



# **INDIGENOUS RESILIENCE, CONNECTEDNESS AND REUNIFICATION – FROM ROOT CAUSES TO ROOT SOLUTIONS**

## ***A Report on Indigenous Child Welfare in British Columbia***

### ***Final Report of Special Advisor Grand Chief Ed John:***

#### ***Summary of Recommendations***

#### **STRUCTURE OF THE REPORT:**

The report opens with contextual and background information on Indigenous child welfare issues in BC, flows into an introduction section and then enters into discussion on 10 Areas for Focused Action, with recommendations. The report concludes with Final reflections of the Special Advisor, acknowledgements, and appendices containing the consolidated list of recommendations and the terms of appointment for the Special Advisor.

The main focal point of the report is *Area for Focused Action: Area 1. Direct Support for Indigenous Children, Parents and Families in all Indigenous Communities* with the subsequent 9 Areas for Focused Action written in support of Area 1.

**TOTAL RECOMMENDATIONS:** 85

#### **AREAS FOR FOCUSED ACTION:**

#### **Area 1. Direct Support for Indigenous Children, Parents and Families in all Indigenous Communities [Pages 62 – 85]**

The recommendations in this section are focused on ensuring direct support for Indigenous children and youth, as well as parents and families within Indigenous communities. They are based on the underlying assumption that the child welfare system and services in BC need to be substantively transformed in order to realize existing legislated requirements, as well as the recent commitments made by the federal and provincial governments in support of the full involvement of Indigenous communities in child welfare matters impacting Indigenous children and youth.

- 10 Recommendations
  - Recommendations aimed at MCFD and INAC
    - Investment and support in the development and delivery of child and family services
      - within FN communities in BC, including promising practices
      - directly to the Metis in BC
    - MCFD Regions meet regularly with Metis, FN leaders
      - and provide a list of all children under a custody of care order (CCO);

- and be required to have performance measures reflecting high-level commitment to strengthen MCFD relationship with Indigenous leadership, families and communities
- MCFD to implement Nation-to-Nation Partnership Protocols between a regional MCFD office, individual Indigenous communities and Delegated Aboriginal Agency (DAA) as necessary
- MCFD/INAC provide specific support for community-based curriculum and community-developed services, including support training and employment of community Care Committee Model developed through the Aboriginal Children and Families Chiefs Coalition

## **Area 2. Access to Justice and Child and Family Services [Pages 86 – 103]**

The justice system is not serving the best interests of Indigenous children and youth, parents, and families. Improving access to justice for Indigenous people must be something we all work together on to collectively address in order to see meaningful improvements in the child welfare system. The recommendations in this section are made in support of improved access to justice for Indigenous children, parents, and families within the child welfare system.

- 12 Recommendations
  - Recommendations aimed at BC [Ministers of Justice and Attorney General & Public Safety and Solicitor General; MCFD; Provincial Court; Ministry of Justice, Ministry of Attorney General] Legal Services Society; Native Courtworker and Counselling Association of BC; INAC; First Nations; Metis Nation BC.
    - Convening of a Justice Summit to deal specifically with Indigenous child welfare matters
    - MCFD take actions, including legislative amendments to improve access to justice for Indigenous children and youth, families and communities; and take immediate action to support and expand promising practices, programs and models that have demonstrated success in improving access to justice for Indigenous children and youth, families and communities, including supporting alternative dispute resolution (ADR) processes within the child welfare system
    - Provincial Court appoint Provincial Court judges whose work will focus exclusively on Indigenous children, families and communities; and undertake work to improve access to justice within the child welfare system for Indigenous children and youth, parents, families, and communities
    - Ministry of Justice support and provide resources to the Legal Services Society to continue and expand the “Parents Legal Centre” model to other locations where a high demand exists, including Prince George, Kamloops, Williams Lake, Campbell River, Terrace/Smithers, Surrey and Victoria
    - Support for the NCCABC to expand its mandate to effectively provide services to Indigenous families who end up in legal proceedings and courts on child welfare matters
    - BC Attorney General continue and expand the existing mediation program to be available to all Indigenous parents and families involved in child welfare matters and interested in using an ADR process
    - MCFD and INAC ensure adequate funding to Indigenous communities for effective participation in child protection hearings by way of direct funding to First Nations or through the INAC-MCFD service agreement

- Province of BC improve Metis access to justice by changing the definition of “Aboriginal Child” in the Child, Family and Community Service Act to include “Metis child”, consistent with the *Daniels* decision
- MCFD provide First Nations and Metis Nation with financial support to create online information and print materials on the child welfare system and how to obtain First Nations or Metis-specific assistance and related rights.

### **Area 3. A New Fiscal Relationship – Investing in Patterns of Connectedness [Pages 104 – 120]**

Responding to the *TRC Final Report*, the *2016 CHRT 2* decision, and International doctrine, Canada has agreed to a wholesale reform of the Indigenous child welfare system. BC has also expressed their high level commitment to review and reform the child welfare system to better meet the needs of Indigenous children and youth. Many of the individuals who met with the Special Advisor highlighted that what is required now are commitments from Canada and BC to immediately address failed funding formulas and commit to a new fiscal relationship to match what have, thus far, been high level political commitments. Collectively, the recommendations in this section call for a new fiscal relationship for Indigenous child welfare services, imploring both Canada and BC invest now in patterns of connectedness and reunification.

- 11 Recommendations
  - Recommendations aimed at Canada; INAC; MCFD
    - Canada demonstrate commitment to Jordan’s Principle by revisiting its practice of providing funding only for First Nations children and families “ordinarily resident on reserve”
    - Collaborative development of alternative funding formulas to address shortcomings of Directive 20-1 and EPFA
    - New or revised funding formulas for ADR processes as a prevention measure, and child placement under an ADR process be funded the same as a child removed under a court order; INAC ensure that additional funding address the most discriminatory aspects of current funding formulas, such as Directive 20-1’s incentive to bring Indigenous children into care
    - Ensure that trauma services are funded at a level consistent with findings and recommendations of the Truth and Reconciliation Commission (TRC) and *2016 CHRT 2* decision
    - INAC and MCFD ensure that Indigenous communities not represented by DAAs are directly engaged in negotiations of the *annual BC Service Agreement* between INAC and MCFD
    - Ensure that fair and equitable funding be provided to DAAs established by Indigenous communities, at minimum similar to the formula that Canada transfers funds to the province, and including the issue of wage parity for DAAs
    - MCFD take immediate steps to harmonize financial assistance for families who have permanent care of children, and ensure flexible and accommodating payment options for legal out-of-care options to accommodate foster families needing financial income
    - Province undertake a legislative review and financial policy review to determine necessary changes to allow families under the “Extended Family Program” to receive the Child Tax Benefit and that the Benefit is not deducted from MCFD payments

#### **Area 4. Prevention Services – Keeping Families Connected [Pages 121 – 127]**

We must work to ensure that children and youth have every opportunity to safely remain at home with their families. Adopting prevention-based service models helps to support family preservation and reunification, and ultimately helps to break the cycles of intergenerational trauma present in our Indigenous communities. The recommendations in this section seek to promote the strength of prevention service delivery to Indigenous families across the province.

- 6 Recommendations
  - Recommendations aimed at MCFD; Delegated Aboriginal Agencies; INAC
    - Ensure core funding and other supports that will allow development of community-based prevention and family preservation services for all Indigenous people and communities in BC and that Aboriginal Service Innovations (ASI) family preservation can offer adequate core funding support to community-based program delivery
    - Development of an effective and efficient method to fund prevention services, including increased ASI budget to expand the program and add additional agencies, and equity in prevention services delivery for all Indigenous communities in BC
    - Increased support for ‘least disruptive measures’ through amended provincial legislation

#### **Area 5. Reunification and Permanency Planning [Pages 128 – 145]**

At present, there are three permanency options for indigenous children in care in BC: Family reunification, transfer of custody, and adoption. The reunification of a child with his or her biological family, where possible, should be prioritized as the goal for permanency. As well, support should be given to each Indigenous youth who age out of care at the age of 19. An aging out plan should be a required component of care plans for each youth turning 19. Without ensuring that each young person has a clear plan in place for him or her to move into adulthood, and without providing these young people with the necessary supports, we are further perpetuating cycles of poverty. The recommendations in this section seek to ensure improved permanency planning for Indigenous children and youth, including ensuring connectedness to family, culture and community.

- 16 Recommendations
  - Recommendations aimed at the Province; MCFD; INAC; MCFD regional offices; BC Representative for Children and Youth (RCY); Indigenous communities and organizations; Provincial Directors and Indigenous representatives; Indigenous communities; Youth Advisory Council for the Provincial Director of Child Welfare; Delegated Aboriginal Agencies
    - Province amend the *Child, Family and Community Service Act (CFCSA)* to ensure an Indigenous child’s connection to natural parents is not severed, and to support improved permanency planning for Indigenous children and youth
    - Development of a practice guide on how to prepare, develop, implement and monitor jointly developed permanency plans for Indigenous children and youth
    - Allocation of adequate funding for every Indigenous child or youth in care, not just those “ordinarily resident on reserve”

- Provision of quarterly progress updates to Indigenous communities in each region concerning permanency planning for each child from that community
- Provision of mandate and appropriate resources for the BC RCY to review and ensure resiliency, reunification and permanency planning for each Indigenous child under a CCO
- Development of a provincial adoption awareness and recruitment strategy for Indigenous communities and development of a quality assurance program including key performance measures and targets for all adoptions of Indigenous children
- Creation of a provincial Indigenous custom adoption registry for Indigenous children and youth and ensuring custom adoptions are eligible for post-adoption services similar to current post-adoption services
- Legislative amendments and funding support for support of customary care options
- Collaboration and preparation of a report on the legal and practical implications of adopting status-registered Indigenous children
- Review and reform of the federal 'A-list' (INAC Adoption Register) policy and practices
- Ensure that non-Indigenous adoptive parents have necessary information and support to provide Indigenous adoptive children with culturally appropriate resources to facilitate a connection of the child and Indigenous ancestry, including culture of birth community
- Continued support for the existing Youth Advisory Council for the Provincial Director on Child Welfare
- Supports for Indigenous youth who age out of care, including:
  - Aging Out Plans as a required component of care plans
  - Development of Agreements with Young Adults
  - Establishment of a youth transition team in each of the 13 MCFD regions

## **Area 6. Nurturing a Sense of Belonging and Prioritizing Culture and Language – Care Plans as a Tool for Building Connectedness [Pages 146 – 157]**

Knowledge of one's own language and culture is an essential part of establishing a strong sense of identity, and it has been proven that having a strong cultural identity as a child and adolescent leads to improved outcomes in education, employment, and health and wellness in adulthood. The recommendations in this section are directed at ensuring strong cultural and language components are included in care plans for each Indigenous child in care.

- 8 Recommendations
  - Recommendations aimed at MCFD; INAC; Indigenous organizations, such as the First Peoples' Cultural Council; BC Representative for Children and Youth, Provincial Court or other independent body; Delegated Aboriginal Agencies; Foster parents
    - Ensuring action-oriented cultural components, including a focus on Indigenous language revitalization, are included in each Indigenous child's care plan
    - Immediate allocation of funding to support
      - involvement of Indigenous organizations, such as the First Peoples' Cultural Council (FPCC), in the development of cultural component of care plans, including assistance in preparing a language plan as part of the cultural component

- engagement of Indigenous leadership, traditional knowledge holders, elders, families, etc. in development of cultural components of care plans
- Independent annual review of individual care plans for Indigenous children in care to ensure a cultural and language component exists and is implemented
- Ensuring mandatory MCFD staff training in individual Indigenous identities and cultures, including Indigenous rights
- Review of the suitability requirements for foster parents and foster homes to ensure compliance with statutory obligations in s. 71(3) of the *CFCSA*
- Ensuring MCFD provision of support to foster parents in their legal obligation to preserve a child’s cultural identity as required under s. 4(2) of the *CFCSA*

## **Area 7. Early Years – Early Investment in Establishing Patterns of Connectedness [Pages 158 – 165]**

With respect to the early development of an Indigenous child, it is absolutely necessary to provide short- and long-term support, as well as intensive support to families and to all children, especially those who are in vulnerable circumstances. This helps to ensure the best possible start and a strong foundation for adolescence and adulthood. Studies and common sense inform us that, in the long term, early investment in building a strong sense of “connectedness” in families and communities will help break down the cycle of poverty and underdevelopment. This will ultimately contribute to reducing the extensive social and economic gaps facing many Indigenous peoples.

The recommendations in this section are made in the area of early years programming and services, and link directly to recommendations made throughout this report in support of parents, families and Indigenous communities.

- 4 Recommendations
  - Recommendations aimed at MCFD; federal government; INAC; Delegated Aboriginal Agencies; Indigenous communities;
    - Expansion of Indigenous early years programming, including new offerings and services to all First Nations communities and Metis in BC, including investment in long-term and sustainable funding
    - Expansion of parenting programs and services available, including professional expertise, to Indigenous parents and families
    - Ensuring updating any new or existing parenting programs and curriculum to include traditional knowledge, teachings and practices, including support for language and culture revitalization

## **Area 8. Indigenous Peoples and Jurisdiction Over Child Welfare [Pages 166 – 179]**

The recommendations in this section are made in support of Indigenous communities increasing authority over child and family services and are focused on empowering Indigenous people and communities in BC to move beyond the self-administration of federal or provincial programs and services, and towards self-government in the area of child welfare. Further recommendations relating to Indigenous jurisdiction are found in *Area for Focused Action 9 – The Existing Policy Framework – Shifting Towards Patterns of Connectedness*, and *Area for Focused Action 10 – A National Strategy for Indigenous Child Welfare*.

- 7 Recommendations
  - Recommendations aimed at Canada; BC; Delegated Aboriginal Agencies; Indigenous communities and organizations; MCFD; INAC; the Province;

- Move towards a model where Indigenous communities can exercise full jurisdiction of Indigenous child welfare, including development of a capacity-building action plan and building a comprehensive funding framework for equitable services for Indigenous children
- Support for continued capacity building of DAAs
- Review and amendment of CFCSA
  - to offer legislative support to Indigenous communities that have developed, or are seeking to develop, strong community-driven initiatives,
  - to provide 'least disruptive measures' that make it simpler for a child to remain with his or her extended family of community in the event there is a removal
  - to achieve consistency with the *Family Law Act* in relationship to concepts of guardianship and parental responsibility
  - to minimize circumstances where a child is moved out of temporary care and under a CCO
- Designation of an Indigenous Director under the authority of the CFCSA, equipped to make decisions based in cultural knowledge and that better account for historical circumstance and resultant intergenerational trauma

## **Area 9. The Existing Policy Framework – Shifting Towards Patterns of Connectedness [Pages 180 – 191]**

Through CHRT decisions, the *TRC Final Report*, numerous reports from the BC RCY, and others, the stage has been set to develop a comprehensive Indigenous child welfare policy framework that will support reconciliation and the resiliency of Indigenous families and communities in the province. Together with Indigenous communities and leaders, the federal and provincial governments can and should develop a framework that embeds an understanding and acknowledgement of trauma, outlining specific, goal-oriented actions to achieve change. The recommendations in this section identify specific actions towards the goal of a comprehensive Indigenous child welfare policy framework in BC.

- 9 Recommendations
  - Recommendations aimed at MCFD; INAC; Delegated Aboriginal Agencies; the Province; BC Representative for Children and Youth; Ministries of Education and Health; Canada
    - Joint adoption of a clear and overarching Indigenous child welfare policy framework in BC premised on support for prevention and connectedness, reconciliation and resiliency
    - Immediate implementation of the jointly developed *Aboriginal Policy and Practice Framework* for DAAs that wish to use it
    - Development of a separate service plan for Indigenous child and family welfare, including an Indigenous ADM and distinct planning and implementation budget allocation
    - Immediate recruitment and retention of Indigenous individuals for leadership positions within MCFD, and for Indigenous social workers and front-line workers, including ensuring that jointly developed plans are in place to support the success of those individuals recruited to these positions
    - Removal of existing barriers for DAAs that wish to utilize approaches that support community involvement, such as Signs of Safety and Touchstones of Hope

- Provincial Government support for the continued independent oversight role of the RCY, as it relates to Indigenous children and youth, though funding support, mandate expansion to ensure distribution of reports and documents to Indigenous communities and organizations, and oversight to ensure active Indigenous community involvement in planning for Indigenous children under CCOs is upheld
- Requirement for provincial ministries such as MCFD, Education and Health to table annually in the provincial Legislature their respective responses to RCY reports and recommendations regarding Indigenous child welfare
- Commitment for jointly developed improved data collection and analysis to support program development and effective service delivery for Indigenous child welfare in BC

## **Area 10. A National Strategy for Indigenous Child Welfare [Pages 192 – 196]**

The recommendations in this section are made in support of a national strategy for Indigenous child welfare in Canada, and urge the federal government to act to fulfill their commitment to reconciliation with Indigenous peoples in BC and across Canada in the area of child welfare. While these recommendations target the federal government, Indigenous peoples and governments, as well as the provinces, are viewed as critical partners in ensuring the effective implementation of these recommendations.

- 2 Recommendations
  - Recommendations aimed at Canada; Premier of BC; other Premiers through the Council of the Federation
    - Immediate development by Canada of new federal Indigenous child welfare legislation, in partnership with Indigenous peoples, that supports more consistent and improved outcomes for Indigenous children and families
    - Premier of BC championing and working with other Premiers through the Council of the Federation to develop a national action plan on Indigenous child welfare, ensuring Canada's national approach
      - is consistent with the findings of the *2016 CHRT 2* decision
      - promotes the effective implementation of the TRC's Calls to Action 1-5
      - is consistent with commitments made in international decision documents such as the *World Conference on Indigenous Peoples Outcome Document*, the *UN Declaration on the Rights of Indigenous Peoples*, and *UN Convention on the Rights of the Child*
      - promotes child welfare services and approaches that are culturally based, prioritize prevention and resilience, support connectedness with communities and preserve and reunify families where possible.