on neglect and domestic violence. Making amendments to legislation, policy and re-profiling or increasing services as needed.
- Increased funding for prevention and early intervention services to ensure healthy family life are critically needed and the legislature should plan now for incremental investments. Educating MLAs on the fact that the World Health Organization suggests that for every dollar invested on a child today the government saves seven dollars in the future.
- Additional investments in either prevention/early intervention or youth services should prioritize community based initiatives over government programs that may, or may not be relevant for local experience.
- Create holistic services for children by creating shared cross-sector principles for children in NWT that can be interpreted at a local level by communities within the context of their culture and context. Funding groups in keeping with these principles. I would recommend using something simple like the Touchstones principles as long documents such as the UN Convention are often too long to guide practical implementation by all people at all levels. Touchstones principles are only 5 in number so easily remembered. Using Touchstones or Many Hands One Dream could be considered or NWT may want to undertake an activity to identify cross cutting principles (no more than 10) upon which child welfare in NWT must be based.

LEGISLATIVE CHANGE RECOMMENDATIONS

- A definition of an Aboriginal child and community needs to be integrated into the legislation. The definition should provide for self-identification (see BC legislation) and drive the mandatory collection of disaggregated data on First Nations, Métis and Inuit children in NWT.

- An enabling clause that would allow First Nations, Métis or Inuit peoples to assume greater control over child and family services should be included. For example, a clause that allows for the Minister to make an order in Council facilitating the full or partial delegation of statutory duties to a FN, Métis or Inuit child and family services agency.
- Consider employing a mandatory review of removal requests where the child is not in immediate danger but the worker is worried about potential maltreatment. This review must be done before the removal is completed. This could be a combination of the SW Community committee representative and community resource people in addictions and mental health and could be done via telephone or video-conferencing in remote areas.
- Embed Jordan`s Principle into the legislation.

HIGHEST PRIORITY RECOMMENDATIONS

SHORT TERM HIGH PRIORITY

- Support First Nations, Métis and Inuit community leaders to conduct community consultations to better define the needs of children, youth and families and how those needs could be met (Touchstones of Hope model is one option but communities may have their own models that should be given preference).
- Neglect driven by poverty and substance misuse is a key concern in all communities. MHSS must provide more training to staff on the impacts of various types and degrees of substance misuse. Parenting and social workers need to be trained to differentiate when a parent is unable to meet the child's basic needs due to poverty and willful neglect. The former should not be grounds for removal, but rather calls for in home investments which are at least on par with what a foster payment would be to keep the child safely at home.
- MHSS should inventory its current range of services to determine how well they match the needs of the vast majority of their clients who are presenting for neglect driven by poverty, poor housing, and substance misuse. This review should also include an assessment of the cultural match of service structure, service providers and the clients.
- Training for MHSS policy makers and social workers on neglect, substance misuse, mental health, and multi-generational impacts of residential school need to be substantially increased. Currently, MHSS currently allocates only one half day training session to deal with all three topics – this is woefully insufficient.
- MLA's and Ministers should all undergo mandatory training on child welfare with an emphasis on the impacts of Aboriginal children. This will better prepare them to develop progressive legislation relating to child welfare, deal with concerns raised by constituents ,and to respond in more productive ways to media inquiries.
- MLA's and Ministers must work with MHSS to reduce the culture of fear within child protection related to the possible consequences of making a wrong decision.
- Develop an implementation strategy that ensures this review remains a front burner issue in the legislature (some kind of review process that activates in the new legislature, a review by the AOG of Canada, working with the NGO and FN sectors to develop an implementation plan).
- Consider how the current child welfare tribunal could be leveraged to result in increased resources for FN children in the NWT. This will require working closely with the FN to

determine any shortfalls of needed resources and this will need to be done quickly if it is to be included in the remedy order of the tribunal (i.e.: next 6-8 months). Although this will cost money as economists and other experts will need to be hired to determine the nature and amount of funding required it will save the Territory in the long run if federal government is held accountable for providing culturally-based and equitable funding.

MEDIUM TERM PRIORITIES

- Review the programs currently funded by the NWT government and provided under contract to the public to determine how well these services align with the cultural context of the local community and the key drivers of the over-representation of children in care. Adjust accordingly ensuring there is language in the contracts that compels active integration of community standards and measures the impacts on reducing the factors driving the risk to children and families.
- Implement the child welfare outcomes measures and work with researchers to develop concurrent measures for the families of children impacted by child welfare.
- Change MHSS funding policies so that they are responsive to programs developed by communities to address issues. BC Government looking at funding programs according to the Touchstones principles instead of rolling out programs centrally that may, or may not be relevant, to all groups.

LONG TERM PRIORITIES

- Where First Nations, Métis and Inuit communities have identified models of participation that go beyond the current committee structure allowed for in the legislation, those should be implemented and adequately, and sustainably resourced.
- Services for youth are also critically needed in some communities. Attention should be paid to ensure there is a gender balance of activities as historically most public recreation facilities favor male participation.
- Implement recommendations of the specialized panel on neglect and domestic violence. Making amendments to legislation, policy, and re-profiling or increasing services as needed.
- Increased funding for prevention and early intervention services to ensure healthy family life are critically needed and the legislature should plan now for incremental investments. Educating MLAs on the fact that the World Health Organization suggests that for every dollar invested on a child today the government saves seven dollars down the line would be important.
- Additional investments in either prevention/early intervention or youth services should prioritize community based initiatives over government programs that may, or may not be relevant for local experience.

CONCLUSION

In 1907, Dr. Peter Henderson Bryce told the Government of Canada that, "medical science knows just what to do" to stop the pervasive deaths of children in residential schools. Canada ignored his advice compelling human rights lawyer Samuel Hume Blake to write that "Canada fails to obviate the preventable causes of death, it brings itself in unpleasant nearness to manslaughter." One hundred years later residential schools have closed but many participants in this consultation see little difference between the trauma of residential schools and that being imposed by the child welfare system.

The over-representation of Aboriginal children in child welfare compels people to believe one of two things: 1) the system is fundamentally sound and needs only modest, and often, cosmetic changes to better meet the needs of Aboriginal children or 2) that the system is fundamentally flawed and needs to be revamped on the basis of good evidence and community involvement. I believe the second. The current child welfare system is geared to responding to reports of abuse and has given little meaningful attention on how to respond to neglect amongst disadvantaged populations. It is easy to default to the idea of making modest changes. Many provinces have and the results have been uninspiring. The rates of Aboriginal children going into child welfare are increasing throughout the country.

The key opportunity in the NWT is to invest in community and evidence driven solutions that tackle poverty, poor housing, substance misuse and the multi-generational impacts of residential schools. If this were done, NWT could lead the country in improving outcomes for Aboriginal children.

Although we do not have all the answers to improve the safety and well being of Aboriginal children, we, just like Bryce, know just what to target and we also know the importance of meaningfully engaging Aboriginal communities. The only outstanding question is whether or not we will. One thing was clear from these consultations, is that the citizens of the Northwest Territories are expecting real results from this review that are measurable in the lives of children and families at a grass roots level.

APPENDIX A: BLACKSTOCK NOTES FROM REVIEW OF LITERATURE PROVIDED BY NWT LEGISLATURE

Northwest Territories Child Welfare Review

Notes: Cindy Blackstock

April 6, 2010

Based on written information provided by NWT Government.

1. **CIS Report for NWT**

- **Primary Maltreatment Type:** Neglect (51%), Domestic Violence (27%), Physical Abuse (11%), Sexual Abuse (5%), and Emotional Abuse (6%)
- **Harm:** Physical harm – no treatment (3%); physical harm- treatment (2%)
  Emotional harm- no treatment (3%); emotional harm- treatment (14%)
- **Previous Openings:** 76% of cases previously opened
- **Ongoing services:** 51% files closed and 49% open
- **Out of home care:** 36% placed of which 23% are placed in foster care and 13% in kinship care
- **Age –** neglect : very little difference in age categories; DV higher for 0-3 age group
- **Aboriginal heritage:** 90% of substantiated reports are Aboriginal
  - **First Nations (Status): 49%**
  - **First Nations(N S): 3%**
  - **Métis: 8%**
  - **Inuit: 29%**
  - **Other Ab. 2%**
  - **Non Ab. 9%**
- **Child functioning:** Most frequent concerns are: irregular school (22%), behavior/emotional problems (20%), developmental delay (16%), special ed. 15%
- **Maternal risks:** Most frequent concerns are: victim of DV (73%), OOH abuse (61%), few supports (47%) and maltreated as a child (38%)
- **Paternal risks:** OOH abuse (42%), perpetrator of DV (41%), maltreated as a child (23%) and drug/solvent abuse (21%)
- **Household risks:** Public housing (43%), unsafe conditions (11%) and social assistance (25%)

2. **NWT Stats**

- Families with income below 25K per annum (%): NWT average 14.3%
  - Sahtu: 21.1%

- Dejne: 28.6%
- Ft Good Hope: 15.4%
- Norman Wells: 15.8%
- Tulita: 27.3%
- Beaufort Delta: 21.9%

3. **New Stats – population data**

North American Indian:	14,975
English:	7,050
Canadian:	6,050
Scottish:	5,875
Irish:	4,860
Inuit:	4,580
Métis:	2,820
TOTAL	**41,060**

Aboriginal population of NWT – 50.3%

Aboriginal population of Canada- 3.8%

Aboriginal population of BC- 4.8%

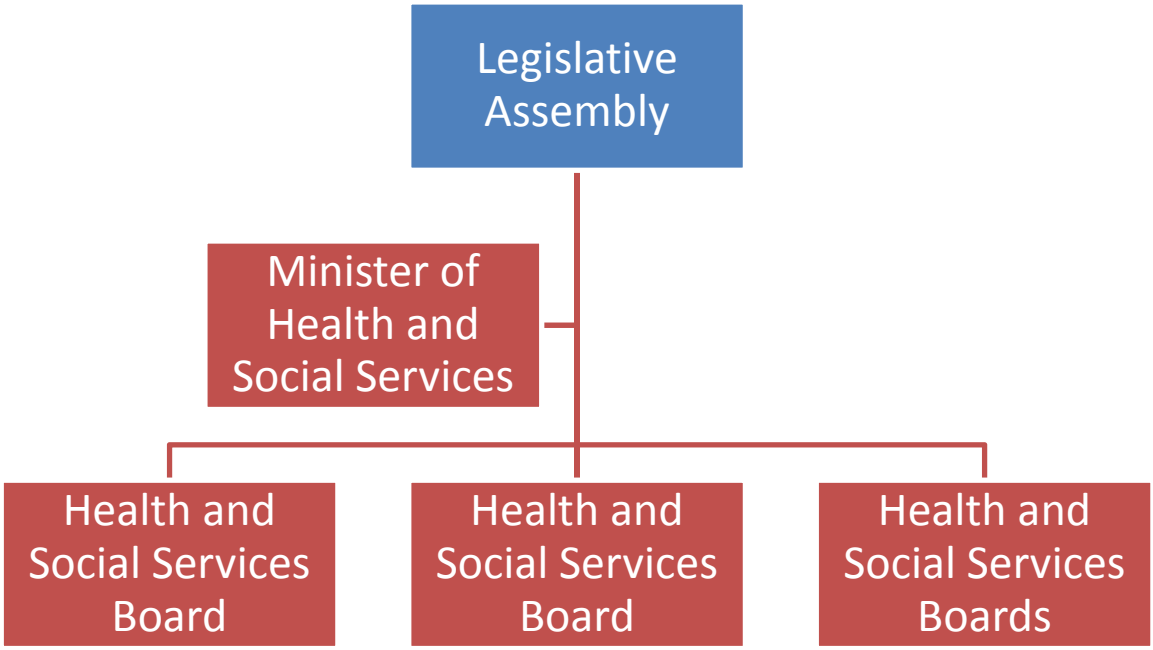
Aboriginal population of Alberta- 5.8%

4. **CWLC Findings and Recommendations (2000)**
    - Social workers are concerned about high caseloads and a lack of communication throughout the system particularly between HSS and the Department of Health and Social Services.
    - Increasing Aboriginal involvement is recommended
    - Increase participation of children and families in services affecting them
    - Developing local resources
    - More effective communications
    - Increase prevention and early intervention
    - Office child and youth advocate

5. **Aboriginal specific contents of CWLC**
    - Broad based broadcast programs increase cultural pride and health promotion
    - Targeted programs for gambling and drug addictions
    - Targeted programs for residential schools

- Resourcing falls short for family intervention (p.2)

6. **Governance**



- **Positives of the boards- local input and control over resources**
- **Negatives of the boards- lack of child welfare specific knowledge by board members; possible politicization of process (i.e.: prioritizing child welfare above education)**
- **No standard mechanism for allocating resources to the boards**

7. **CASELOADS:**
   Dehcho: 2 times higher CWLA standard
   Fort Smith: 20% higher
   Hay River: 20% higher
   NWT Commissioner signs off on legislation
   Inuvik: 20% higher
   YICHSS; 350 % higher

8. **Child and Family Services Act (1997)**
   NWT Legislative assembly and Commissioner sign off on legislation
   Section 7 (2):

   In need of protection shall be interpreted
   (a) With a recognition that differing cultural values and practices must be respected

(b) In accordance with community standards

Definitions of maltreatment:

(h) child has been subject to a pattern of neglect that HAS resulted in physical and emotional harm

(i) the child has been subject to a pattern of neglect that WILL result in physical and emotional harm

9. DHSS Report

- **Children receiving services in the territory : 879 (2009)**
- **Children receiving services out of the territory: 59% (2009)**
- **Placement in community: 86% Placement in Territory: 92%**
- **Top 10 referral reasons (P.18)**
    - Parent's drug and alcohol 17.44%
    - Other 15.73%
    - Other parental behavior 6.99%
    - AWOL 5.83%
    - **Aboriginal community (P.24)**
      Dene 363
      Gwichin 7
      Inuit 60
      Inuvialit 74
      Métis 32
      Non Aboriginal 29
      Unknown 28
      Other Ab. 5

APPENDIX B: KEY RESOURCES AND REFERENCES

The following are key references with respect to the over-representation of Aboriginal children in child welfare care in Canada and also with regard to the importance of Aboriginal control over child welfare services. For ease, I have placed a * beside articles on over-representation and a # beside those pertinent to Aboriginal control. Some articles cover both issues and are identified by both symbols.

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