



REPRESENTATIVE FOR
CHILDREN AND YOUTH

When Talk Trumped Service: A Decade of Lost Opportunity for Aboriginal Children and Youth in B.C.

Special Report

November 2013

Exhibit: National Inquiry into Missing and Murdered Indigenous Women and Girls		
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November 6, 2013

The Honourable Linda Reid
Speaker of the Legislative Assembly
Suite 207, Parliament Buildings
Victoria, B.C. V8V 1X4

Dear Ms. Speaker,

I have the honour of submitting this report, entitled *When Talk Trumped Service: A Decade of Lost Opportunity for Aboriginal Children and Youth in B.C.*, to the Legislative Assembly of B.C.

This report is prepared in accordance with Section 20 of the *Representative for Children and Youth Act*, which states that the Representative may make a special report to the Legislative Assembly if she considers it necessary to do so.

Sincerely,

A handwritten signature in black ink, reading "meturpellafond". The signature is written in a cursive, flowing style.

Mary Ellen Turpel-Lafond
Representative for Children and Youth

pc: Ms. Jane Thornthwaite
Chair, Select Standing Committee on Children and Youth

Mr. Craig James
Clerk of the Legislative Assembly

Contents

Executive Summary	3
Introduction	9
Methodology	12
Background	15
Aboriginal Child Welfare Framework in B.C.	26
Aboriginal Child Welfare Governance and Service-Delivery Initiatives	43
Findings	52
Recommendations	57
Conclusion.	63
Appendix 1: Documents, Information and Reports Reviewed	66
Contacts.	86

Executive Summary

The public policy concepts and practices that guide service to Aboriginal children, youth and their families are important to British Columbia. There is unequivocal support across all political parties, professional and service organizations – right down to the street-level of friends and neighbours – for the notion that this is an area in which we want to see good policy replace the failed policies that harmed previous generations of Aboriginal children and families.

Better lives for children and youth is a strong ethic for all British Columbians. It should infuse the delivery of public services and guide the effectiveness of government. Key public services – in child welfare, education, health and justice – must, at a minimum, level the playing field so that Aboriginal children and youth can grow and learn with their non-Aboriginal peers and be secure in their identity and connection to their culture and communities, feel no pre-ordained limits to their achievement and enjoy the freedom of a solid foundation in a society that can support good outcomes.

The Representative would go one step further – it is an *imperative* of B.C. public policy that such services to children and youth be effective, because the importance of improving the life circumstances of Aboriginal children and youth is vital to the success of our province as a society. Few greater priorities could be expressed right from the top political level of the Premier's Office, throughout government, down to the level of the neighbourhood and community.

B.C., more than any other province or territory in Canada, has worked to map the significant gaps in known outcomes (e.g., health, safety, school achievement, criminal justice system involvement, social inclusion) and experiences for Aboriginal children compared to other children and youth in B.C. This includes the key work of the Provincial Health Officer, analysts across government ministries and the collaboration of academic and policy institutions.

But there is still much we don't know. For example, who exactly are the Aboriginal children and youth most disadvantaged and facing violence, neglect, social exclusion and the poorest outcomes? Not all Aboriginal children fall into this category, as increasing numbers are finding success through more stability in their families and communities. We still know very little about what specific supports and services Aboriginal children require, or whether they receive them to level the playing field, keep them safe and healthy and ensure they can develop and thrive equal to their peers.

Governments have for some time recognized that past failed policies and practices needed to be addressed, and that outcomes for the lives of Aboriginal children need to change. Yet, for the significant number of Aboriginal children and youth who come into contact with the child welfare system, the improvement expected in their lives doesn't happen, or government cannot speak with confidence about what services they receive, how these children's basic needs are being met or whether services provided translate into improved life experiences.

Herein lies the problem that is the subject of this report, one of the most complex and difficult produced by the Representative: There could not be a more confused, unstable and bizarre area of public policy than that which guides Aboriginal child and family services in B.C.

This area is rife with perverse performance measures, the absence of any real incentives for change and no end-state goals on how services to Aboriginal children and youth will be improved. The Ministry of Children and Family Development (MCFD) has awarded money for projects but often assumed little or no management or responsibility for initiatives launched. There has been a significant expenditure on “talking” – with virtually no involvement by Aboriginal children and youth themselves – and without a single child being actually served.

The total spent by MCFD on Aboriginal governance endeavours over the past dozen years has been roughly \$66 million. That is a conservative estimate, as the provincial government cannot provide a clear record of expenditures. The financial controls were initially dismal and unenforced. The policy context and administrative principles can only be termed chaotic and haphazard, and are prone to undue political influence and lobbying by consultants and others with the ability to convince government to become a funder of programs with questionable policy basis or outcomes. To be blunt, a significant amount of money has gone to people who provide no program or service to directly benefit children.

Nevertheless, this report is not about political will, public opinion or blame. This report attempts to answer the basic questions posed to the Representative repeatedly by members of the public, including elected members on both sides of the Legislative Assembly: “What happened here? What did we spend on that and what did it amount to?”

Because the Representative works for the children and youth of B.C., the report has scrutinized this issue closely from this lens – How did Aboriginal children and youth benefit from the various governance initiatives launched and re-launched over the past decade? While this report may simply confirm the deep cynicism people feel about the ability of government to achieve much for citizens, or with citizens, the Representative firmly believes that services are important and that we haven’t actually seriously attempted to serve Aboriginal children and youth appropriately or with a solid policy framework that focuses on them.

The expenditure of \$66 million – and maybe more – during a time when the most vulnerable Aboriginal children could find few appropriate residential services and supports, and few therapeutic child and family services to address their significant and known needs, is a colossal failure of public policy to do the right thing for citizens. It can be reversed and changed, but there will be significant dissent – the rewards given to initiatives and projects that have no chance of ever coming to fruition because they are fundamentally flawed have created an industry and forgotten the children and youth.

For example, nearly \$35 million was spent discussing Regional Aboriginal Authorities, including large expenditures on paying people to meet, hiring consultants to facilitate those meetings, and producing materials of questionable practical value following

such meetings that almost never addressed the actual difficulties children and youth were experiencing in their lives – issues such as parental addiction, domestic violence, poverty, neglect and the need for mental health services or special needs supports. While government publicly applauded the imminent success of these talks, there was little or no evaluation of what was actually being achieved, no lens of public policy, and limited financial controls on these endeavours.

These approaches took a strong turn sideways in 2008, when MCFD decided that First Nations would write their own approaches, and that MCFD would get “out of their way” while at the same time promising to fund their initiatives. This produced several projects, under the rubric of a “Nation-to-Nation approach” with staggering expenditures, and a disconnect from the practicalities of the Aboriginal child welfare service-delivery system. It appears that MCFD charted a direct course into funding and encouraging jurisdiction and transfer of government powers discussions while having no practical or functional guidance from the Attorney General regarding the scope and implications of such negotiations. Many of these negotiations are not with “nations” at all, but with community organizations, urban groups and others who lack the representational capacity to enter into self-government negotiations. Nor is B.C. a nation. MCFD did not see this as a problem and believed it could support as many as 20 to 100 of such processes in its future.

This process had serious negative implications for the MCFD budget, as paying for these initiatives increasingly came out of direct service lines of MCFD operations so that all children and youth, including Aboriginal children and youth, who receive actual services paid the price and continue to do so. For example, there is no appropriate spectrum of residential services in B.C., something badly needed by many children including Aboriginal children, because significant money went to self-government planning projects.

Meanwhile, the people on the front lines of the system – the overburdened child welfare workers, the grandparents and extended family members, the foster parents, the hospital staff and the school staff – have seen their budgets, services and opportunities shrink, arguably all to the detriment of the children and youth who needed help.

This story may read more like fiction than truth, but the numbers speak for themselves. More than \$66 million has been spent without any functional public policy framework, no meaningful financial or performance accountability, and without any actual children receiving additional services because of these expenditures.

There is also another \$90 million being spent each year on delegated Aboriginal Agencies (DAAs) in B.C. There are 23 of these DAAs – 20 reserve-based and three urban agencies. All but one of these agencies operate as an exception to the federal government policy requiring that there be at least 1,000 children before a service agency can be formed. As this report details, another of these DAAs has received nearly \$5 million over the last three years, despite having no open files as of March 2013. Within that DAA’s area, the Representative knows that the demand for youth supports, mental health services, special needs supports, and school learning supports are significant. The big picture seems to have been lost here.

While significant resources were going out the door, the DAAs were mostly ignored and sometimes undermined as they struggled to provide services. Their list of service issues, which included about 30 major concerns at the beginning of this decade, seems to be pretty much the same today as it was then. No real progress has been made in getting through these issues, and the service is not marked by stability or clear policy.

Those DAAs with strong political connections applied for and received the Nation-to-Nation self-government discussions funds and have been planning to assume full “jurisdiction.” This is highly confusing as delegated agencies do not exercise constitutional self-government powers in the proper sense of the word, as they are delegated entities. Nevertheless, these discussions have led to some of them holding the view that they will exist completely independent from MCFD in the near future. They have been led to believe this will occur, especially through the renewal of funds and encouragement by MCFD officials and their own consultants and advisors.

However, for many DAAs, the impact of this has been to stray away from services and to suffer from mandate confusion – believing they are DAAs but that they will become something else, making them exempt from normal operational expectations of MCFD or other oversight entities. They cannot be blamed for this view, as MCFD has funded them without having any working policy on what the exercise of self-government jurisdiction actually requires at the level of law-making, recognition, coordination or funding.

The 23 DAAs are also fraught with staff turnover and on-going struggles to find qualified staff, leading them to seek exemptions from workforce requirements to allow them to hire a larger portion of their staff who are not properly educated and trained to do the work. These kinds of pressures can result in poor service – and while MCFD “audits” the work of DAAs, it has actually done very little with the results of those audits as it, too, seemed to believe the big fix would come from the governance discussions and that it wouldn’t be “fair” to have ordinary quality assurance processes (including re-audits and reporting steps such as removing delegation when it is clear that an agency cannot function).

The Representative recognizes that despite the many challenges, some notable progress can be achieved. For example, one DAA has recently managed to improve its compliance in completing Plans of Care to 97 per cent, in stark contrast to the provincial five per cent compliance rate noted in the Representative’s 2013 report *Much More than Paperwork: Proper Planning Essential to Better Lives for B.C.’s Children in Care*.¹

The total amount spent by the federal government through Aboriginal Affairs and Northern Development (AAND) in B.C. over this same period is unknown. AAND’s annual national budget for child welfare hovers around \$640 million and the Representative’s best estimate is that approximately \$57 million went to B.C. DAAs in 2012/13.

DAAs and the Caring for First Nations Children Society maintain that they do not have money for prevention or to provide services at the same level as those provided to non-Aboriginal children. The Representative believes they are correct in that assertion but,

¹ B.C. Representative for Children and Youth, *Much More than Paperwork: Proper Planning Essential to Better Lives for B.C.’s Children in Care*. (March 2013)

when total expenditures by the B.C. government and the federal government are factored in, the real issue is that the children and youth are not receiving the services, and that a significant amount of funding appears to be directed to “governance” or “initiatives” that do not bring any actual service to those who require them most. Many of these initiatives are so far outside a policy framework that they cannot be assessed.

MCFD and other government ministries do not have any overarching service agreement for Aboriginal children and youth and very little political or administrative effort has been expended in working out a consistent policy and performance framework for their services, alignment of services, or any evaluation of effectiveness. There are occasional meetings, letters and such, but nothing robust or meaningful for such a vital area of service improvement or cooperation. There is no stable policy framework with measurable outcomes identified.

The federal government suggests it is simply a funder while the province is the service-provider through delegation agreements with First Nations and Aboriginal agencies. This entire vision of public policy is fraught with fractured accountabilities, untethered initiatives and a decided absence of focus on children and youth. It isn't accurate, it is chaotic, and it seems to promote perverse performance measures and allow for poor service or no service to some of the most vulnerable children and youth.

The federal government must be encouraged to step up – although the Representative does note that B.C. has not made a sustained or serious effort to engage with the federal government on these issues. Instead, it has funded a range of initiatives as if there was no federal government, or as if the federal government could be told after decisions were made what would happen and be expected to simply fall in line.

The role of Aboriginal organizations – especially political organizations – has also been central, as they have entered into high-level agreements and have been willing participants in this public policy failure. Whether this is because they have been so overburdened by many agendas (treaty-making, resource development, and other sectors of activity), or if they believe that they are actually making progress, the Representative is unsure. Certainly they must recognize that self-government jurisdiction over children being exercised by small non-profit organizations or entities is not consistent with their own positions on a range of issues, such as representational capacity.

Children are not being served and the political leadership does not seem to expect much change, or understand the lack of change, either. Real collaboration has not happened, but these areas have been passed around, indeed passed over, in the belief that someone else is doing the job. Sadly, there really isn't anyone on the ground resourced and supported to do the work and reporting on what they are doing in a robust fashion.

Apart from all of this, MCFD spends significant resources on services for Aboriginal children and youth, even if it does not have a strong or clear service-delivery policy, or a defined self-government jurisdiction framework. Areas such as child protection mediation have seen some very good work undertaken by justice officials, child welfare officials and trained mediators. The Representative notes, however, that the child protection mediation budget is always in danger as it resides in the Ministry of Justice

and is not a fixed annual budget within MCFD. It is one of the initiatives that seems to have worked, is within the core mandate of improved service to children, but got pushed aside by these other new and vague initiatives.

MCFD does pay for services for Aboriginal children and youth both off and on-reserve (on a case-by-case basis) for special needs and mental health, and does so on other than a cost-recovery basis from the federal government. Whether it pays enough, gets good results, or is leveling the playing field for Aboriginal children, is unknown, as the ministry is either so pre-occupied with the big fix elsewhere, or impacted by how this has played out, that it has frankly lost its way in this area.

Can things change? Of course they can. But not if government keeps repeating this failed pattern, and not unless it has executive leadership that connects firmly with the front lines and really speaks about the work for and with Aboriginal children and youth and their families and communities. Work they are doing together – not passing responsibility away and taking no accountability for the fact that no one is actually helping the child. The government must also set out some clear policy foundations for this work and bring its initiatives back into line with public law and functional requirements. Good policy will also give prominence to ensuring cultural connection for children to their communities.

This report offers an opportunity for discussion, learning and change. The Representative believes the policy framework can be strengthened, service obligations clarified and actual services delivered, evaluated and progress made. The Representative does not believe that can happen until we face up to the utter chaos and confusion that has guided this area for more than a decade.

There is no public administration model or theory to support what happened here. It didn't work, and it didn't work for a reason. There were so many exceptions made to the rule that the entire area is one big set of exceptions with no solid basis of what is possible, practical or achievable.

Senior bureaucrats and others in government must return to a model of public service and accountability that permits good collaboration but doesn't abdicate control or send a massive chunk of the budget out to a sector that will provide no service but appears to make everyone feel good, or provides an illusion of progress where there is none.

Maybe this is as it has always been in British Columbia and it works at some level to fund discussion so people keep talking to each other. But surely our objective cannot be this low. We need to improve the lives of some of the most vulnerable citizens in B.C. by actually providing them with the support they need and deserve – a properly functioning residential system of care, mental health supports, special needs supports, and an unwavering commitment to their personal safety.

Children and youth deserve better, and the best contrition for this rather shameful debacle would be a real effort to improve the outcomes for those children by actually knowing what they require and what works to support them – to stop directing the money into the big theoretical fixes, and instead shore up the front lines of the system, especially in those places where the paved roads end in B.C. The five recommendations in this report offer a start in this direction.

Introduction

This is a Special Report under s. 20 of the *Representative for Children and Youth Act* (*RCY Act*) outlining the findings of the Representative's review of Aboriginal child welfare services in B.C.

The Representative has a mandate under the *RCY Act* to monitor, review, audit and conduct research on the provision of designated services for the purpose of making recommendations to improve the effectiveness and responsiveness of those services, and to report publicly on her findings.

Under this mandate, the Representative has a particular focus on services to Aboriginal children and youth. Given their significant vulnerabilities, special attention is warranted to understanding how the needs of Aboriginal children and youth are being met.

This focus stems from the findings and conclusions of the *BC Child and Youth Review* (2006) undertaken by the Hon. Ted Hughes, who recommended the creation of the Office of the Representative to provide independent oversight and monitoring of the provincial child welfare system.

In his report, Hughes commented specifically about the circumstances of Aboriginal people, Aboriginal child welfare service delivery and the disproportionate representation of Aboriginal children and youth in the child welfare system. It was explicitly recognized that a significant part of the Representative's work would focus on Aboriginal child welfare matters and that Aboriginal children and families would form a large part of the Representative's constituency.

Consistent with this, to ensure the credibility of the Representative's Office and its ability to be effective in its work by understanding the experience and perspectives of Aboriginal people, Hughes recommended that a senior person in the Office be Aboriginal and that a concerted effort be made to retain Aboriginal staff at all levels. The need to ensure an Aboriginal perspective is enshrined in the *RCY Act*, which requires the Representative to consider, when appointing a deputy representative, "*the skills, qualifications and experience of the person, including the person's understanding of or involvement in the lives of Aboriginal children and their families in British Columbia.*"

Related RCY Reports and Activities

Several reports by the Representative have explored the well-being of Aboriginal children and framed the key challenges:

- *Out of Sight: How One Aboriginal Child's Best Interests Were Lost Between Two Provinces* (2013)
- *Much More Than Paperwork: Proper Planning Essential to Better Lives for B.C.'s Children in Care* (2013)
- *Who Protected Him? How B.C.'s Child Welfare System Failed One of Its Most Vulnerable Children* (2013)
- *Trauma, Turmoil and Tragedy: Understanding the Needs of Children and Youth at Risk of Suicide and Self-Harm* (2012)
- *So Many Plans, So Little Stability: A Child's Need for Security* (2011)
- *Fragile Lives, Fragmented Systems: Strengthening Supports for Vulnerable Children* (2011)
- *Growing Up In B.C. Joint Report with the Office of the Provincial Health Officer* (2010)
- *No Shortcuts to Safety: Doing Better for Children Living with Extended Family* (2010)
- *Housing, Help and Hope: A Better Path for Struggling Families* (2009)
- *Kids, Crime and Care: Youth Justice Experiences and Outcomes: Joint Report with the Office of the Provincial Health Officer* (2009)
- *Health and Well-Being of Children in Care in B.C.: Educational Experiences and Outcomes* (2007)
- *Health and Well-Being of Children in Care in British Columbia: Report 1 on Health Services, Utilization and Mortality: Joint Report with the Office of the Provincial Health Officer* (2006)

In addition to these reports, the Representative:

- made a submission to the Truth and Reconciliation Commission titled *Aboriginal Children: Human Rights as a Lens to Break the Intergenerational Legacy of Residential Schools* (2012);
- presented a paper at the International Summer Course on the Rights of the Child in Moncton, N.B., *Making Human Rights Relevant to Children* (2012); and
- as a member of the Canadian Council of Child and Youth Advocates, released a *Special Report, Aboriginal Children – Canada Must Do Better: Today and Tomorrow* (2011)

Scope of Review

For the purposes of this report, “child welfare” means the services mandated under the *Child, Family and Community Service Act (CFCS Act)* and which MCFD delivers under its Child Safety, Family Support and Children in Care service line.

MCFD also provides service to Aboriginal children, youth and their families under its other service lines, but these are not included in the scope of this review.

As established by the *CFCS Act*, Child Safety, Family Support and Children in Care Services include: family support services, including agreements with families regarding the care of a child; youth transition support services, including agreements with youth regarding services and supported living arrangements; and child protection services, including responding to and investigating child protection reports, undertaking cooperative planning regarding a child’s care and taking protection action including going to court for an Interim, Temporary or Continuing Custody Order.

The *CFCS Act* also establishes distinct principles regarding Aboriginal child welfare service delivery:

- Aboriginal people should be involved in the planning and delivery of services to Aboriginal families and their children;
- services should be planned and provided in ways that are sensitive to the needs and cultural, racial and religious heritage of those receiving the services; and
- for an Aboriginal child, the importance of preserving the child’s cultural identity must be considered in determining the child’s best interests.

MCFD'S SIX CORE SERVICE LINES

- Child Safety, Family Support and Children in Care Services
- Early Childhood Development and Child Care services
- Services for Children and Youth with Special Needs (CYSN)
- Child and Youth Mental Health (CYMH) services, including community-based CYMH services and the Maples Adolescent Treatment Centre
- Adoption Services
- Youth Justice Services

The majority of programs and services are delivered regionally through four geographic service regions: Coast Fraser, Interior, North and Vancouver Island. Some programs are delivered at the provincial level, including child care operation and subsidy funding, CYSN autism and medical services, services for deaf and hard of hearing, the Maples Adolescent Treatment Centre, Youth Custody Services, and Youth Forensic Psychiatric Services. Services are delivered directly by MCFD or through contracted community service providers, and Aboriginal children and families may be served by delegated Aboriginal Agencies (DAAs).

Methodology

This review examines and reports on MCFD's current system of Aboriginal child welfare service delivery and the Aboriginal governance and service-delivery change initiatives undertaken over the last decade:

- The MCFD Core Review initiative begun in fiscal year 2001/02 and completed by 2004/05
- The Regional Aboriginal Authorities initiative undertaken during the period from fiscal year 2001/02 to 2008/09
- Nation-to-Nation pilots, now called Indigenous Approaches, subsequent to the end of the Regional Aboriginal Authorities initiative and occurring from 2009/10 through present day.

MCFD's system of child welfare service delivery and the Aboriginal governance and service-delivery change initiatives were assessed against widely articulated and accepted attributes of sound government program performance management and accountability.² These include:

- A clear vision, goals and objectives outlining what the program intends to achieve in meeting the needs of its client population; defined outcomes and a set of measures for assessing program efficacy; and well understood and accepted strategies for achieving the program's vision, goals and objectives and meeting its defined outcomes
- Program delivery and management supports, including comprehensive and appropriate policies, standards and practices to guide program delivery that are consistent with and supportive of the goals, objectives and strategies; and ongoing program leadership, including that the program is adequately resourced and effectively managed
- Program performance measurement through audits and evaluations, and tracking, monitoring and analyzing data and information to measure and understand the effect and impact of programs and services and the achievement of defined outcomes
- Results management, including taking corrective action where necessary to modify, alter or even cancel programs that do not achieve intended outcomes or the reallocation of resources between programs and to new programs that will have a greater impact; and
- Accountability through open, honest and transparent reporting to government and to the public on how programs are provided, what they are intended to achieve, and the results of programs in achieving the intended outcomes.

² Government of BC, Core Policy and Procedures Manual, <http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/CPMtoc.htm>; <http://gww.fin.gov.bc.ca/gws/OCG/Resources/files/ServicePlanGuidelines.pdf>, http://gww.lcs.gov.bc.ca/cs/about/planning_performance/service_planning.html and http://www.fin.gov.bc.ca/ocg/fmb/manuals/cpm/performance_mgmt_context.pdf
Office of the Auditor General of British Columbia, Public Sector Governance – *A Guide to the Principles of Good Practice*, Report 13, December 2008, and *Strengthening Public Accountability*, Report 1, April 2006.

Figure 1: Performance Management and Accountability Cycle



A comparison of MCFD child welfare-related plans and policies, programs and services and its change initiatives with general principles of effective program management and accountability enabled the Representative to arrive at some conclusions about how well MCFD is meeting its mandate to provide culturally appropriate child welfare services and respond to the unique needs of Aboriginal children and youth.

Information Sources

An extensive amount of information was collected, compiled and reviewed in developing this report. This includes publicly available data, statistics, material and reports, and information requested from MCFD related to three major Aboriginal governance and service-delivery change initiatives.

The Representative began gathering information on the Aboriginal child welfare governance and service-delivery initiatives in 2008/09. The information received presented significant analytical challenges due to its sheer volume, the lack of organization or time-sequencing of the information, time gaps in the materials provided, and difficulty in distinguishing final documents from drafts. The Regional Aboriginal Authorities initiative alone yielded 46 boxes of files from MCFD containing approximately 76,000 pages of information.

The Representative employed the services of a professional records manager to organize and inventory the documents and develop a historical sequence of events. Considerable resources were also expended on sub-reviews, including a financial review to examine ministry funding, and a review of the policy basis or framework and project management of the Aboriginal service-delivery initiatives. (Appendix 1 is a list of all documents, information and reports compiled and reviewed as part of this review.)

Following the initial assessment of the information, additional requests for information were made and a number of meetings held with MCFD staff to ensure a full and accurate understanding of the course and progress of the initiatives, the allocation of operational budgets, MCFD operational practices and policy, and the role of various stakeholders. Several briefings have been held with MCFD executive to discuss the analysis of the information and the preliminary findings of the review.

MCFD was given the opportunity to review and provide comments on the facts in the report for the purpose of administrative fairness.

Background

Aboriginal People in British Columbia

The Aboriginal population in B.C. is growing, youthful, diverse and widely dispersed.

Although relatively small in absolute numbers, the B.C. Aboriginal population is the second largest in Canada. In 2011, 232,290 individuals (or about 5.4 per cent of the provincial population) identified themselves as Aboriginal.³ In 2006, 195,000 individuals (or about 4.5 per cent of the provincial population) identified as Aboriginal.^{4,5} Of the total number of individuals identifying as Aboriginal in 2011, 155,015 (or 67 per cent) self-identified as First Nations, 69,475 (or 30 per cent) identified as Métis and the remaining identified as Inuit or with multiple Aboriginal identities.⁶ Of those identifying as First Nations, 112,400 (or 72.5 per cent) were Status Indians.⁷

Definitions

In this report the term Aboriginal includes individuals who identify as being First Nations, Status Indian, non-Status Indian, Inuit or Métis.

The term First Nations is used to refer to individuals who have identified as having a specific First Nations ancestry.

The term Status Indian refers to a person registered under the federal *Indian Act* and recognized as legally entitled to a range of programs and services.

Métis is used to describe individuals who have identified as having Métis ancestry.

The Aboriginal population is much younger than the overall population in B.C. The median age is 28 for First Nations people and 32 for Métis people. In comparison, the median age of the non-Aboriginal population in B.C. is 42.⁸

Aboriginal children and youth account for more than eight per cent of the total population of children and youth ages 0 to 18 years living in B.C.⁹ Aboriginal youth are the fastest growing population group province-wide. Although the size of the overall child and youth population declined in the last decade – by about 4 per cent between

³ Statistics Canada, National Household Survey, 2011, Analytical document - Aboriginal Peoples in Canada: First Nations People, Métis and Inuit.

⁴ BC Stats. Census 2006 – *Aboriginal Profiles – Aboriginal/Non Aboriginal – British Columbia*. <http://www.bcstats.gov.bc.ca/StatisticsBySubject/AboriginalPeoples/CensusProfiles/2006Census.aspx>

⁵ The 2006 Aboriginal population figures cited were drawn from the Statistics Canada Census 2006 whereas the 2011 figures cited were drawn from the Statistics Canada, 2011 National Household Survey. The 2006 Census and 2011 National Household Survey are based on different methodologies and direct comparison should not be made.

⁶ Statistics Canada, National Household Survey, 2011, Data tables.

⁷ Statistics Canada, National Household Survey, 2011, Analytical document - Aboriginal Peoples in Canada: First Nations People, Métis and Inuit.

⁸ Statistics Canada, National Household Survey, 2011, Analytical document - Aboriginal Peoples in Canada: First Nations People, Métis and Inuit.

⁹ BC Stats. BC Population by 5 years age group projections; and Stats Canada. Projections of the Aboriginal Populations of Canada, Provinces and the Territories – 2001-2017.

2001 and 2009 – the size of the Aboriginal child and youth population increased by about 11 per cent in that same period.¹⁰ Over the next few years, the Aboriginal youth population is projected to grow at twice the rate of the overall youth population.¹¹

In 2011/12, 61,399 school-age Aboriginal children attended provincial public and independent schools.¹² This included 8,830 Aboriginal children who live on-reserve. Another 4,788 school-age children ordinarily resident on-reserve attended band-operated schools.¹³

First Nations people in B.C. speak 32 of the First Nations languages and 59 of the dialects in Canada.¹⁴ One-third of the approximately 600 First Nations in Canada are in this province.¹⁵

In 2011, about 78,670 people, both Aboriginal and non-Aboriginal, lived in First Nations reserve communities. Of those, just over 49,700 are Status Indians, accounting for about 44 per cent of the total Status Indian population in the province. About 17,000 Status Indian First Nations people living on-reserve are between the ages of birth and 19 years, including about 10,500 Status Indians who are school-age.¹⁶ Many First Nations communities are isolated and remote and have a population of fewer than 200 people.¹⁷

Of those Aboriginal people not living on-reserve, about 60 per cent live in urban areas, particularly the cities of Vancouver, Victoria, Prince George and Kamloops.¹⁸

¹⁰ Ibid.

¹¹ Ibid.

¹² BC Ministry of Education, 2011/12 Summary of Key Information, *Aboriginal Students 2002/03 to 2011/12 (Public and Independent)*.

¹³ Aboriginal Affairs and Northern Development Canada, *Federal Funding Levels for First Nations K-12 Education (updated version using 2011/12 Data)*.

¹⁴ Report on the Status of B.C. First Nations Languages 2010, First Peoples' Heritage, Language and Cultural Council.

¹⁵ Ministry of Aboriginal Relations and Reconciliation. *Frequently Asked Questions*, <http://www.gov.bc.ca/arr/treaty/faq.html#top>

¹⁶ Statistics Canada, National Household Survey, 2011, Analytical Document - Aboriginal Peoples in Canada: First Nations People, Métis and Inuit.

¹⁷ BC Stats. 2011 Census Total Population Results, Indian Reserves, <http://www.bcstats.gov.bc.ca/StatisticsBySubject/Census/2011Census/PopulationHousing/IndianReserves.aspx>

¹⁸ Government of BC, Urban Aboriginal People, http://www.newrelationship.gov.bc.ca/success_stories/urban_aboriginal.html

Many Aboriginal people face chronic and deep poverty and live in inadequate and crowded housing. A recent study found that while the average poverty rate in B.C. for non-Aboriginal children is 17 per cent, the poverty rate for Aboriginal children is 28 per cent and for Status Indian children it is 48 per cent – nearly three times the average for non-Aboriginal children.¹⁹ Aboriginal people also have poorer health, lower educational achievement, higher rates of incarceration, higher unemployment and higher reliance on income assistance than non-Aboriginal people.

The diversity of experiences, languages and the many scattered locations of B.C. First Nations mean challenges for policy and service. As well, the necessity of completing the treaty-making process in B.C. has prompted ongoing shifts in the children's agenda with priorities vacillating between negotiation tables and front-line service provision.

The Aboriginal Child Welfare Experience

Until the 1950s, there was no child welfare service regime for on-reserve First Nations people as the *Indian Act* of 1876, Canada's oldest piece of legislation, did not contemplate child welfare. Although there was a certain level of activity being undertaken by both the federal and provincial governments, there was no clear legal authority or delineation of responsibilities. In 1951, the *Indian Act* was amended to make Status Indians living on-reserve subject to provincial laws of general applicability. Since that time, the province has been responsible for the child welfare needs of all children in B.C., including Aboriginal children whether they live on- or off-reserve.

Only one per cent of children and youth in care in Canada in the 1950s were Aboriginal.²⁰ As of March 2013, more than 52 per cent – or about 4,450 out of the total of 8,106 children in care of the B.C. government – were Aboriginal.²¹

Although the overall number of children in care has declined over the last decade, since 2006/07, the proportion of children in care who are Aboriginal has remained at more than 50 per cent.

¹⁹ Canadian Centre for Policy Alternatives and Save the Children, June 2013, *Poverty or Prosperity: Indigenous Children in Canada*, prepared by David MacDonald and Daniel Wilson.

²⁰ Office of the Provincial Health Officer, *Health, Crime, and Doing Time – Potential Impacts of the Safe Streets and Communities Act (Former Bill C-10) on the Health and Well-being of Aboriginal People*. Special Report, March 2013, page 3.

²¹ Ministry of Children and Family Development Corporate Data Warehouse.

Figure 2: Map of Aboriginal Peoples of B.C.

#	First Nation Name	#	First Nation Name	#	First Nation Name
501	Taku River Tlingit (see footnote 1)	595	Seton Lake Band	663	Huu-ay-aht First Nation
504	Dease River (see footnote 1)	596	Osoyoos Indian Band	664	Hupacasath First Nation
530	Morisetown	597	Penticton Indian Band	665	Tseshat First Nation
531	Gitanmaax	598	Lower Similkameen Indian Band	666	Toquaht First Nation
532	Kispiox	599	Upper Similkameen Indian Band	667	Uchucklesaht Tribe
533	Glen Vowell	600	Spallumcheen Indian Band	668	Ucluelet First Nation
534	Hagwilget Village	601	Westbank First Nation	669	Old Masset Village Council
535	Gitsegukla	602	St. Mary's Indian Band	670	Skidegate Band Council
536	Gitwangak	603	Tobacco Plains Indian Band	671	Gingolx First Nation
537	Gitanyow	604	?Akisq'nuk First Nation	672	Gitksa Nation
538	Heiltsuk	605	Shuswap Indian Band	673	Metlakatla Band
539	Nuxalk Nation	606	Lower Kootenay Indian Band	674	Laxkw'alaams Indian Band
540	Kitasoo Band Council	607	Lake Babine Nation	675	Hartley Bay Village Council
541	Oweekeno/Wuikinuxv Nation	608	Takla Lake First Nation	676	Kitamaat Village Council
542	Saulteau First Nation	609	Tsay Keh Dene Band	677	New Aiyansh Village Government
543	Fort Nelson First Nation	610	Kwadacha Band	678	Laxgalts'ap Village Government
544	Prophet River Band	611	Lheidli-T'enneh Band	679	Gitwinksihlkw Village Government
545	West Moberly First Nations	612	Nadleh Whut'en Band	680	Kitselas Indian Band
546	Halfway River First Nations	613	Stellat'en First Nation	681	Kitsumkalum Band
547	Blueberry River First Nations	614	Nak'azdli Indian Band	682	Tahltan Indian Band
548	Doig River First Nation	615	Saik'uz First Nation	683	Iskut First Nation
549	Burrard Band (Tsleil-Waathuth First Nation)	616	Okanagan Indian Band	684	Adams Lake Indian Band
550	Musqueam Indian Band	617	Tl'azt'en Nation	685	Ashcroft Indian Band
551	Sechelt Indian Band	618	McLeod Lake Indian Band	686	Bonaparte Indian Band
552	Homalco Indian Band	619	Burns Lake Indian Band	687	Skeetchestn Indian Band
553	Klahoose First Nation	620	Cheslatta Indian Band	688	Kamloops Indian Band
554	Sliammon First Nation	622	Campbell River Indian Band	689	Little Shuswap Indian Band
555	Squamish First Nation	623	Cape Mudge Band	690	Neskonlith Indian Band
556	N'Quatqua Band	624	Comox Indian Band	691	Simpow First Nation
557	Mount Currie Band Council	625	Kwicksutaneuk/Ah-Kwa-Mish Tribes	692	Oregon Jack Creek Band
558	Aitchelitz Band	626	Kwakiutl Band Council	693	Coldwater Indian Band
559	Chehalis Indian Band	627	Gwawaenuk Tribe	694	Cook's Ferry Indian Bands
560	Kwikwetlem First Nation	628	Kwiah First Nations	695	Lower Nicola Indian Band
561	Douglas First Nations	629	Mamalilikulla-Qwe'Qwa'Sot'Em Band	696	Nicomen Indian Band
562	Skatin First Nation	630	Mowachah/Muchalaht First Nations	697	Upper Nicola Band
563	Katzie First Nation	631	'Namgis First Nation	698	Shackan Indian Band
564	Kwantlen First Nation	632	Tlatlasikwala Band	699	Nooaitch Indian Band
565	Matsqui First Nation	633	Quatsino First Nation	700	Boothroyd Indian Bands
566	New Westminster Indian Band	634	Ehattesaht First Nation	701	Boston Bar First Nation
567	Samahquam First Nation	635	Da'naxda'xw First Nation	702	Whispering Pines/Clinton
568	Scowlitz First Nation	636	Tsawataineuk Indian Band	703	High Bar First Nation
569	Semiahmoo First Nation	637	Tlowitsis First Nation	704	Kanaka Bar Indian Band
570	Shx'w'ha:y Village	638	Ka'yu:'k't'h'/Che:k'tles7et'h' First Nation	705	Lytton First Nation
571	Skowkale First Nation	639	Nuu-chah-nulth Tribal Council	706	Siska Indian Band
572	Soowahlie First Nation	640	Beecher Bay First Nation	707	Skuppah Indian Band
573	Skwah First Nation	641	Chemainus First Nation	708	Spuzzum First Nation
574	Squiala First Nation	642	Cowichan Tribes	709	Alexandria Indian Band
575	Tzeachten First Nation	643	Lake Cowichan First Nation	710	Alexis Creek
576	Yakwekwioosse	644	Esquimalt Nation	711	Esketemc First Nation
577	Tsawwassen First Nation	645	Halalt First Nation	712	Tl'etinqox-t'in Government
578	Sumas First Nation	646	Lyackson First Nations	713	Canim Lake Indian Band
579	Leq'a:mel First Nation	647	Malahat Indian Band	714	Xeni Gwet-in First Nations Government
580	Kwaw-kwaw-a-pilt First Nation	648	Snuneymuxw First Nation	715	Red Bluff Indian Band
581	Seabird Island Band	649	Nanoose First Nation	716	Soda Creek Indian Band
582	Skawahlook First Nation	650	Penelakut Indian Band	717	Stone Indian Band (Yunesit'in)
583	Chawathil Band	651	Qualicum First Nation	718	Toosey Indian Band
584	Cheam Indian Band	652	Pauquachin First Nation	719	Williams Lake Indian Band
585	Popkum Band	653	Tsartlip First Nation	720	Nazko Treaty Office
586	Peters Band	654	Tsawout First Nation	721	Kluskus Indian Band
587	Shxw'ow'hamel First Nation	655	Tseycum First Nation	722	Ulkatcho First Nations
588	Union Bar Indian Band	656	Songhees First Nation	723	Canoe Creek Indian Band
589	Yale First Nation	657	T'Sou-ke Nation	724	Gwa'sala-Nakwaxda'xw Nation
590	Bridge River Indian Band	658	Pacheedaht First Nation	725	Wet'suwet'en First Nation
591	Cayoos Creek Band	659	Ahousaht First Nation	726	Nee-Tahi-Buhn Band
592	Xaxli'p First Nation	660	Tla-o-qui-aht First Nation	728	Yekooche First Nation
593	T'it'q'et	661	Hesquiaht First Nation	729	Skin Tyee Band
594	Ts'kw'aylaxw First Nation	662	Ditidaht First Nation	1059	Daylu Dena Council (see Notes 1 and 2)

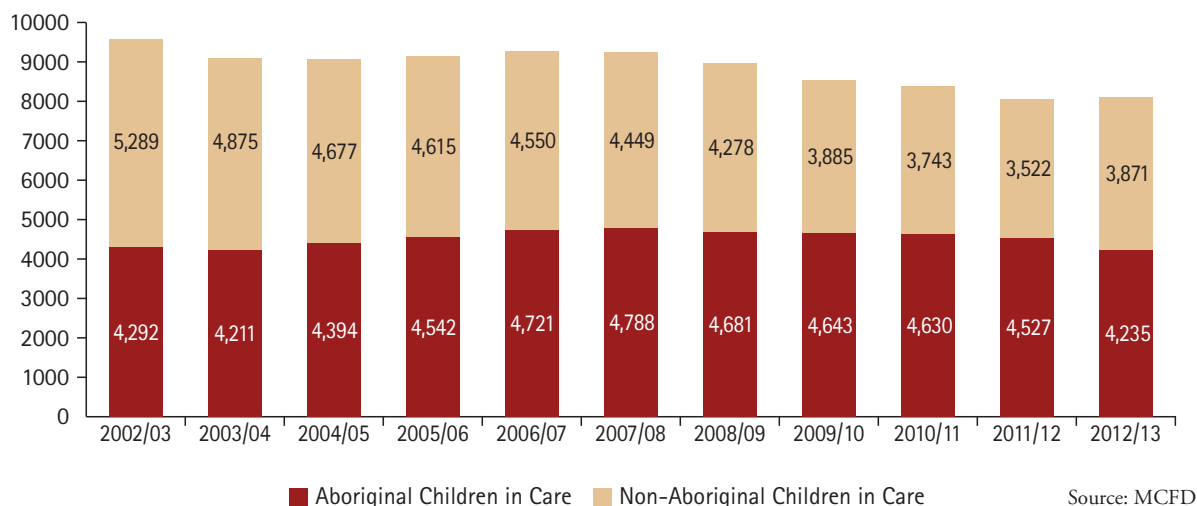


Based on map produced by
Professional and Technical Services,
Indian and Northern Affairs Canada, May 2007

Notes:

1. Band or group is administered from INAC Yukon Region. Main community is located in BC.
2. Daylu Dena Council (1059) is not registered as a band under the *Indian Act*. However, they do function as an independent band and sign separate funding agreements with INAC. All registered Indians in this group appear under Liard First Nation (502) in the Indian Register.

Figure 3: Aboriginal Children in Care and Non-Aboriginal Children in Care, Fiscal Year End



Aboriginal children are also more likely to have encountered the child welfare system. In 2010/11 in B.C., an Aboriginal child was 4.5 times more likely to have a protection concern reported than a non-Aboriginal child, 6.1 times more likely to be investigated, 8.2 times more likely to be found in need of protection, 7.4 times more likely to be admitted into care, and 13.4 times more likely to remain in care.²²

The disproportionate representation of Aboriginal children in the child welfare system can be partly attributed to the historic legacy of discriminatory government policies that undermined Aboriginal culture, traditions and language. This began with the “take the Indian out of the child approach” – the residential school experience that led to multi-generational impacts that have had a profound, lasting effect on Aboriginal people, communities and families. Residential schools resulted in generations of Aboriginal people growing up without parental support. A national report found that almost half of First Nations residential school survivors living on-reserve in Canada identify that the experience had a negative impact on their health and well-being. Of the survivors’ children living on-reserve, more than 40 per cent believe that their parents’ attendance at residential schools negatively affected the parenting they received.²³

Successive government policies and actions have also contributed to the high numbers of Aboriginal children in the B.C. child welfare system. In the 1960s, the application of provincial child welfare legislation to Aboriginal children on-reserve led to the apprehension and coming into care of significant numbers of Aboriginal children – the so-called “60s Scoop” – primarily related to perceived neglect due to conditions of poverty. Coupled with the 1980s moratorium on placing Aboriginal children for adoption in non-Aboriginal homes, there has been a steady increase in the number of Aboriginal children coming into government care with little promise of finding a permanent home through adoption.

²² MCFD, *Aboriginal Children in Care Report*, January 2011.

²³ Reading, CL., Wein, F. Health inequalities and social determinants of Aboriginal people’s health. Ottawa, ON: National Collaborating Centre for Aboriginal Health, 2009.

The current emphasis on reconciliation with First Nations has led to a confusing approach to Aboriginal child welfare in which federal/provincial roles are blurred with the end result being that the best interests of the child are not placed at the centre.

Federal child welfare funding policy has also had an influence on children coming into care rather than on prevention activities.

This legacy, combined with current poverty, poor housing and substance abuse, all contribute to family disruption, including child neglect – the primary reason Aboriginal children are reported to child welfare authorities.²⁴

The high rate of Aboriginal children in contact with the child welfare system is of specific concern given evidence showing poorer outcomes related to education, health and well-being for children and youth in care or receiving child welfare services than the general child and youth population.²⁵

Many Aboriginal children already experience significant vulnerabilities that are compounded by their involvement in the child welfare system.

Aboriginal children in general have lower educational attainment than non-Aboriginal children in B.C., with lower results on the B.C. Foundation Skills Assessment (FSA) tests, delayed advancement (the extent to which schools keep students in school and progressing in a timely manner to completion of their diploma) and lower high school completion rates.²⁶

Aboriginal children in care fare even worse. A joint report prepared by the Representative and the Provincial Health Officer found that the school completion rate for Aboriginal children in continuing custody was 21.7 per cent, compared to 34.1 per cent for non-Aboriginal children in continuing custody.²⁷ Little is known about the achievement of children on-reserve as the tracking and reporting of outcomes is limited.²⁸

A recent review by the Representative on suicide and self-harm among youth receiving MCFD services found that Aboriginal children were significantly more likely to commit suicide or demonstrate self-harm behaviour than non-Aboriginal youth – eight out of 15 youth who died of suicide were Aboriginal and 44 of 74 youth who sustained self-harm injuries were Aboriginal. Many of these Aboriginal youth were receiving MCFD services as a result of safety and well-being concerns such as neglect, exposure to violence in the home, or physical or sexual abuse.²⁹

²⁴ First Nations Child and Family Caring Society of Canada, *Wen: De: We Are Coming to the Light of Day*, 2005, page 18.

²⁵ Representative for Children and Youth. Office of the Provincial Health Officer. *Growing Up In B.C.* (2010).

²⁶ Fraser Institute, *Report Card on Aboriginal Education in British Columbia 2011*.

²⁷ Representative for Children and Youth. Office of the Provincial Health Officer. *Growing Up In B.C.* (2010).

²⁸ Fraser Institute, <http://www.fraserinstitute.org/report-cards/school-performance/aboriginal-education.aspx>

²⁹ Representative for Children and Youth, *Trauma, Turmoil and Tragedy: Understanding the Needs of Children and Youth at Risk of Suicide and Self-Harm* (November 2012)

Aboriginal youth are five times more likely to be incarcerated, and Aboriginal youth involved in the justice system are significantly more likely to have been in government care at some point in their lives.³⁰

The policy foundation for service to Aboriginal children and families has been unclear for some time with key shifts, multiple political promises and virtually no assessment of outcomes, leaving many gaps in knowledge. We do not fully know the results for Aboriginal children as we have no reliable child welfare data for Aboriginal children on-reserve.

Changing Relationship with Government

Over the past decade, a number of initiatives have occurred that changed the nature and course of the relationship between Aboriginal people and governments in Canada. These initiatives have been both a recognition of the failed past and a commitment to doing things differently in the future – the federal settlement and apology with regard to residential schools of particular note. The policy concerns regarding children are both federal and provincial, with the fallout of failed policies, such as residential schools, having a continuing impact on families. Many of these political agreements were directed at children and sought to change how policy and administration worked to improve the lives of Aboriginal children. B.C. has been active in such initiatives, with a former B.C. premier making a dramatic shift from initially opposing the Nisga'a treaty and seeking a public referendum on treaties, to later embracing principles for treaty-making and calling for a new relationship and transformative change.

The 2006 Indian Residential School Settlement Agreement, including the establishment of the Truth and Reconciliation Commission, followed by the 2008 Prime Minister's apology on behalf of Canadians for Indian residential schools, represented an acknowledgement at the national level that child and family policies of the past were failures with lasting impacts. This was cemented by the federal government reversal in 2010 of its 2007 decision regarding the endorsement of the *United Nations Declaration on the Rights of Indigenous People* in recognition of the new relationship between Canada and Aboriginal people.

For B.C., several key changes occurred during the past decade. A seminal point in the relationship between B.C. Aboriginal people and the provincial government was the 2001 B.C. Treaty Referendum. Following the referendum, the B.C. government made a commitment to change its relationship with provincial Aboriginal people in various areas of provincial responsibility. That commitment has been reflected in a number of subsequent memoranda, accords and agreements, many of which specifically consider the issue of Aboriginal child welfare:

- The *Tsawwassen Accord*,³¹ signed in 2002, the culmination of a landmark meeting of provincial leaders from government, the First Nations Summit Child Welfare Committee, the Union of BC Indian Chiefs, United Native Nations, Métis Provincial Council of BC, bands, tribal councils and Aboriginal service-delivery organizations. The Accord reflected a unanimous position regarding Aboriginal

³⁰ Child and Youth Officer (2006), Issue Paper 5, *Aboriginal Youth and the Youth Criminal Justice System*

³¹ The Tsawwassen Accord, http://www.ubcic.bc.ca/files/PDF/Tsawwassen_Accord.pdf

peoples' inherent authority over the lives of their children and families. It focused on organizational governance and not services or service delivery. Representatives from these organizations supported a resolution that “unequivocally” called for a series of Aboriginal authorities.

- The *New Relationship*³² entered into in the summer of 2005 by leadership of the First Nations Summit, the Union of BC Indian Chiefs, the BC Assembly of First Nations and the Premier of B.C., setting out a vision for improved government-to-government relations with First Nations with the goal of establishing new processes and structures for working on decisions principally regarding the use of land and resources. Some of the specific agreements negotiated at this time dealt with Aboriginal children, youth and families.
- The November 2005 *Transformative Change Accord*,³³ entered into by the province, the federal government and the First Nations Leadership Council for the purpose of closing the social and economic gaps between First Nations and other British Columbians, reconciling Aboriginal rights and title with those of the Crown, and establishing a new relationship based upon mutual respect and recognition.
- The *Métis Nation Relationship Accord*,³⁴ signed in May 2006 between the province and the Métis Nation of British Columbia, establishing mutual goals between the province and Métis people in B.C., including collaboration to close the gap in quality of life between the Métis and other citizens of the province.
- The *Strong, Safe and Supported Action Plan*,³⁵ unveiled by MCFD in 2008, that included the Aboriginal Approach as one of five pillars for the child welfare system in the province. The Aboriginal Approach was based on the desired outcome that Aboriginal children, youth and their families would receive services through an Aboriginal service system that strongly connects children and youth to their culture and tradition.
- *Jordan's Principle*, endorsed in January 2008 by Premier Gordon Campbell, is a child-first approach that commits the provincial government to ensure that jurisdictional funding disputes do not prevent or delay First Nations children from accessing available health and social services. Under *Jordan's Principle*, if B.C. has first contact with an Aboriginal child, it will pay for the services and seek reimbursement later to ensure that a child receives equitable service in a timely way.

The Representative notes that, with the exception of the Tsawwassen Accord and the Transformative Change Accord, the federal government had no involvement in any of these initiatives. The Representative interprets the federal government's public stance on Aboriginal child welfare as being that it does not bear any obligation beyond serving as a funder.

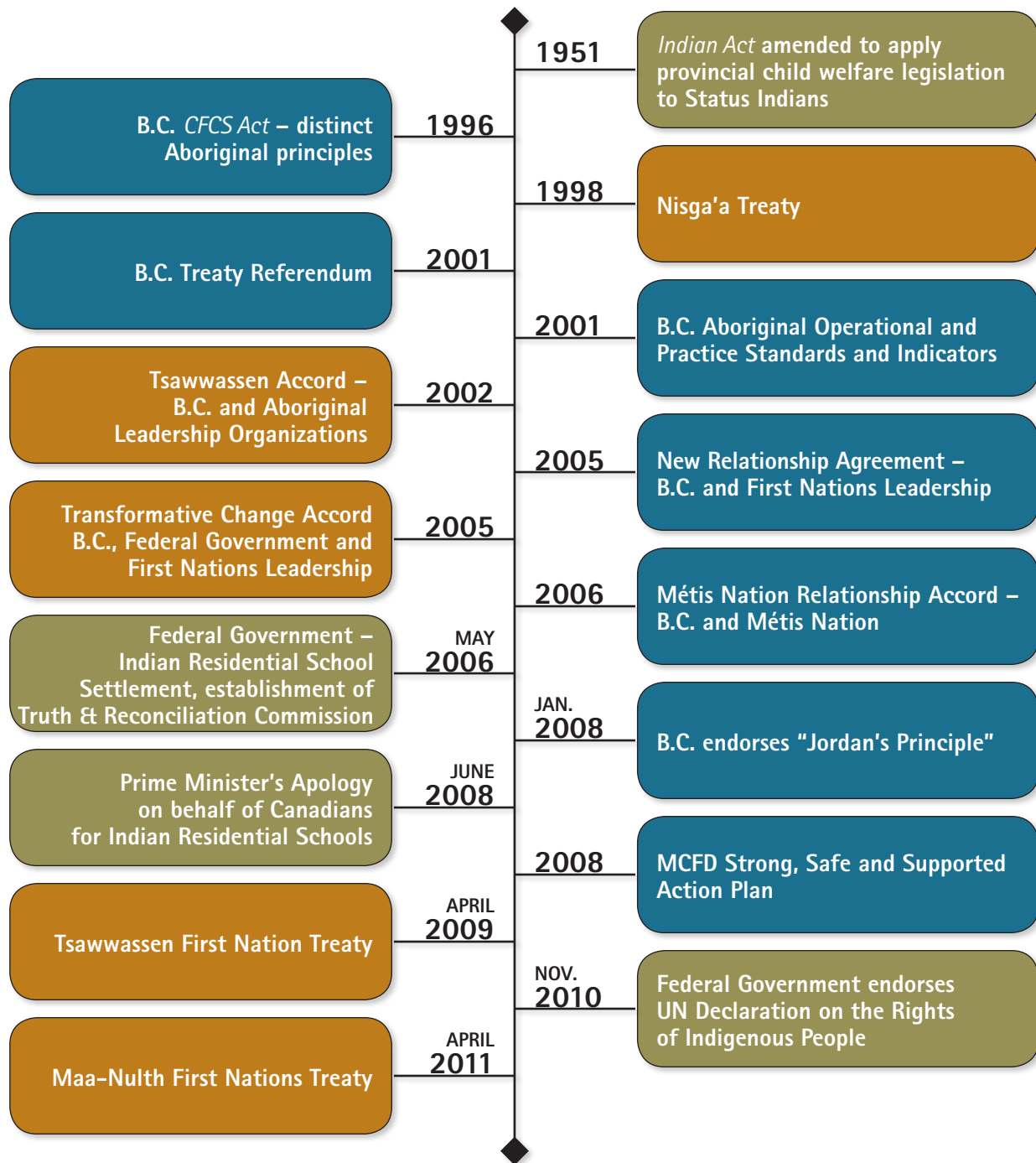
³² The New Relationship,
http://www.newrelationship.gov.bc.ca/agreements_and_leg/new_relationship_agreement.html

³³ The Transformative Change Accord,
http://www.newrelationship.gov.bc.ca/agreements_and_leg/trans_change_accord.html

³⁴ The Métis Nation Relationship Accord,
http://www.newrelationship.gov.bc.ca/agreements_and_leg/metis_relationship_accord.html

³⁵ MCFD *Strong, Safe and Supported Action Plan*, 2008.

Figure 4: Significant Aboriginal Milestones In and Affecting B.C.

**Legend**

- Federal/Provincial Political Agreements and Treaties
- Federal Government Initiatives and Actions
- B.C. Government Initiatives and Actions

In addition, over the past 10-plus years, three First Nations have negotiated treaty agreements with the provincial and federal governments – the Nisga’a Nation in 1998, the Tsawwassen First Nation in 2009 and the Maa-Nulth First Nations in 2011. These agreements include authority over child welfare, although to date none of these First Nations Treaty governments have exercised this authority. Through her work with these communities, the Representative understands this is due to scope and capacity, funding and liability considerations.

The various accords and agreements between government and Aboriginal leaders chart a new policy platform holding out a promising foundation for a new approach to addressing various social issues and conditions – one based on a partnership to achieve shared interests. They have also brought a focus to the issue of Aboriginal child and family welfare, the need to take action, and the role of Aboriginal communities in caring for their children, youth and families. The degree to which political promise has been realized in policy and practice is the key concern of the Representative. How are these promises and commitments being realized? What outcomes have resulted? Has measurable progress been made in achieving the goals outlined in the accords? What has changed for the lives of Aboriginal children in B.C.?

Aboriginal Child Welfare Framework in B.C.

Aboriginal Child Welfare Service–Delivery Structure and Funding

In addition to MCFD, which has legal authority and overall responsibility for the delivery of child welfare services for all B.C. children, youth and their families, there are two other key players in the delivery of Aboriginal child welfare services in the province:

- delegated Aboriginal Agencies (DAAs), which are authorities delegated by MCFD to deliver child welfare services to Aboriginal children, youth and families. There are two types of DAAs:
 - agencies that are governed by a First Nations band and that provide child welfare services to band members on-reserve (band-operated);
 - agencies that are constituted as societies and are governed by an independent board and that provide child welfare services to Aboriginal children and families, including Status Indians who do not live on-reserve (urban);
- the federal department of Aboriginal Affairs and Northern Development (AAND), which provides funding for child welfare services for Status Indians living on-reserve. In 2011/12, AAND spent \$640 million nationally on child and family services under its Social Development program and was budgeted to spend \$644 million in 2012/13.³⁶

DAAs

DAAs are the key vehicle employed by MCFD to “*return historic responsibilities for child protection and family support back to Aboriginal communities.*”³⁷ The goal of moving responsibility for Aboriginal child welfare has been ongoing since 1986, with the establishment of the first DAA. Today there are 23 DAAs located throughout the province.³⁸ Twenty are associated with bands serving 116 of the approximately 200 First Nations in B.C. and three serve Aboriginal children and families in urban areas.³⁹ As of March 31, 2013, DAAs were responsible for almost 47 per cent of Aboriginal children in care.

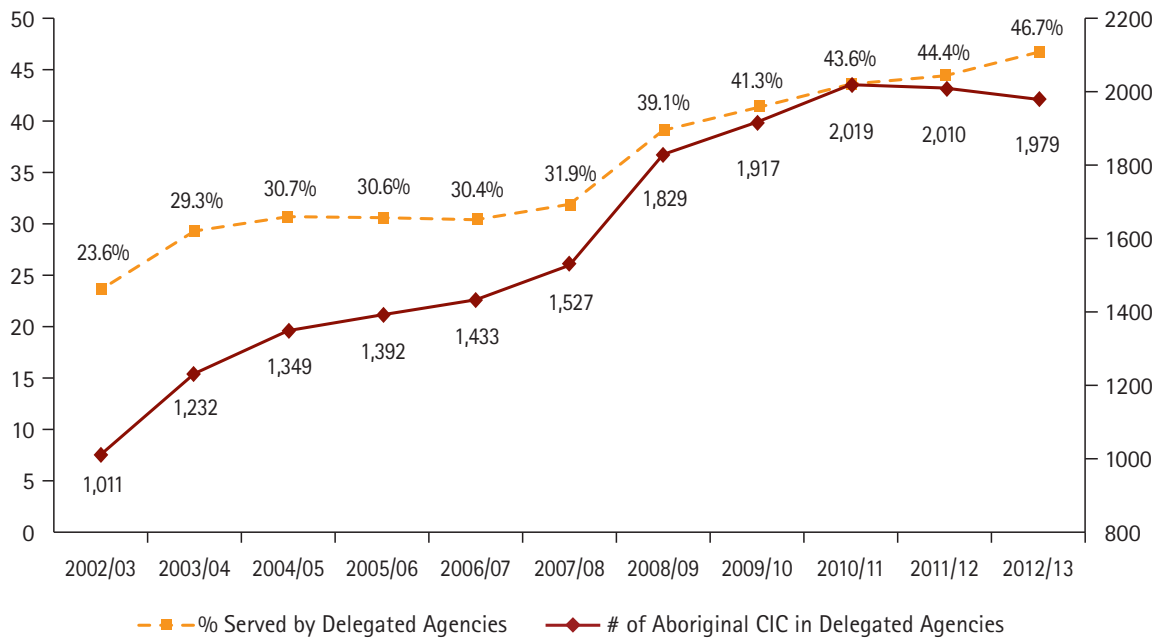
³⁶ AAND Canada, *2013/14 Financial Overview, July 2013*, http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-AI/STAGING/texte-text/ai_arp_fin_2013-2014_april2013_1363097691734_eng.pdf

³⁷ MCFD, *Delegated Child and Family Service Agencies*, http://www.mcf.gov.bc.ca/about_us/aboriginal/delegated/index.htm

³⁸ This includes the Nisga’a Nation, which has a self-government agreement but has not taken down child welfare powers and continues to operate under an MCFD delegation agreement. The Splatish First Nation (formerly Spallumcheen) is funded under Directive 20-1, but operates outside the provincial *CFCS Act* under a band-by-law under the *Indian Act* giving it authority over child welfare services.

³⁹ MCFD, *Delegated Aboriginal Agencies Status Sheet*, June 2013.

Figure 5: Per Cent and Number of Aboriginal Children in Care who are Served by Delegated Aboriginal Agencies



The DAA model is based on the Provincial Director of Child Welfare⁴⁰ granting authority under the *CFCS Act* for child welfare to Aboriginal agencies and their employees to undertake the administration of all or parts of the *CFCS Act*.

There are three tiers of delegation, each providing for an increasing, cumulative range of service responsibility:

- *voluntary service delivery* such as support service to families and voluntary care agreements, including temporary out-of-home placements and special needs agreements;
- *guardianship services* including the development, monitoring and review of Plans of Care for Aboriginal children in care, permanency planning, transitional services for children moving out of the protection system and management of out-of-home services; and
- *child protection services*, including child protection investigation and enforcement of the *CFCS Act*.

⁴⁰ Under the *CFCS Act*, the Minister of Children and Family Development designates a Provincial Director of Child Welfare with overall authority for child welfare and protection under the *CFCS Act*.

Figure 6: Delegated Aboriginal Agencies of B.C.



Each level of delegation has specific operational and practice standards that an agency must meet in order to progress to the next level.⁴¹ Because the Provincial Director delegates authority to individuals, each individual agency worker must receive the appropriate delegation to undertake the applicable level of child welfare service.

Before receiving delegation for child welfare services, band-operated DAAs must enter into a detailed Delegation Enabling Agreement (DEA) with MCFD and AAND outlining the roles and responsibilities of the parties, the level of delegation approved by the Provincial Director's authority under the *CFCS Act*, and operational, administrative and funding requirements and arrangements. The ministry has entered into individual agreements with the three urban agencies, Vancouver Aboriginal Child and Family Services Society, Surrounded by Cedar and Métis Family Services.

Each DEA is negotiated individually and they differ from one another. AAND requires an agency be providing services to 1,000 Aboriginal children in order to enter into a DEA, unless granted an exception. All but one B.C. DAAs operate under such an exception. The delegation process is complex and can be lengthy. The delegation matrix is detailed and the DEA outlines in formal contractual language the agreement with the DAA respecting operational service-delivery requirements; policy standards; monitoring and reporting; reviews, audits and evaluations; information management; dispute resolution; financial arrangements; and liability issues. After demonstrating operational readiness through a successful program review, a DAA may begin the delivery of delegated services.

Currently, four DAAs have delegated authority for voluntary service delivery; nine have additional delegation to provide guardianship services; and 10 have full delegation authority including child protection and authority to investigate reports and remove children.⁴² An additional three organizations are actively involved in planning for delegation.

The following table lists the current DAAs, by level of delegation, the communities they serve, 2012/13 funding and the number of open case files by type as of March 2013.

⁴¹ MCFD, http://www.mcf.gov.bc.ca/about_us/aboriginal/delegated/delegation_process.htm

⁴² Delegated Aboriginal Child and Family Service Agencies Status, http://www.mcf.gov.bc.ca/about_us/aboriginal/delegated/pdf/agency_list.pdf

Table 1: Delegated Aboriginal Agencies and Communities Served⁴³

Name of Agency	Affiliated Communities	2012/13 MCFD Expenditure	# Open Files (March 2013)				
			In Care	Youth Agree.	Family Service	Total	
Voluntary Service Delivery							
DENISIQI SERVICES SOCIETY	- Alexandria - Alexis Creek (Tsi Del Del) - Anaham (TI'etinqox) - Nemiah (Xeni Gwet'in)	- Stone (Yunesit'in) - Toosey (TI'esqotin) - Ulkatcho	\$975,807	0	0	0	0
HAIDA CHILD AND FAMILY SERVICES SOCIETY	- Old Masset Village Council	- Skidegate Band	\$615,610	0	0	0	0
HEILTSUK KAXLA CHILD & FAMILY SERVICE PROGRAM	- Heiltsuk		0	0	0	1	1
K'WAK'WALAT'SI ('Namgis) CHILD AND FAMILY SERVICES	- 'Namgis	- Tlowitsis-Mumtagalia	\$400,224	0	0	1	1
Voluntary Service Delivery and Guardianship Services for Children in Continuing Care							
AYAS MEN MEN CHILD & FAMILY SERVICES (SQUAMISH NATION)	- Squamish		\$1,677,052	70	1	63	134
CARRIER SEKANI FAMILY SERVICES	- Burns Lake - Cheslatta - Lake Babine - Nadleh Whut'en - Nee Tahi Buhn - Skin Tyee	- Stella'ten - Saik'uz - Takla Lake - Wet'suwet'en - Yekooche	\$6,594,113	79	0	0	79
GITXSAN CHILD & FAMILY SERVICES SOCIETY	- Kispiox - Glen Vowell - Gitsegukla	- Gitwangak - Gitanyow	\$486,038	10	0	3	13
KW'UMUT LELUM CHILD & FAMILY SERVICES	- Halalt - Lake Cowichan - Lyackson - Malahat - Stz'uminus First Nation	- Nanoose - Penelakut - Qualicum - Snuneymuxw	\$1,655,440	67	0	4	71

⁴³ MCFD, Delegated Aboriginal Agencies Status, June 2013 and DAA File Counts, March 2013.

Name of Agency	Affiliated Communities	2012/13 MCFD Expenditure	# Open Files (March 2013)			
			In Care	Youth Agree.	Family Service	Total
NEZUL BE HUNUYEH CHILD & FAMILY SERVICES	- Nak'azdli - Tl'azt'en	\$2,390,498	64	0	18	82
NIL/TU,O CHILD & FAMILY SERVICES SOCIETY	- Beecher Bay - Tsartlip - Pauquachin - Tsawout - Songhees - T'sou-ke	\$726,179	20	2	0	22
NISGA'A CHILD & FAMILY SERVICES	Citizens of the Nisga'a Lisims Government including villages of: - Gingolx (Kincolith)	\$2,230,970	26	0	6	32
NORTHWEST INTER- NATION FAMILY AND COMMUNITY SERVICES SOCIETY	- Hartley Bay - Kitsumkalum - Iskut - Lax-kw'alaams - Kitamaat - Metlakatla - Kitkatla - Tahltan - Kitselas	\$1,509,849	34	0	0	34
SURROUNDED BY CEDAR CHILD AND FAMILY SERVICES	Victoria Urban	\$2,606,164	64	0	1	65
<i>Voluntary Services, Guardianship Services and Full Child Protection Services</i>						
LALUM'UTUL' SMUN'EEM CHILD & FAMILY SERVICE	- Cowichan	\$2,055,105	87	0	30	117
KNUCWENTWECW SOCIETY	- Canim Lake - Soda Creek - Canoe Creek - Williams Lake	\$360,470	15	2	18	35
KTUNAXA/KINBASKET CHILD & FAMILY SERVICES	Métis E. Kootenay Region - Columbia Lake/ ?Akisq'nuk - Lower Kootenay	\$4,075,074	55	7	88	150
NLHA'7KAPMX CHILD & FAMILY SERVICES SOCIETY	- Cook's Ferry - Nicomen - Kanaka Bar - Siska - Lytton - Skuppah	\$35,663	18	1	13	32
SCW'EXMX CHILD & FAMILY SERVICES SOCIETY	- Coldwater - Shackan - Lower Nicola - Upper Nicola - Nooaitch	\$380,775	44	0	49	93

Name of Agency	Affiliated Communities	2012/13 MCFD Expenditure	# Open Files (March 2013)				
			In Care	Youth Agree.	Family Service	Total	
SECWEPEMC CHILD & FAMILY SERVICES AGENCY	- Adams Lake - Bonaparte - Kamloops - Neskonlith	- North Thompson - Skeetchestn - Whispering Pines	\$4,333,484	150	8	122	280
NUU-CHAH-NULTH TRIBAL COUNCIL USMA FAMILY AND CHILD SERVICES Or Usma Nuu-chah-nulth	- Ahousat - Ditidaht - Ehattesaht - Hesquiaht - Mowachaht/ Muchalaht - Hupacasath - Nuchatlaht - Tla-o-qui-aht - Tseshaht	Maa-nulth Treaty: - Huu-ay-aht - Ka:'yu:k't'h'/ Che:K:tlis7et'h - Toquaht - Uchucklesaht - Ucluelet	\$4,293,571	129	0	103	232
FRASER VALLEY ABORIGINAL CHILDREN AND FAMILY SERVICES SOCIETY Formerly XYOLHEMEYLH CHILD & FAMILY SERVICES Or STO:LO NATION	- Aitchelitz - Chawathil - Cheam - Kwantlen - Leq'a:mel - Popkum - Shxw'owhamel - Shx'wha:y Village - Skawahlook	- Skowkale - Skwah - Soowahlie - Squiala - Sumas - Tzeachten - Yakweakwioose	\$17,561,323	468	21	277	766
MÉTIS FAMILY SERVICES Also known as LA SOCIETE DE LES ENFANTS MICHIF	Métis (Simon Fraser/ South Fraser)		\$5,369,594	145	2	45	192
VANCOUVER ABORIGINAL CHILD AND FAMILY SERVICES SOCIETY (VACFSS)	Vancouver Urban (Vancouver/ Richmond)		\$30,620,015	439	0	486	925
Total Open Files (March 2013)				1,979	44	1,353	3,376
Total Expenditures DAAs (March 2013)			\$90,953,018				

Note:

1. Figures are as of March 31, 2013.
2. Figures for In Care and Youth Agreements are month end caseloads.
3. Figures for Family Service are total served during the month.

Source: Ministry of Children and Family Development

Attaining and maintaining a required level of service delivery and achieving successive levels of delegation can be challenging, particularly for smaller DAAs given issues of scope and scale, adequate resources, and difficulties in recruiting qualified Aboriginal staff. Over the years, some DAAs have lost their delegation status and gone out of business. Complicating the issue, since 2006 MCFD has had a limited quality assurance program with audits continuing but no action taken to address the identified deficiencies in practice and operations of DAAs.

The Partnership Forum, made up of directors of the DAAs and representatives from MCFD and AAND, provides oversight and a link between DAAs and government. The Forum meets periodically and has developed a comprehensive agenda of issues and matters to be addressed, but does not appear to have made a lot of progress on issues and, in the Representative's experience and as noted by the Auditor General of B.C., is *"used more to air concerns than seek solutions."*⁴⁴

Service-Delivery Structure

The delivery of and funding for Aboriginal child welfare services in B.C. is based on a combination of the child's status, where the child resides, the existence of a DAA in that community, and the agency's level of delegated authority:

- Child welfare services for Status Indian children living on-reserve, in a reserve community served by a DAA, are delivered by the DAA in accordance with the agency's level of delegation, through funding provided by AAND in accordance with departmental Directive 20-1 and through supplementary resources provided by MCFD;
- Child welfare services for Status Indian children living on-reserve, in a reserve community not served by a DAA, are delivered by MCFD, and AAND reimburses MCFD for some but not all of its costs;
- Child welfare services for Aboriginal children who are not Status Indians but live in a reserve served by a DAA, are delivered by the DAA in accordance with the agency's level of delegation, through funding provided by MCFD;
- Child welfare services for Status Indian children not living on-reserve and for other Aboriginal children not living on-reserve are delivered by MCFD or an urban DAA (if there is one in the community in which the child resides) in accordance with the agency's level of delegation, through funding provided by MCFD;

Directive 20-1

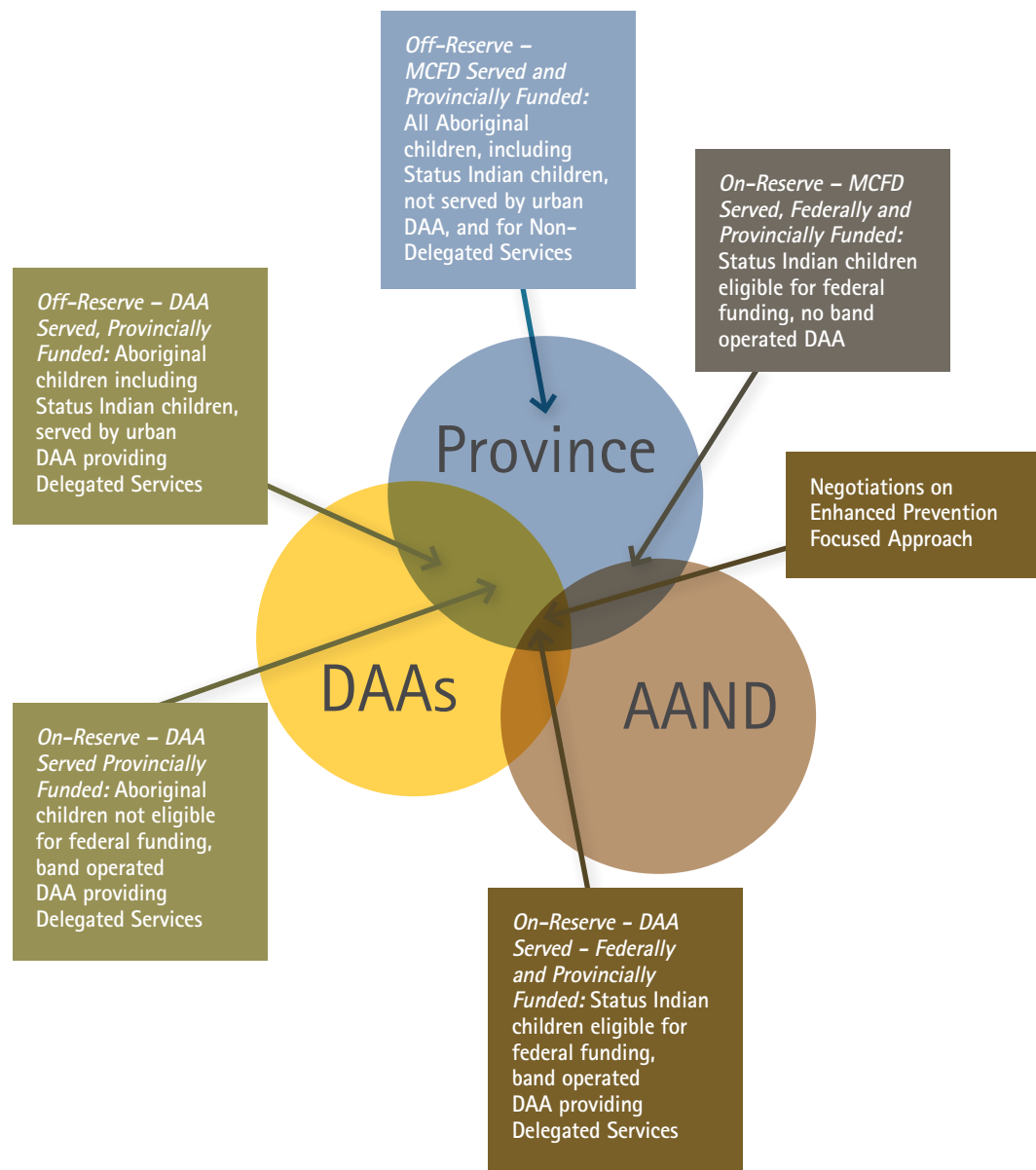
Directive 20-1 is the federal Department of Aboriginal Affairs and Northern Development policy for administering funds for child welfare services to First Nations child and family service providers. The Directive has likely contributed to greater numbers of First Nations children being taken into care, rather than being served through alternative care options or early intervention and prevention models, because it provides more funding for in-care options.

⁴⁴ Auditor General of British Columbia, *Management of Aboriginal Child Protection Services*, 2008/09, Report 3

- Child welfare services for “non-delegated services” – child welfare services for which a DAA has not been delegated by MCFD – are delivered and funded by MCFD for all Aboriginal children whatever their status and wherever they are located except in cases where the child is a Status Indian living on-reserve in which case AAND reimburses MCFD for some but not all of its costs.

The following diagram illustrates the complexity of the system of delivering child welfare services to Aboriginal children and youth, and their families.

Figure 7: Aboriginal Child Welfare Service-Delivery System



Service Levels

First Nations children living on-reserve and served by a DAA are intended to have access to a level and quality of services comparable with that provided to other children in the province. However, based on the funding eligibility requirements under Directive 20-1, federal funding for on-reserve services for Aboriginal children and families has tended to focus on protection with little emphasis on prevention or out-of-care options. The result is an inequitable level of services available to on-reserve Status Indian children served by a band-operated DAA as compared to other Aboriginal children, including Status Indian children living off-reserve served by MCFD or an urban DAA, and Status Indian children living on-reserve but served by MCFD in the absence of a DAA in that community. For example, there are no distinct CYMH or CYSN Aboriginal programs and services on-reserve with a focus on children and youth from birth to age 19, although in some cases MCFD may provide specific CYSN supports to individual children.

Although both federal and provincial funding has increased during the past few years, funding is not considered adequate to support the delivery of a full range of quality child welfare services by Aboriginal agencies.⁴⁵

Tables 2 and 3 outline total funding to B.C. DAAs made by AAND (for 2006/07 to 2011/12) and by MCFD (for 2008/09 to 2012/12). The table outlining ministry funding to DAAs also includes child welfare contract funding provided by MCFD to Aboriginal Friendship Centres.

Table 2: Total AAND Funding to B.C. DAAs (in millions)⁴⁶

2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012*
\$37.688	\$49.782	\$52.095	\$50.354	\$52.544	\$56.665

(*2011/2012 figures are the latest available for AAND funding)

⁴⁵ Auditor General of British Columbia, *Management of Aboriginal Child Protection Services. 2008/09, Report 3.*

⁴⁶ Aboriginal Affairs and Northern Development Canada, *Better Outcomes for First Nation Children: Aboriginal Affairs and Northern Development Canada's Role as a Funder in First Nation Child and Family Services.* http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/cfsd1_1100100035211_eng.pdf

Table 3: Provincial Funding for DAAs⁴⁷

Regions/Delegated Aboriginal Agencies	Adjusted 2008/09	Adjusted 2009/10	Adjusted 2010/11	Adjusted 2011/12	Preliminary Adjusted 2012/13
Coast Fraser					
Ayas Men Men Child & Family Services	514,102	679,253	926,171	1,270,538	1,677,052
Fraser Valley Aboriginal Children and Family Services Society	16,331,733	17,488,085	18,695,135	17,503,168	17,561,323
Heiltsuk Kaxla Child & Family Services	42,183	17,000	138,801	6,957	0
Kaxla Child & Family Services	0	0	0	405,316	0
La Societe De Les Enfants Michif	2,300,438	2,321,240	2,874,261	3,637,316	5,369,594
Sechelt Indian Band, Department of Child and Family Services	316,492	281,519	0	0	254
Vancouver Aboriginal Child and Family Services Society (VACFSS)	26,252,072	28,607,536	29,941,638	30,623,082	30,620,015
<i>subtotal</i>	45,757,019	49,394,633	52,576,006	53,446,377	55,228,238
Interior					
Denisiqi Services Society	951,992	894,342	1,071,804	902,045	975,807
Knucwentwecw Society	194,863	106,968	257,473	429,109	360,470
Ktunaxa/Kinbasket Child and Family Service Society	4,079,478	4,688,862	5,231,953	4,186,583	4,075,074
Nlha'7Kpmx Child & Family Services	109,439	55,053	269,834	62,524	35,663
Scw'Exmx Child & Family Services Society	397,987	352,413	376,007	225,114	380,775
Secwepemc Child and Family Services Agency	1,966,164	3,739,105	4,676,655	4,136,958	4,333,484
<i>subtotal</i>	7,699,923	9,836,743	11,883,726	9,942,332	10,161,273
North					
Carrier Sekani Family Services a Branch Society of the Carrier Sekani Tribal Council	3,614,040	4,564,945	5,882,376	5,069,687	6,594,113
Gitxsan Child & Family Services	445,317	384,112	615,022	692,613	486,038
Haida Child & Family Services Society	507,546	775,918	931,993	640,273	615,610
Nezul Be Hunuyeh Child & Family Services Society	430,805	472,969	2,825,317	1,826,022	2,390,498
Nisga'a Nation	1,216,504	1,475,412	2,235,716	2,270,817	2,230,970
Northwest Inter-Nation Family & Community Services Society	1,126,978	1,633,878	2,147,373	1,617,622	1,509,849
Nisga'a Lisims Government	0	0	0	128,167	0
Nisga'a Child & Family Services	0	0	0	2,500	0
<i>subtotal</i>	7,341,190	9,307,235	14,637,797	12,247,701	13,827,078

⁴⁷ The ministry has indicated that it did not collect and compile aggregate provincial level data on DAAs until 2007/08.

Regions/Delegated Aboriginal Agencies	Adjusted 2008/09	Adjusted 2009/10	Adjusted 2010/11	Adjusted 2011/12	Preliminary Adjusted 2012/13
Vancouver Island					
K'Wak'Wala'Tsi Child & Family Services	0	17,000	57,000	0	0
Kwumut Lelum Child & Family Services Society	1,529,636	1,465,170	1,516,234	1,706,788	1,655,440
Lalum'Utul Smun'Eem	0	0	241	30,000	5,579
Lalum'Utul Smun'Eem Child & Family Services	1,691,640	2,125,100	2,230,982	1,751,767	2,055,105
Namgis First Nation	362,421	364,041	391,937	389,223	400,224
Nil/Tu,O Child and Family Services Society	730,129	604,783	854,401	670,562	726,179
Nuu-Chah-Nulth Tribal Council	2,801,382	3,046,574	3,871,825	4,261,998	4,293,571
Surrounded By Cedar Child & Family Services Society	1,040,321	1,033,494	1,765,920	2,398,029	2,606,164
USMA Nuu-Chah-Nulth Community & Human Services		17,964	10,335	274	0
<i>subtotal</i>	8,155,529	8,657,126	10,641,875	11,208,641	11,742,262
<i>Total Before Adjustments</i>	68,953,662	77,195,737	89,739,403	86,845,051	90,958,851
<i>Adjustments</i>	-65,000	-792,999	-4,656,167	-961,360	0
Comparable Adjusted Totals – DAAs	\$68,888,662	\$76,402,738	\$85,083,236	\$85,883,691	\$90,958,851

BC Association of Aboriginal Friendship Centres	Funding 2008/09	Funding 2009/10	Funding 2010/11	Funding 2011/12	Funding 2012/13
Contracts in Provincial Office	400,458	748,148	8,281,300	6,315,000	6,745,000
Contracts in Regional Offices	185,875	185,000	270	0	290
Totals – Friendship Centres	\$586,333	\$933,148	\$8,281,570	\$6,315,000	\$6,745,290
<i>Total – DAAs and Friendship Centres</i>	<i>\$97,704,141</i>	<i>\$77,335,886</i>	<i>\$93,364,806</i>	<i>\$92,198,691</i>	<i>\$97,704,141</i>

Note: Adjustments refer to changes to totals for all DAAs to account for things such as one-time infrastructure grants, repayments of over-payments, etc.

To recognize the importance of prevention services in supporting improved outcomes, and to redress the discrepancy in the level of services available to on-reserve and off-reserve First Nations children, youth and families, in 2007 AAND (then called Indian Affairs and Northern Development) launched a new funding approach. It is called the Enhanced Prevention Focused Approach and is designed to ensure that *“enhanced prevention practices were brought to reserves.”* Under this model, negotiated at an individual province level, additional funding is provided by AAND to support prevention-focused activities for children and family services on-reserve. Today, the model is being applied in six provinces – Alberta, Saskatchewan, Nova Scotia, Québec, P.E.I. and Manitoba – covering 68 per cent of Status Indian First Nations children ordinarily resident on-reserve.⁴⁸ Although there are plans to comprehensively evaluate the model and some assessment of its implementation and efficiency has been undertaken,⁴⁹ to date there has been no evaluation of the model assessing its effectiveness.

In 2008, negotiations under the Enhanced Prevention Focused Approach began between AAND, MCFD and the First Nations Child and Family Services Agencies Directors’ Forum (Directors of DAAs providing services to band members). The B.C. Enhanced Prevention Framework was drafted with the goal of providing *“First Nations children, families and communities with a comprehensive and seamless range of services based on their culture, values and customs.”* Under the framework, funding was to be provided to DAAs delivering services on-reserve *“to allow them to deliver preventive strategies comparable to the levels delivered by the ministry.”* Agencies would not be required *“to mirror the services being offered by the Province,”* but rather, develop a *“network of prevention services ... reflective of the specific culture and traditions of each individual community.”*⁵⁰

Since that time, limited progress has been made in implementing the approach in B.C. In January 2013, MCFD, AAND, the First Nations Child and Family Services Agencies Directors’ Forum and the Aboriginal Wellness Council met to renew efforts in this area. It was agreed that a new process would be put in place to guide the initiative and that the B.C. Enhanced Prevention Framework would be revised to better reflect the unique needs of First Nations in B.C. A Tripartite Steering Committee and a Technical Working Group, composed of representatives of MCFD, AAND and First Nations, were established in March 2013 with the goal of developing a revised framework by October 2013.⁵¹

⁴⁸ Aboriginal Affairs and Northern Development Canada, *Better Outcomes for First Nation Children: Aboriginal Affairs and Northern Development Canada’s Role as a Funder in First Nation Child and Family Services*, http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/cfsd1_1100100035211_eng.pdf

⁴⁹ AAND, First Nation Child and Family Services Program, <http://www.aadnc-aandc.gc.ca/eng/1100100035204/1100100035205>

⁵⁰ *British Columbia First Nations Enhanced Prevention Services and Accountability Framework*, September 2008.

⁵¹ Enhanced Prevention Framework Workshop Notes, Jan. 29 and 30, 2013, prepared by AAND.

Meetings of the Tripartite Steering Committee are ongoing and work has been undertaken on a “current state” agency scan that includes demographics, funding sources and identification of future aspirations. The next step is to canvass DAAs about prevention services they currently provide to identify gaps and to provide the necessary information for developing business plans once an Enhanced Prevention Framework agreement is negotiated. A particular issue to be addressed is developing an effective and efficient method for AAND to fund those First Nations that are not represented by a DAA that takes into account economy-of-scale issues.

Aboriginal Child Welfare Strategy, Policy and Standards

The ministry’s current approach to Aboriginal child welfare services is outlined in a number of MCFD materials and documents including the ministry website, its annual multi-year Service Plan and its *Operational and Strategic Directional Plan, 2012/13 – 2014/15*.

The MCFD Service Plan establishes the ministry’s core position that “*Aboriginal people need to have responsibility to design and deliver their own child and family service and [the ministry] is committed to implement changes and new approaches to improve the care, safety and well-being of Aboriginal children and families.*”⁵² It contains broad statements about the ministry’s focus on partnership with DAAs in the delivery of services and with Aboriginal communities “*to improve services and outcomes for Aboriginal children, youth and families with the vision of Aboriginal children and youth living in healthy families strongly connected to their culture, language and traditions.*”⁵³

The ministry Service Plan includes one performance measure for Aboriginal child welfare services related to the proportion of “*Aboriginal children cared for through Aboriginal communities and providers.*” The belief appears to be that if Aboriginal children who have had to leave their parental home receive services through an Aboriginal service system, so that the connection to their culture and tradition is maintained, this may over time help to reduce the percentage of Aboriginal children in care.⁵⁴

To support and guide the ministry in achieving its goals and objectives, MCFD has developed an *Operational and Strategic Directional Plan 2012/13 – 2014/15*. The *Operational and Strategic Directional Plan* also contains high-level statements about the ministry’s commitment to work in partnership with DAAs and other community partners in parallel to strengthen MCFD practice and to ensure that Aboriginal communities have access to a full range of quality services – effective, client-centred, safe, accessible and appropriate services – that reflect and support culture and tradition.⁵⁵ As well, it outlines the ministry’s intention to engage in and support community development to help communities build healthy families through strengthening their culture, language and tradition and to work to “*continually clarify and strengthen [its]*

⁵² MCFD, 2012/13 – 2014/15 Service Plan.

⁵³ MCFD, 2012/13 – 2014/15 Service Plan.

⁵⁴ MCFD, 2012/13 – 2014/15 Service Plan.

⁵⁵ MCFD Operational and Strategic Directional Plan 2012/13 – 2014/15.

*meaningful, practical and functional partnership with Aboriginal leadership and their communities that is responsive to the evolving legal and political aspirations related to self-governance and jurisdiction.”*⁵⁶

The *Operational and Strategic Directional Plan* was preceded by the MCFD *Strong, Safe and Supported Action Plan* (2008) that also included a specific focus on Aboriginal children, youth and their families.⁵⁷ High-level actions articulated under that plan included supporting Aboriginal leaders and service providers including DAAs in achieving governance of Aboriginal child welfare, and continuing the devolution of decision-making and service delivery through mechanisms such as DAAs and the proposed Aboriginal Authorities. However, the Representative notes that within the same year that *Strong, Safe and Supported* was unveiled, the Aboriginal Authorities initiative was halted. This left a formal policy vacuum that has continued to the present.

The *Operational and Strategic Directional Plan* outlines some “key actions” in the area of child welfare to be taken to improve outcomes for Aboriginal children and families, including:

- building cultural competencies into practice;
- increasing community-based initiatives;
- working with DAAs and AAND to advance the implementation of a more effective funding approach for First Nations on-reserve voluntary and non-voluntary services to improve access and close the gap in service quality; and,
- establishing effective partnership forums to ensure full engagement of Aboriginal communities, DAAs and Aboriginal community service agencies in planning for services for Aboriginal children, youth and families.

Another key action area outlined in the *Operational and Strategic Directional Plan* is to work with community partners to clarify outcomes and measures of success for Aboriginal children, youth and families.

To support effective decision-making at all levels, the ministry is supposed to produce a report, semi-annually, outlining a range of operational and performance indicator data. The first two *Operational Performance and Strategic Management Reports*, posted April 9, 2013 for the reporting period April to September 2012, and Oct. 4, 2013, for the reporting period October 2012, to March 2013, contain some limited data and miscellaneous information relating to Aboriginal services. In these reports, the ministry indicates that it needs to work with DAAs and community social service providers to fill the data shortfalls regarding Aboriginal service delivery.

⁵⁶ MCFD *Operational and Strategic Directional Plan 2012/13 – 2014/15*.

⁵⁷ MCFD *Strong, Safe and Supported Action Plan, 2008*.

Aboriginal Policy and Practice Standards

MCFD has in place comprehensive Child and Youth Safety and Family Support Policies and Child and Family Development Service Standards that guide practice for the delivery of child welfare services by the ministry. Incorporated within these policies and standards are broad requirements to meet the *CFCS Act* requirements of ensuring that services are provided in a culturally sensitive and appropriate way. There are also established policies and practices for involving Aboriginal families and communities in planning for a child.

In the 1990s, DAAs were given the choice of developing their own child welfare standards. They were to be equivalent or better than the ministry's. DAAs chose to develop their own standards and, in 1999, a draft of the Aboriginal Operational and Practice Standards and Indicators (AOPSI) was implemented. AOPSI was revised in 2005.

In spring 2009, a review of AOPSI, led by the Caring for First Nations Children Society, was initiated with the goal of revising the standards to reflect an Indigenous worldview and consideration of Aboriginal beliefs, values and cultural traditions, *"while also meeting legislative requirements."*⁵⁸ This process produced a re-draft of AOPSI in May 2012.

MCFD has recently proposed integrating the revised final draft of the AOPSI into an overarching Aboriginal Practice Framework that it is proposed will guide child welfare services to Aboriginal children in B.C. DAAs and MCFD are developing terms of reference and a project charter to guide this work. The results of this collaborative project to amend and combine AOPSI and ministry standards are intended for public release when complete.⁵⁹ The Representative notes that it is unclear when this will happen, as this process has been slowed by MCFD changing direction repeatedly over the past 15 years.

Compliance with standards is audited by MCFD's case practice audit program. The audit program is intended to support and improve practice by social workers in delivering child welfare services by identifying practice strengths, areas requiring improvement and supporting ongoing development of good practice and individual and organizational learning.

DAAs are also subject to regular audits conducted on a three-year cycle. The DAA audit process is not integrated into the ministry's quality assurance program.

Practice audit results for DAAs are posted by MCFD on the First Nations Directors' Forum website (the Directors' Forum is comprised of executive directors of First Nations Child and Family Service Agencies in B.C.) The latest audit posted was for an audit completed in October 2012.⁶⁰ A Feb. 1, 2012 overview note about DAA case practice audits posted on the Forum website notes the compliance challenges for DAAs such as that "the analysis of compliance rates for agencies is complex given the levels of delegation and unique challenges of social work in a delegated agency; there are also unique challenges to service delivery including: large geographic service areas,

⁵⁸ *Starting from a Traditional Place: Aboriginal Operational and Practice Standards and Indicators*, May 2012.

⁵⁹ MCFD information, August 2013.

⁶⁰ First Nations Directors' Forum, <http://www.fndirectorsforum.ca/quality-assurance/audit-process/agency-audits>

isolation, and limited community resources; delegated Aboriginal Agencies also operate independently of one another, further increasing differences in compliance.”⁶¹

Despite the compliance challenges with practice standards for DAAs, some notable progress has been achieved. This includes Kw’umut Lelum Child and Family Services that, within six months of having its completion of Comprehensive Plans of Care tracked by MCFD, increased its completion rate for plans for children it serves by 97 per cent. This is in stark contrast to the five per cent provincial compliance rate for children in care of the ministry and DAAs noted in the Representative’s 2013 report *Much More than Paperwork: Proper Planning Essential to Better Lives for B.C.’s Children in Care*.⁶²

Over the past decade, the ministry’s quality assurance function has suffered periods of inattention and inactivity resulting in a rupture in accountability. Between April 2003 and June 2005, during the period of decentralization and transfer of responsibility to the regions, practice audits were suspended and there was a backlog in case reviews. Insufficient resources, lack of planning and training for the transfer of this responsibility to the regions, and inadequate capacity in MCFD headquarters led to these deficiencies.⁶³ Following a renewed focus in June 2005 on the quality assurance function, the volume of case practice audits declined substantially when the ministry began the redesign of its quality assurance program in 2007/08. This redesign led to the development of the Service Quality Evaluation process, which was never implemented because it was determined by both the deputy minister of MCFD at the time and the Representative that it was insufficient to assess good practice.

MCFD is currently in the process of redesigning its case practice audit program and has developed a new compliance-based practice audit program with four components: family service, child service, resources and adoptions. Case practice audits are to be conducted by regional auditors on a three-year cycle in accordance with standardized methodologies, procedures and tools. The family service audit program was piloted provincially in November and December 2012. A three-year cycle of family service practice audits commenced in March 2013, as well as pilots for the child service, resources and adoption practice audits.⁶⁴ The application of the new compliance-based practice audit program to DAAs is still under consideration.

⁶¹ Posting of Delegated Aboriginal Agency Case Practice Audits Confidential Overview Note, February 1, 2012, <http://www.fndirectorsforum.ca/downloads/posting-audits-overview-note-feb-2012-2.pdf>

⁶² B.C. Representative for Children and Youth, *Much More than Paperwork: Proper Planning Essential to Better Lives for B.C.’s Children in Care*. (March 2013)

⁶³ Hughes Review, page 30.

⁶⁴ MCFD website, Case Practice Audits, http://www.mcf.gov.bc.ca/about_us/case_practice_audits.htm

Aboriginal Child Welfare Governance and Service-Delivery Initiatives

MCFD Core Review Service Changes, 2001 to 2005

Significant changes to the child welfare system as a whole occurred as a result of the provincial government's Core Review and Deregulation Task Force process (Core Review) in 2001.

The change in government in 2001 came with a fundamental shift in philosophy about what business government should be in and how government services should be delivered. This resulted in a significant impact on service delivery for all ministries. The government's intent was to decentralize, focus on core services and get out of providing services that one could find in the Yellow Pages. It looked to reduce the overall costs of government significantly, move delivery of services as close as possible to the community where the services were needed, and move from in-house government delivery of public services to delivery by external providers. This shift was designed to achieve efficiencies and provide greater competitive opportunities to the non-profit or private sectors to compete for service-delivery contracts.⁶⁵

In 2001, MCFD, like all government ministries and agencies, went through an initial Core Review process to determine the most efficient and effective way to provide services. The Core Review concluded that the systems in place to support and care for vulnerable children and families were dysfunctional and unsustainable over the long term and MCFD was directed by government to implement a new vision and six "*strategic shifts*" to its multi-year Service Plan. These included: building capacity within Aboriginal communities to deliver a range of services; creating a community-based service-delivery system promoting choice, innovation and shared responsibility; and enabling communities to develop and deliver services within a consolidated, community-based service system. Another strategic shift was one from intervention to prevention.

The Core Review also had a focus on deregulation across government intended to streamline government requirements and processes and eliminate red tape. For MCFD, this deregulation focus meant moving away from centrally controlled processes and extensive reporting and monitoring to a more decentralized and less regulated approach to the delivery of services. Prescriptive language was removed from policies and standards.

The Core Review direction and the six strategic shifts were built into MCFD's 2002/03 to 2004/05 Service Plan. Based on a series of discussions and decisions at the Cabinet level, a vision of a new service-delivery model was conceived that would see the establishment by spring of 2004 of five Non-Aboriginal Regional Authorities, five Aboriginal Regional Authorities, a Community Living Authority (an independent body

⁶⁵ New Era and Core Review and Deregulation Task Force documentation.

responsible for services for children and adults with cognitive/developmental disabilities), and a Shared Services Provincial Authority (to provide finance and administrative services to the Regional Authorities).

By April 2002, MCFD had reduced its number of administrative regions from 11 to five, paving the way for the move to a Regional Authorities structure and continued to plan for a move to a community-based delivery system. In line with the deregulation and decentralization philosophy and approach, MCFD provided greater local authority to the regional leads. In 2008, the position of Provincial Director of Child Welfare was abolished. (This position was re-established in March 2011 to ensure province-wide integration of policy and service standards.⁶⁶)

A mid-term review in 2003 of MCFD's Core Review progress resulted in a significant number of course corrections.⁶⁷ The ministry was found to have placed too much emphasis on its regional governance initiatives and was directed to refocus its efforts on transforming MCFD service delivery and achieving budget reductions. As part of this redirection, the concept of moving to Non-Aboriginal Regional Authorities and the creation of a Shared Services Provincial Authority were abandoned. The commitment to the concept of Aboriginal Regional Authorities was confirmed but was refocused on building Aboriginal capacity to ensure the readiness of Aboriginal communities to assume responsibility for service delivery and governance of the Aboriginal child welfare system.

The government's overall objectives for MCFD based on its Core Review were to significantly reduce the overall cost of delivering child welfare services by 23 per cent or more by 2004/05, transform service delivery, and decentralize the welfare delivery system by moving to regional delivery within a more compact ministry regional structure.⁶⁸ Aside from the establishment of Aboriginal child welfare authorities (discussed below), these activities were largely achieved by 2005. The ministry's regional structure was streamlined, Community Living BC was established, the role of alternative service providers was enhanced, prescriptive policy and standards were reduced and controls decentralized, the program focus was changed from intervention to prevention, and extensive budget reductions had occurred.

Regional Aboriginal Authorities, 2002 to 2009

A key element of MCFD's Core Review service-delivery initiative was to move to a community-based service-delivery model through the establishment of Regional Authorities. It was envisioned that regional Non-Aboriginal and Aboriginal Authorities would be responsible for child welfare service delivery at the community level in order to promote choice, innovation and shared responsibility.

⁶⁶ BC Government Newsroom. "New Provincial Director of Child Welfare appointed," <http://www.newsroom.gov.bc.ca/2011/03/new-provincial-director-of-child-welfare-appointed.html>

⁶⁷ Undertaken by Sage Group Management Consultants.

⁶⁸ MCFD, Child and Family Development Budget Management Plan Presentation to Regional Planning Chairs, January 2003.

At the beginning, planning activities were focused at the regional community level and Aboriginal communities were empowered to develop custom service-delivery and governance options reflecting community needs. Despite the Core Review direction about the need for Aboriginal capacity building, this was not a focus in the early stages of the initiative.

External consultants involved in the mid-term Core Review advised the ministry that the Aboriginal governance project initiative should be delayed until MCFD's new service-delivery model, budget reductions and financial controls were in place. Following this, a more streamlined governance structure could then be considered.⁶⁹ The ministry did not take this advice, but rather shifted its focus from organizational governance structuring to service-delivery modeling and capacity building. Building capacity with Aboriginal communities to deliver a range of services became important readiness criteria that would have to be met before any Aboriginal Authority was established. In addition, appropriate service-delivery models were to be developed prior to finalizing governance structures.

In late 2003, the ministry also contemplated replacing the concept of five Regional Aboriginal Authorities with one provincial Aboriginal/Non-Aboriginal Authority,⁷⁰ but this blended model was not supported by the Aboriginal leadership. As an alternative, the government then suggested establishing two provincial authorities – one Aboriginal and one Non-Aboriginal, but the concept never materialized and the ministry continued with its plan for five Aboriginal Authorities.⁷¹

By spring 2004, the ministry was beginning to fully grasp that the *"magnitude of the change was truly immense."* The ministry refocused on Aboriginal capacity building and placed a greater emphasis on service delivery and introduced a three-year phased-in approach to Aboriginal governance.⁷² While the ministry continued to support the concept of establishing Aboriginal Authorities for the balance of the project, timelines for establishing permanent authorities shifted to 2007.⁷³ In addition, the earlier regionally based approach to planning and project management was replaced by a more centrally controlled province-wide approach.

Prior to the 2004/05 fiscal year, the Regional Aboriginal Planning Committees had been empowered to drive the planning process. Extensive community consultation processes had occurred during this early period resulting in the development, in some cases, of initial business plans and conceptual service-delivery and governance models that were not approved by the ministry and/or found to be of unacceptable quality.

⁶⁹ New Era and Core Review and Deregulation Task Force documentation.

⁷⁰ MCFD. Briefing Note. Nov. 21, 2003, Topic: Formation of provincial Interim authority(ies) for Aboriginal child and family development.

⁷¹ MCFD. Letter to Joint Aboriginal Management Committee from Honourable Gordon Hogg. Nov. 27, 2003.

⁷² MCFD. Decision Note, Topic: Prepared for Minister Christy Clark for Decision with regards to the approach for governance. March 11, 2004.

⁷³ MCFD Transition Binder. September, 2004.

A provincial Joint Multi-Year Plan Towards Regional Aboriginal Authorities and accompanying Joint Multi-Year Master Project Plan developed by MCFD and the Aboriginal leadership by the end of 2004 called for each region to develop and undertake activities over a three-year period to achieve the five Regional Aboriginal Authorities. The joint multi-year plan outlined the necessary elements, activities, timelines and commitments required to achieve five permanent Regional Aboriginal Authorities:

Phase 1 – 2004/05: Develop and confirm service-delivery models

Phase 2 – 2005/06: Develop service-delivery plans

Phase 3 – 2006/07: Commence the incremental transfer of operational responsibility to the five Regional Aboriginal Authorities based on a joint determination of readiness⁷⁴

The deliverables associated with each phase were soon behind schedule. For example, the delivery date for the service-delivery models was moved from 2004/05 to 2005/06.

In 2005, the five Regional Aboriginal Planning Committees that had been established to plan for the implementation of the Interim Regional Aboriginal Authorities were required to sign a protocol, a financial management and business plan and budget agreements with the ministry to ensure that accountability, transparency and performance targets were met. Budgets were not approved without an approved annual business plan for each of these five committees. These five committees were financially supported by the ministry until very late into the project – the 2008/09 fiscal year.

Regional Aboriginal Planning Committees and the subsequent Interim Authorities were expected to have an inclusive planning and consultation process with every individual First Nation and DAA, as well as Métis and urban organizations, in their particular region. The intent of the process was to ensure that permanent authorities and/or other community-based decision-making structures would meet the needs of Aboriginal communities. To become Interim Authorities, the planning committees were expected to establish financial controls, have an approved service-delivery model and have negotiated agreements on infrastructure, accountabilities, communication, and selection and appointment processes.⁷⁵

In January 2007, Cabinet approved the creation of Interim Authorities for the Vancouver Island and Fraser Regions.⁷⁶ These two Interim Authorities were in place by June 2007 and were set up as Crown Agencies reporting directly to the Minister of Children and Family Development, Treasury Board and the Legislature. A government-approved Shareholder's Letter of Expectation for each Interim Authority outlined its mandate to plan for the creation of permanent authorities including the transfer of responsibilities and resources from MCFD. All the implementation planning was to be completed by March 31, 2008.⁷⁷

⁷⁴ MCFD, PowerPoint Presentation. Joint Multi-Year Plan Toward Regional Aboriginal Authorities. Aboriginal Chairs Caucus. Sept. 27, 2004.

⁷⁵ MCFD Decision Note. Topic: Prepared for Deputy Minister. Decision with regards to establishing five Regional Interim Aboriginal Authorities pending achievement for five prerequisite factors. Jan. 18, 2005.

⁷⁶ MCFD Information Note: Prepared for Minister for Decision. May 31, 2007.

⁷⁷ MCFD Government's Letter of Expectation between Minister of Children and Family Development and the Chair of the Fraser Region Aboriginal Authority. Sept. 16, 2007.

The two Interim Authorities remained focused on planning and never did deliver services. The other three regional planning committees continued to work towards achieving the same recognition as an Interim Authority, but never achieved that status.

Between 2003 and 2008, attempts were made to develop and introduce legislation enabling the establishment of permanent Regional Aboriginal Authorities throughout the province. The *Community Services Interim Authorities Act*, allowing for the creation of Interim Authorities in each of the five regions in preparation for the transfer of authority to permanent regional authorities, had been passed and proclaimed in October 2002. To support the initial aggressive 2004 timeline for the establishment of permanent Regional Authorities and the Provincial Common Services Authority, the proposed *Community Services Authority Act* was introduced in 2003. This legislation was soon placed on hold.

In March 2006, a subsequent attempt at legislation, the proposed *Regional Aboriginal Authority Act*, was also placed on hold. In spring 2008, MCFD again developed and presented to Cabinet legislation to enable the establishment of permanent Aboriginal Authorities. A plan to introduce the proposed bill in the Legislature was abandoned at the last minute.

None of the attempts in the spring of 2003, 2006 and 2008 to establish legislation supporting the creation of permanent Aboriginal Authorities succeeded. In the end, the *Community Services Interim Authorities Act* was the only legislation passed respecting the initiative. The 2006 and 2008 attempts were shelved because the Aboriginal leadership felt that more consultation with Aboriginal communities was required prior to their introduction.

In 2008, the Aboriginal Leadership Council opposed further attempts to create the Regional Authorities or any additional Interim Authorities or boards until further consultation occurred.

Although the 2003 mid-term review had reaffirmed the commitment to Regional Aboriginal Authorities, by the spring of 2007 the ministry was openly recognizing that “progress towards Aboriginal governance of child and family services has been slower than anticipated...”⁷⁸ The ministry began to question whether or not regional authorities were the best approach to regional governance and was considering alternative models.⁷⁹ In March 2009, the two existing Interim Authorities and their boards were formally dissolved and the initiative was abandoned.

In the end, \$34.679 million was expended on the Regional Aboriginal Authorities initiative. No change was implemented. There is no documentation to indicate that children received any additional services as a result of these expenditures.

⁷⁸ MCFD, Questions and Answers related to the establishment of Interim Authorities. May 15, 2007.

⁷⁹ MCFD, Questions and Answers related to the establishment of Interim Authorities. May 15, 2005.

Table 4: Regional Aboriginal Authorities Initiative, Expenditures 2002/03 to 2008/09

	Expenditure (\$millions)							Total
	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	
Aboriginal Planning Committees and Interim Authorities								
Vancouver Island Region	0.680	0.191	0.320	0.506	1.587	0.318	–	3.602
Interim Authority VIATA	–	–	–	–	–	1.366	1.630	2.996
Northern Region	0.830	0.204	0.369	0.601	0.500	1.000	0.460	3.964
Fraser Region	0.630		0.302	0.506	1.312	0.487	–	3.237
Interim Authority FRIAA	–	–	–	–	–	0.813	0.920	1.733
Interior Region	0.860	0.290	0.395	0.601	1.331	1.000	0.750	5.227
Vancouver Island Coastal Region	0.860	0.345	0.015	0.506	0.825	1.000	0.438	3.989
Sub-total	3.860	1.030	1.401	2.720	5.555	5.984	4.198	24.748
Aboriginal Political Organizations*	0.800	–	0.280	0.280	0.350	0.350	0.350	2.410
MCFD Assigned / Dedicated Staffing Costs**	0.210	0.292	0.375	0.640	0.656	0.672	0.688	3.533
Pilot Projects***	–	–	–	–	0.746	1.301	1.941	3.988
Total Funding Aboriginal Authorities Initiative	4.870	1.322	2.056	3.640	7.307	8.307	7.177	34.679

* BC First Nations Summit, BC Assembly of First Nations, Union of BC Indian Chiefs, United Native Nations and Métis Nation of British Columbia were funded to assist these organizations in participating in Aboriginal Caucus Committee and Joint Aboriginal Management Committees.

** During the initial years, staff were also responsible for Community Living British Columbia devolution and non-Aboriginal governance issues in addition to Aboriginal governance matters.

*** From fiscal year 2006/07, additional pilot projects and activities were supported to explore and guide Aboriginal governance issues. The focus for funding was on the development of community-driven service-delivery approaches involving First Nations people and elders.

Indigenous Approaches, 2009 ongoing

While abandoning the Regional Aboriginal Authorities model, the ministry did not abandon its commitment to the transfer of responsibility for Aboriginal child welfare to Aboriginal communities, and its commitment to Aboriginal jurisdiction over Aboriginal services.

In 2006/07, notwithstanding that its Regional Authority initiative was still ongoing, the ministry began accelerating the transfer of child welfare services to DAAs. The ministry also continued to expand its options for Aboriginal child welfare service delivery through Aboriginal foster care providers or Aboriginal friends and family, with the stated objective being to “*increase the number of Aboriginal children who remain connected to Aboriginal caregivers.*” MCFD Service Plans and other planning documents⁸⁰ continued to affirm the ministry’s recognition and support for Aboriginal peoples’ jurisdiction in delivering child and family services.

In 2009, First Nations leadership (comprised of First Nations Chiefs from each of the regions) established the Interim First Nations Child and Family Wellness Council to explore models for exercising Aboriginal jurisdiction, including what was called a Nation-to-Nation model for working with the ministry to develop capacity in their communities. Subsequently, MCFD and

⁸⁰ MCFD, *2010/11 to 2012/13, 2011/12 to 2013/14 and 2012/13 to 2014/15 Service Plans; Strong, Safe and Supported Action Plan, 2008.*

the First Nations Summit, the Union of BC Indian Chiefs, and the BC Assembly of First Nations – collectively referred to as the First Nations Leadership Council – jointly signed the *Recognition and Reconciliation Protocol on First Nations Children, Youth and Families*,⁸¹ which underscored the shift in governance approach from a focus on Regional Aboriginal Authorities to one focused on Nation-to-Nation jurisdiction over Aboriginal child welfare services.

The First Nations Child and Family Wellness Council led the development and implementation of an *Indigenous Child at the Centre Action Plan*. The Action Plan, adopted by the First Nations Leadership Council, has the following six goals:

- To create a safe, nurturing environment for the health and well-being of First Nations children, youth, families and communities
- To enable First Nations governance and nation-building
- To participate in the on-going development of culturally appropriate policy and legislation
- To acquire appropriate financial resources and build human resource capacity
- To build effective relationships and partnerships
- To enable information and data development and sharing.

In 2009/10, MCFD proceeded with its Nation-to-Nation initiative, now called Indigenous Approaches, to support the transfer of authority over child welfare services to individual First Nations communities by providing funding to First Nations to establish “community development and service development in relation to jurisdiction. The final goal of these projects [is] to determine a process of child welfare governance and then move forward to providing that governance with the support of MCFD.”⁸² The problem with this approach, the Representative observes, is that there was no clear overarching direction. There was no comprehensive policy, just a series of adhoc contracts.

Beginning in 2009, proposals were approved for 17 First Nations and/or Aboriginal organizations covering more than 100 First Nations, as well as urban and Métis communities and the First Nations Child and Family Wellness Council. Approved projects were broad in scope. Initial direction from the deputy minister at the time the initiative was launched was to be non-prescriptive and that any proposals received were to be accepted as they were submitted.⁸³

Samples of funded projects include:

- Research into service-delivery and governance models, including design and development of community-based and integrated service-delivery models
- Identification and documentation of traditional child welfare practice (including accessing knowledge and learning of community elders)

⁸¹ The Recognition and Reconciliation Protocol on First Nations Children, Youth and Families, http://www.mcf.gov.bc.ca/about_us/aboriginal/pdf/Recognition_Reconciliation_Protocol.pdf

⁸² MCFD. Guidelines for Indigenous Approaches Contracts.

⁸³ MCFD. Guidelines for Indigenous Approaches Contracts.

- Design of governance models for taking on jurisdiction for child welfare
- Community capacity building (including gap analysis)
- Community consultation and engagement processes
- Supporting and enhancing existing community child welfare agencies, including DAAs, to take on authority and responsibility for child welfare services.

Funding was also used to support youth engagement activities to help youth learn about their culture and traditions through culture camps, conferences and gatherings with elders, for community events and feasts and for focus groups and interviews with youth and parents.

The Representative notes that there was a poor policy foundation for these projects regarding how they helped children and no clear approach or rationale for proceeding with them. Most proposals were for three-year projects. In 2009/10, individual contracts ranging from \$70,000 to \$800,000 were approved. In 2010/11, approved contracts ranged from \$70,000 to \$1.6 million, and in 2011/12 they ranged from \$72,000 to \$1.1 million. Between 2009/10 and 2012/13, a total of \$31.02 million was expended and committed to Indigenous Approaches contracts. Table 5 provides a list of First Nations and/or Aboriginal organizations funded under the initiative and the amounts of the associated contracts.

Starting in fiscal year 2011/12, management of Indigenous Approaches contracts was aligned with provincial procurement guidelines and contractors were required to submit a logic model work plan with clear deliverables and quarterly financial and progress reports. With respect to the criteria for funding, contractors were advised that MCFD *“cannot support governance and jurisdiction research and processes with this funding, and that by spring 2013, all new contracts and work plans must be focused on community development and service delivery.”*⁸⁴

⁸⁴ MCFD. Guidelines for Indigenous Approaches Contracts.

Table 5: Indigenous Approaches – Contract Amounts – 2009/10 to 2012/13

First Nations / Aboriginal agencies	Approved Contract 2009/10	Actual Paid 2009/10	Approved Contract 2010/11	Actual Paid 2010/11	Approved Contract 2011/12	Actual Paid 2011/12	Approved Contract 2012/13	Total Contract Amounts 2009/10 to 2012/13*
1 Aboriginal Children and Families Chiefs' Coalition	\$500,000	\$500,000	\$500,000	\$500,000	\$450,000	\$450,000	\$500,000	\$1,950,000
2 Carrier Sekani Family Services	–	–	\$514,360	\$514,360	\$514,360	\$514,360	\$514,360	\$1,543,080
3 Chehalis Indian Band (Sts'ailes)	\$257,000	\$257,000	\$617,000	\$617,000	\$617,000	\$617,000	\$617,000	\$2,108,000
4 Fraser Thompson Indian Services Society (Nlaka'pamux Nation)	–	–	\$361,790	\$361,790	\$181,790	\$181,790	\$361,790	\$905,370
5 Haida Child & Family Services	\$453,000	\$452,500	\$395,000	\$395,000	\$400,000	\$400,000	\$49,800	\$1,297,800
6 Ktunaxa Nation Council Society	\$500,000	\$500,000	\$250,000	\$250,000	\$250,000	\$250,000	\$248,000	\$1,248,000
7 Lalum'utul Smun'eem Child & Family Services (Cowichan Tribes)	\$150,000	\$150,000	–	–	\$150,000	\$150,000	–	\$300,000
8 Métis Commission for Children and Families of BC	–	–	\$410,176	\$410,176	\$386,000	\$379,304	\$86,000	\$882,176
9 Métis Nation BC	\$70,000	\$70,000	\$70,000	\$70,000	\$163,047	\$163,047	\$101,200	\$404,247
10 Nenan Dane za Deh Zona Child & Family Services Society	\$800,000	\$800,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,055,000	\$1,600,000	\$5,600,000
11 Nuu-chah-nulth Tribal Council	\$160,000	\$160,000	\$172,000	\$172,000	\$172,000	\$72,000	\$100,000	\$604,000
12 Office of the Wet'suwet'en	–	–	\$400,000	\$400,000	\$400,000	–	\$400,000	\$1,200,000
13 Okanagan Nation Alliance	\$300,000	\$150,000		\$150,000	\$161,975	\$161,975	\$161,975	\$623,950
14 Sasamans (Our Children) Society	\$334,000	\$334,000	\$632,600	\$632,600	\$632,600	\$632,600	\$632,600	\$2,231,800
15 Shuswap Nation Tribal Council Society	\$250,000	\$250,000	\$450,000	\$450,000	\$450,000	\$415,000	\$450,000	\$1,600,000
16 South Island Wellness Society	\$510,000	\$510,000	\$1,029,055	\$1,094,055	\$848,126	\$848,126	\$848,126	\$3,235,307
17 Stikine Wholistic Working Group (Taku River Tlingit First Nation)	\$636,000	\$636,437	\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$1,002,000	\$3,838,000
18 First Nations Child & Family Wellness Council	\$619,000	\$619,288	–*	–*	\$1,000,000	\$1,077,800	\$775,000	\$2,394,000
Total	\$5,539,000	\$5,389,225	\$8,501,981	\$8,716,981	\$9,476,898	\$8,468,002	\$8,447,851	\$31,965,730

* The First Nations Child & Family Wellness Council did not receive any funding in 2010/11 due to the time taken to transition funding and operations when the Wellness Council was created as a distinct organization.

[Source: MCFD. Note: Actual Contract Paid Amount not available for 2012/13]

Findings

Overall Finding

Landmark agreements between government and Aboriginal leaders have set the foundation for a new, more positive relationship. Commitments to action include the need to address the dire state of Aboriginal child welfare and acknowledgement that Aboriginal people must be involved in the solution.

Agreements made by B.C. government and Aboriginal leaders created a climate of hope and expectations about a new approach to Aboriginal child welfare; one that would result in meaningful improvements in service for Aboriginal children, youth and their families. MCFD, the administrative body charged with the responsibility for achieving this, has, however, been unable to effectively translate this vision into practical action – action that meets the child welfare needs of Aboriginal children, youth and their families and results in improved services. There is no clear direction as to how the Aboriginal child welfare system will be improved; there is no observable logic between how the current Aboriginal governance and service structure initiatives will improve services and there is no monitoring of the impact of the various initiatives undertaken to date.

Broad statements illustrate MCFD's commitment to improving the state of Aboriginal child welfare through supporting Aboriginal families in caring for their children, and working with Aboriginal communities to build and develop their capacity and strength to care for their members. However, the various activities and initiatives undertaken by MCFD during the past decade have created only an illusion of action and progress; there has been no concrete resulting change in the Aboriginal child welfare service-delivery system or demonstrable improvements in outcomes for Aboriginal children, youth and their families.

Furthermore, attention to improving direct program delivery and services to Aboriginal children, youth and their families has been adversely impacted by the attention focused and resources expended on the various governance and service-delivery structural initiatives – initiatives that have no clear connections to the needs, rights and best interests of the children who should be the focus. Since 2002/03, beginning with the Regional Aboriginal Authorities initiative and continuing with the Indigenous Approaches initiative, more than \$66 million has been expended on these change initiatives and not a single child directly served.

Regional Aboriginal Authorities	\$34.68 million
Indigenous Approaches	\$31.96 million
Total expenditure Aboriginal initiatives 2002/03 through 2012/13	\$66.64 million

Aboriginal Child Welfare Program Planning, Management and Accountability

Finding: At present, there is no articulated, overarching and comprehensive strategy for delivering Aboriginal child welfare services throughout the province to achieve responsive, effective, accessible, equitable and culturally appropriate services that meet the needs of Aboriginal children, youth and their families and desired health, well-being and social outcomes. Nor has there been effective collaboration and coordination with other B.C. government ministries such as Health and Education to develop an integrated approach to addressing the needs of Aboriginal children, youth and their families.

There are visionary plans containing high-level statements outlining the commitment to Aboriginal governance, the continuing transfer of responsibility for service delivery and partnering with Aboriginal communities to build capacity and develop quality, culturally appropriate services. There is, however, a disconnect between these Aboriginal governance and service-delivery initiatives and intended outcomes. There is no clear strategic framework articulating the expected outcomes, supported by specific, evidence-based actions, programs and services designed to achieve the intended outcomes. There is no management of these projects and no children receive services from them.

Although the *Operational and Strategic Directional Plan* outlines certain high-level key actions aimed at improving Aboriginal child welfare services, there is no context for how these actions fit within a framework for meeting the needs of Aboriginal children, youth and their families and improving outcomes. For example, one high-level key action is to build cultural competencies but what is meant by cultural competencies is not defined. Although the *CFCS Act* establishes unique requirements related to Aboriginal cultural identity in the delivery of services, it is not clear that culturally appropriate services are embedded in policy and practice, applied consistently throughout the Aboriginal child welfare delivery system and impacting the delivery of services.

Furthermore, although the transfer of responsibility for Aboriginal child welfare to DAAs is in theory based on the concept that delivery of services in a culturally appropriate and sensitive way will have a positive impact on Aboriginal child welfare outcomes,⁸⁵ there is no assessment of the outcome or impact of services being delivered by agencies – all that is measured is the number of Aboriginal children served by DAAs.

The same holds true for other articulated “key actions” such as increasing community-based initiatives and establishing effective partnership forums to ensure full engagement of Aboriginal communities, DAAs and Aboriginal community service agencies in planning for services for Aboriginal children, youth and families. It is not clear how this will be accomplished and to what end – how will it meet the needs of Aboriginal children and families and what will this do for improving services to Aboriginal children, youth and their families?

Other elements of a comprehensive program management and accountability framework are also undeveloped or insufficient. Data and information on performance is scanty. MCFD explicitly recognizes that it needs to do more in this area, including working with

⁸⁵ MCFD, *Revised 2013/14 – 2015/16 Service Plan*, Performance Measure 3.

DAAAs and community social service providers to fill the data shortfalls in operational metrics information for Aboriginal service delivery. It also indicates that it needs to work with community partners to clarify outcomes and measures of success for Aboriginal children, youth and families. However, in the absence of a clear, understood and accepted overarching Aboriginal child welfare service framework, any effort to establish meaningful and connected measures will be difficult.

Although MCFD has intentions to report more fully and regularly on its operations and performance through the *Operational Performance and Strategic Management Report*, the information reported is limited in terms of measuring the impact of programs.

Quality assurance responsibilities lie with the province and this has not worked with regard to the audit process and service duty to children and youth. During the last decade, the ministry quality assurance function has suffered due to the focus on the governance and service-delivery structure initiatives as an answer to improved services. When poor results and compliance were uncovered, there was no robust system of follow-up to ensure improved services. There is also a lack of alignment and consistency in the overall quality assurance function with separate processes for ministry child welfare operations and DAAs.

The Representative notes that the Indigenous Approaches agenda was ad hoc and that securing resources for governance consisted of making a pitch to senior officials, who then recommended funding for activities. The financial accounting was too poor to permit assessment of objectives and outcomes. These projects existed outside most government financial and policy frameworks.

The continued absence of an overarching, comprehensive, integrated program planning, management and accountability framework for the delivery of Aboriginal child welfare services in the province designed to meet the needs of Aboriginal children and families will thwart any real progress to improve outcomes.

Adequate and Equitable Funding

Finding: *The funding of the Aboriginal child welfare service is complex and uneven, hampering the effective, efficient and equitable delivery of services across the province.*

An Aboriginal child who is a Status Indian but does not reside on-reserve, or resides on a reserve that is not served by a DAA, receives the full range of child welfare services funded and delivered by MCFD. If that same child lives on a reserve served by a DAA, he or she receives a more limited range of services focused on protection rather than prevention.

The federal government has recognized and is taking steps to provide additional funding to support prevention services for Status Indian children on-reserve, but very limited progress has been made in implementing the Enhanced Prevention Focus Approach in B.C. Greater effort and attention must be directed to working with the federal government to ensure a fair and sufficient level of funding to support its responsibility

and shared commitment to improving services for First Nations children, youth and their families. MCFD has made no real investment in engaging with the federal government to address the child welfare needs of First Nations people on-reserve.

Failed Governance and Service-Delivery Initiatives

Finding: The Aboriginal child welfare governance and service-delivery change initiatives suffer from flaws similar to those affecting the delivery of Aboriginal child welfare service delivery. The specific goals and objectives and intended impact on the delivery of Aboriginal child welfare services were not defined at the outset of the initiatives, or during the process.

The initiatives were guided by overarching visionary principles of transferring services to Aboriginal authorities, but the end-state goal and intended outcomes were not elaborated. The initiatives also suffered from poor pre-planning, ongoing project management challenges and limited accountability.

Although the Core Review outlined the strategic shifts underlying the transfer of authority to Regional Authorities, it did not articulate the ultimate goal or vision of the new system in terms of its impact on enhancing child welfare services, including how such a service-delivery change would positively impact services and improve outcomes for Aboriginal children, youth and families.

There did not appear to be an overarching, province-wide service-delivery model and supporting governance structure to guide the various regional efforts. The Regional Aboriginal Authorities project overall could be described as planning for implementation without a clear blueprint for the desired end-state of the change process and with the manner of planning varying throughout the project. Increasingly, stakeholders held out no expectations for the success of the initiative. The Representative can only speculate as to why funds continued to be allocated to a project that was seen to be going nowhere.

Lack of an overall vision outlining improved service delivery along with fundamental shifts and changes in direction characterized the Regional Aboriginal Authorities initiative:

- From an early focus on regional governance to one focused on capacity building.
- From a strategy of a comprehensive community-based governance and service-delivery structure through the creation of 10 Regional Authorities (five Non-Aboriginal and five Aboriginal), plus one Provincial Common Services Authority and Community Living BC, to five Aboriginal Authorities and Community Living BC, to one Authority, and then back to five Aboriginal Authorities.
- From an early focus on Regional Aboriginal Planning Committees empowered to develop community-based service-delivery and governance conceptual models, to planning focused within an integrated province-wide Joint Multi-Year Plan, supported by a Master Project work plan.
- From limited financial and planning controls and protocols to more disciplined financial management, business and budget planning and protocol agreements between the ministry and the key planning committees.

- From the target of establishing Regional Aboriginal Authorities by spring of 2004, to the target of April 2008, to not establishing them at all.

The fundamental flaw was the lack of connection to how the rights and best interests of Aboriginal children, who should have been the focus, would be served.

The Indigenous Approaches initiative appears to be following the same path. It is moving forward in the absence of a clear strategic framework outlining how it will improve services and outcomes for Aboriginal children, youth and families, with no obvious integration with other aspects of the Aboriginal child welfare service-delivery system, and with limited accountability. It had an origin in failure of the Authorities process and a position taken that First Nations partners should do what they want and be funded to reflect that.

There does not appear to have been any Cabinet-level consideration and approval of the initiative. There are no clear program funding criteria or objectives published and initially there was no requirement for contract financial reporting or ongoing written progress reports. The general parameters are that projects should support Aboriginal peoples *“developing child and family services approaches based on their unique Indigenous identity that will better serve the children and families in their communities,”*⁸⁶ including engaging with First Nations communities to design and develop their own models of care for their children.

The Representative has nothing to evaluate other than a hodgepodge of financial agreements and limited reports. Apart from this report, there has been no evaluation of what these projects have achieved and their impact. The absence of a solid policy foundation for the Indigenous Approaches initiative means that money will continue to be bled out of the ministry without any accountability for the expenditures.

The Indigenous Approaches initiative also creates a further complexity for the ministry in the delivery of Aboriginal child welfare services. This includes integration with its DAA initiative, linking the initiative with its own regional structure of service delivery, and ensuring equitable and integrated service delivery throughout the province. Federal government involvement has also been absent and no serious effort made to bring AAND to the table in the true spirit of collaboration with the best interests of the child as the focus.

MCFD does not appear to have learned from the other Aboriginal governance and service-delivery change initiatives and is again pursuing an initiative with ill-defined goals and no direct connection to meeting the needs of Aboriginal children.

⁸⁶ Presentation by Minister of Children and Family Development Mary Polak to the Standing Committee on Aboriginal Affairs and Northern Development: Feb. 8, 2011.

Recommendations

Recommendation 1

That the government of British Columbia, with the leadership of the Attorney General, develop an **explicit** policy for negotiation of jurisdictional transfer and exercise of governmental powers over child welfare.

Actions Required to Implement this Recommendation:

- This policy must be developed before any further action relating to Aboriginal self-governance or jurisdiction over child welfare or related services occurs.
- The policy must provide clear technical guidance regarding the capacity, scale and funding for a planned negotiation process so that children and youth will not be left uncertain about service responsibilities or accountability during such negotiations.
- The policy must identify the key triggering steps and ensure that a process of validation and approval at the cabinet level accompanies such decisions given their consequence to the lives of vulnerable children and their families.
- The policy must be consistent with existing public and constitutional law, and take into account a functional understanding of the federal-provincial dimensions of the issues, and a commitment to continue and uphold the human rights of children and youth.
- The policy must ensure that MCFD and human service ministries receive proper guidance in the fundamental requirements of public law and jurisdiction transfer to prevent the situation described in the current report from ever being repeated.

The Attorney General must take the lead responsibility to set out such a policy given that the laws, regulations and administration of services across government are on the table for discussion, and that any such initiative must be appropriate and consistent with constitutional obligations and the machinery of government, courts and public bodies such as the Public Guardian and Trustee. In preparing such a self-government child welfare negotiation policy, the Attorney General must clearly address the following:

- Identifying the parties (i.e. "nations") that enjoy self-government powers and can exercise constitutional jurisdiction, and the representational requirements to validly trigger such a formal negotiation process leading to the exercise of such powers
- Ensuring that the constitutional human rights of children and youth are upheld, including how meaningful access to justice will be maintained, and how they will be consulted or involved in such negotiation processes, and represented in any decision-making process that decides their status
- Developing a process for ratification of new arrangements, including regulation of such a process and recognition of entities to manage the process
- Recognizing scope and scale of new child welfare arrangements, including proscribing any provincial view of a minimum number of children for jurisdiction to be effectively exercised (i.e., must there be an economy of scale for this jurisdiction to be functionally effective?)
- Identifying the various steps required in the negotiation process before any jurisdiction can be recognized and powers transferred, so that technical requirements are satisfied and it will be clear to all if s. 88 of the *Indian Act* (provincial jurisdiction) would no longer apply

continued on next page

Recommendation 1, *continued*

- Identifying which powers the province views as exclusive to the First Nation or shared with the province (i.e., adoptions, child welfare safety, special needs, estate guardianship, health care, education)
- Clearly identifying the scope and scale of legislative amendments, preparation and public announcement of bills, deposit of laws and regulations to support the exercise of jurisdiction
- Identifying how conflicts of laws will be resolved, especially in relation to areas that will impact provincial law, policy and practice, such as family law (personal and estate guardianship), child welfare, child and spousal support and maintenance enforcement, domestic violence protective orders and protective intervention orders
- Identifying the provincial government capacity and commitment to funding for such a negotiation process and whether it is the policy of the province that this be shared with other governments, and the form it will take (e.g., loans and other arrangements to protect existing service budgets from being used for this purpose)
- Determining the numbers of negotiations the province will enter into in each year that the policy will be in place, with a minimum projection for the first five years of such a policy
- Developing any working formula or framework for funding services that may be exercised by the First Nations under their self-government authority at the conclusion of the process (i.e., fund only equivalent services to those provided at the provincial level, or apply another fiscal standard?)
- Defining the legal and political position of the province on the federal government's role as a participant in such negotiations and whether these can proceed to a transfer of power and authority in the absence of the participation and recognition by the federal government.

The draft policy should be prepared by April 1, 2014 and provided to Representative. A final policy should be in place by Sept. 1, 2014.

Recommendation 2

That the Ministry of Children and Family Development take immediate action to suspend open-ended initiatives in its ministry related to Aboriginal governance and organization of child welfare services, develop a clear public policy for delivery of services to Aboriginal children including the roles and operational requirements for delegated Aboriginal Agencies, and re-profile funds to support those much-needed direct services.

Actions Required to Implement this Recommendation:

- Recommendation 1 and the requirement that the Attorney General prepare an appropriate framework policy for jurisdictional negotiations must be immediately communicated within MCFD and to all partners and service providers, and the reasons that a proper policy is needed should be explained to those working in the children and youth services sectors.
- MCFD policy and service delivery must be based on strong collaborative relationships with First Nations and Aboriginal communities that occur as part of the regular process of service delivery, rather than as separately funded initiatives. The collaboration should focus on relationships important to support children, youth and their families.
- It is expected that MCFD will deliver services to Aboriginal children, youth and families across all six of its program areas, with a robust commitment to competency, accessibility, accountability and evaluation.
- MCFD must focus its immediate attention on meeting its responsibilities under the *Child, Family and Community Service Act* and *Adoption Act*, including child safety and guardianship and on resulting service delivery to improve outcomes for Aboriginal children. Specifically:
 - Work with DAAs to focus on service delivery to improve outcomes and compliance with policy, standards and practice and to ensure there is a robust integrated quality-assurance program, with measures when audits determine practice falls below standards
 - Ensure that delegation agreements are current, consistent and appropriate and are aligned with outcomes and a seamless child welfare policy in order to avoid fractured accountabilities and confusion over who is responsible for service-delivery areas and regions
 - Ensure an operational context for the work of DAAs, including clear expectations on scope and scale of the work with a strong focus on effectiveness for service to children and a clear policy on the numbers of children required before an agency can be formed or agreement can be entered into, including upfront acknowledgement of the scale of funding to be expected from MCFD and resulting service requirements
 - Phase out exceptions to the workforce requirements for staff of DAAs over a three-year period so that qualified staff is required throughout the province
 - Ensure that existing DAA staff who did not meet employment pre-qualifications and were granted an exemption are required to complete the equivalent in service training to that required of a non-exempt employee within a reasonable period of time, and that none of those currently employed be "grandfathered" into these positions on a permanent basis, or given an exemption from this requirement
 - Ensure that each Aboriginal child and youth in care has a plan to respect and preserve his or her Aboriginal identity and ties to family, community, and heritage and that each child receives the services required of that plan.

The policy framework for service should be provided to the Representative by Feb. 1, 2014, and finalized for release to service providers and partners by March 31, 2014.

Recommendation 3

That MCFD take the lead in developing a clear plan for B.C. to close the outcomes gap for Aboriginal children and youth across government ministries including Education and Health as well as other service-delivery organizations, with clear targeted outcomes and performance measures that would be applicable on- and off-reserve, and encompass all Aboriginal children and youth regardless of where they reside.

Actions Required to Implement this Recommendation:

The following participants might be involved in the plan and its on-going monitoring:

- Representatives of Aboriginal organizations, including those with a clear mandate, such as First Nations Health Authority, First Nations Education Steering Committee, Friendship Centres, First Nations Schools Association and delegated Aboriginal Agencies
- The Federal government (AAND), which should be encouraged to participate to align any programs, services and outcomes measures for its services or transfers supporting services.

This process must ensure that:

- The discussions are **not** a jurisdiction or governance process but are an active effort to close the gap province-wide
- Immediate steps are taken to address deficiencies in key areas (e.g., setting clear high school completion rates and strategies to improve these on- and off-reserve, especially for children in care)
- Intermediate and long-term goals are identified
- Aboriginal youth are engaged in a meaningful way in the plan's creation so that it reflects their rights, views and interests
- There is consistent alignment, funding and provision of child welfare services in B.C. – regardless of whether a child lives on- or off-reserve, is a Status Indian or is served by a delegated Aboriginal Agency or MCFD
- There is stronger accountability and quality assurance with regard to the provision of services and resolution of jurisdictional issues now preventing the equitable provision of services
- Services reflect and facilitate cultural continuity and connection to community, fulfilling the unique human rights of Aboriginal people
- There is a clear policy and resource commitment to supporting Aboriginal families through the Extended Family Program and other kinship care arrangements
- Evaluation is a component of the plan or strategies, with regular public reporting and a yearly report to the Select Standing Committee on Children and Youth.

A progress report on development of the plan to be presented to the Representative by March 1, 2014 and the plan be completed and implementation initiated by June 2014. The first public report to the Select Standing Committee on Children and Youth should be delivered by fall 2014.

Recommendation 4

That MCFD immediately undertake a review of its senior leadership team and develop an action plan to ensure that Aboriginal leaders with expertise in effective child welfare service provision are represented on that team and that an Aboriginal perspective in the ministry's decision-making process reflects the fact that a majority of the children and families the ministry serves are Aboriginal.

Actions Required to Implement this Recommendation:

- Senior leadership must be given accountabilities for identifying when issues pertain to self-government negotiations, and have the required communication expertise to direct these to the appropriate ministry and forum, while maintaining a focus on service-delivery, capacity building and outcomes for children and youth.
- At least one person on the senior executive team must be an Aboriginal person with these competencies, and a senior Aboriginal person must be directly involved in leading each of the six program lines of the ministry's work with similar competency.

A copy of the review and draft action plan to be presented to the Representative by Feb. 1, 2014.

Recommendation 5

That MCFD begin to publicly report semi-annually on the safety and well-being of Aboriginal children receiving services, especially children in care, whether those services were provided through the ministry, a contracted agency, or a delegated Aboriginal Agency.

Actions Required to Implement this Recommendation:

These reports should include:

- Progress at school, including receipt of support services geared to promoting academic achievement where needed
- Participation in early childhood education or child care
- Health status, especially comprehensive assessments of possible developmental delay and the provision of needed therapies and supports
- Special needs and/or mental health assessments and services provided to the child or youth
- Preparation of Comprehensive Plans of Care and Permanency Plans, including cultural plans
- The number of face-to-face visits by guardianship workers in the preceding six months
- The number of moves while in care
- The number and resolution of complaints about services to Aboriginal children and their families
- Efforts to find permanent families for Aboriginal children in care
- Interactions with the criminal justice system – contact with police, criminal charges, sentences and dispositions, including community resolutions such as restorative justice, warnings and findings of fitness to stand trial
- Participation in child protection mediation and family group conferencing
- Efforts to keep Aboriginal children connected with families and communities while in care
- Number of youth agreements and transition agreements
- The well-being of children placed with extended family, including those in the former Children in the Home of a Relative program and children placed through the Extended Family Program
- Efforts to promote the health status and levels of participation in sports and recreational activities by Aboriginal children
- The proportion of Aboriginal children suffering a recurrence of maltreatment, and advocacy services sought and received
- The number of open files and timeliness of work completed, including results of audits and remedial actions, if necessary
- Comparison of services received to those received by non-Aboriginal children.

A draft copy of the reporting plans to be presented to the Representative by March 1, 2014. The first such report should be prepared and released by June 2014.

Conclusion

MCFD is failing in its mandate to set out effective, responsive and culturally appropriate child welfare services to Aboriginal children, youth and their families. There is no durable program with measurable outcomes and improvements, especially in relation to the fundamental legislated requirements for child welfare, or the other MCFD service areas. This area is rife with competing ideas, episodes of activity directed without policy basis, and follows no observable logic, leaving it open to other agendas.

Aboriginal child welfare goals, strategies and intended outcomes are undefined, there is a lack of evidence-based standards and practices, there is a disparity in access and availability of services, and there is a lack of accountability to Aboriginal children whose lives have been impacted by the child welfare system.

It is not clear how ministry programs and services are culturally grounded and whether the transfer of responsibility to DAAs with the goal of maintaining the connection to their culture and tradition is improving child welfare services for Aboriginal children and youth and their families.

Many millions of dollars have been expended by MCFD during the last dozen years on Aboriginal child welfare initiatives – initiatives that have demonstrated no direct benefit in terms of services to Aboriginal children and families. This report underscores not only the failure of these initiatives to contribute to improved outcomes for Aboriginal children, but also highlights the lost opportunity of the dollars expended on these initiatives to enhancing services to Aboriginal children. At the same time as extensive budget reductions, significant dollars were being allocated to governance and service-delivery change initiatives to the detriment of direct service provision. This has had an enduring impact on child welfare services in the province – a budget has been reallocated without the appropriate framework and without children's best interests as the focus.

It is worth noting what the funding expended on the governance and service-delivery structural initiatives might have bought in terms of direct services to support children and youth. As found by the Representative in her recent report, *Who Protected Him? How B.C.'s Child Welfare System Failed One of its Most Vulnerable Children*,⁸⁷ there is a critical deficiency in MCFD's ability to meet the needs of children with complex needs requiring out-of-home care. Money expended on failed governance initiatives could have been directed to the development and maintenance of a robust residential placement system properly staffed and supported to help children with complex needs rather than simply house them.

It is undeniably difficult, complex and challenging to deliver Aboriginal child welfare services in a responsive, effective and culturally sensitive way. There is significant cultural diversity among Aboriginal people in B.C. Aboriginal children in B.C. live in a large

⁸⁷ Representative for Children and Youth *Who Protected Him? How B.C.'s Child Welfare System Failed One of its Most Vulnerable Children* (February 2013).

number of small and isolated towns, villages and First Nations communities across the province, with the vast majority of Aboriginal children living in cities and large metropolitan centres. Added challenges include jurisdictional issues and eligibility and funding constraints between the federal and provincial governments dictated in large by the *Indian Act*.

Improving the child welfare system is not a solution in itself for improving the overall conditions for Aboriginal children and families. Other factors relating to community and family stability impact the health, safety and well-being of Aboriginal children. Historic injustices have caused systemic disadvantages leading to poverty, unemployment, substance abuse, inadequate housing, relative isolation and lack of access to social and health supports – all contributing to poor overall outcomes for Aboriginal children and families. However, the existing system is not fulfilling its responsibility with respect to meeting the child welfare needs, rights and best interests of Aboriginal children and youth and providing them with services and support.

The Representative respects the Aboriginal leadership's constitutional right to self determination. By virtue of recent treaty agreements, some First Nations in B.C. have the statutory ability to take down power to change child welfare. Yet, the discussions on governance have produced little practical results for children and youth. The ministry is currently stretched to its limit in serving children and youth and any diversion of funds to future governance initiatives would be catastrophic. As recommended by this report, MCFD should re-profile its funding into direct services for children and leave self-governance initiatives to the Attorney General, who should lead the development of explicit policy for negotiation of jurisdictional transfer and exercise of governmental powers. Such initiatives need to be led by an organization with the capacity, experience and expertise and with funding devoted to that purpose – not funding drawn from the child welfare direct service budget.

Furthermore, any initiative to delegate child welfare authority must have clear parameters – a clear understanding of the ultimate goal and how it will serve children. A devolved system must be built on the foundation that MCFD maintains the ultimate authority and responsibility for the protection of vulnerable children. It must be connected to the mainstream system and be based on common standards to ensure quality and equity of services. As recommended, the path to such a system must include consideration of scope issues and minimum criteria for devolution in terms of size of community and client group, capacity and readiness.

In May 2008, the Auditor General for British Columbia expressed concern that many of the child protection needs of Aboriginal children and their families remained unmet. The Auditor General noted that MCFD change-management practices were not in step with its delivery goals, commented that reporting on the effectiveness of child protection services was lacking and recommended establishing a set of comprehensive measures for the ministry to determine the impacts of its services on Aboriginal children.⁸⁸

⁸⁸ *Report #3: Management of Aboriginal Child Protection Services*: Office of the Auditor General of British Columbia: May, 2008.

MCFD must put children at the centre. So, too, must partner governments and agencies. That hasn't been done and the result so far has been significant expenditures without results.

The recent approaches have not helped to allay the fear that Aboriginal families harbour about government's involvement in their lives. Instead, these approaches have caused confusion and distracted from real issues, creating a climate of expectations with no concrete improvements to actual services.

The ministry needs to re-focus, and dedicate the time and effort required to develop and articulate a plan for a cross-government overarching Aboriginal child welfare service-delivery program designed to close the outcome gaps in the lives of Aboriginal children compared to their non-Aboriginal counterparts. The program must be based on an understanding of the needs of Aboriginal children, youth and their families, be grounded in evidence-based strategies and practices and collaboration, not governance. Intended outcomes must be clearly defined and regularly monitored to determine the effectiveness of services and to inform corrective action, including the adjustment or cancellation of ineffective services and the reallocation of resources to effective services. The development of this plan must include collaboration with the ministry's key partners in Aboriginal child welfare service delivery – AAND, DAAs, other human service ministries, the First Nations Health Authority, First Nations Education Steering Committee, Friendship Centres, the First Nations Schools Association and others – to identify the design and delivery of services and the governance, service-delivery and funding responsibilities to best meet the needs of Aboriginal children, youth and families in the province.

In developing this plan, the ministry must explore and address a number of fundamental issues including:

- Why is the proportion of Aboriginal children in care continuing to increase, while the number of non-Aboriginal children in care is declining?
- Do these trends relate specifically to issues in the child welfare system or are other factors affecting these trends which must be addressed in an integrated way?
- What elements of the current Aboriginal service-delivery model are working well? What is not working well? Is it possible to determine what is working well and what is not working well? Is there any evaluative data to support these determinations?
- What outcomes or results would be expected from an ideal model in terms of improving the lives of Aboriginal children and youth? What do Aboriginal people want with respect to Aboriginal child welfare services?
- Given the desired ultimate outcomes, what does the Aboriginal child welfare service-delivery system need to provide? What needs to change?
- What can be learned from the province's own experience and the experiences in other jurisdictions to inform the development of the B.C. system of Aboriginal service delivery and governance?

Appendix 1: Documents, Information and Reports Reviewed

Legislation

British Columbia. *Adoption Act*. R.S.B.C. 1996. Ch. 5.

British Columbia. Bill 65 – 2002 *Community Services Interim Authorities Act*. 3rd Session, 37th Parliament. THIRD READING on the 29th day of October, 2002. (Cliff # 9488)

British Columbia. *Child, Family and Community Service Act*. R.S.B.C. 1996. Ch. 46 (as amended).

British Columbia. *Representative for Children and Youth Act*. S.B.C. 2006. Ch. 29 (as amended).

MCFD Documents

AGTI Consulting Services (West) Inc. Due Diligence and Preparation for Child and Family Service Delivery Governance: A Proposed Work Plan Approach for Aboriginal Interim Authorities. April 28, 2003. (Cliff # 6569)

KPMG Consulting. Authority Readiness Criteria to support the transfer of responsibilities. Prepared for the Ministry of Children and Family Development. Revised November 20, 2002. FINAL. (Cliff # 9480)

KPMG Consulting. Ministry Readiness Criteria. Prepared for the Ministry of Children and Family Development. Draft 2. October 03, 2002. (Cliff # 10299)

KPMG Consulting. Public Services. Readiness Criteria Key Lessons Learned from Other Jurisdictions. Prepared for the Ministry of Children and Family Development. August 19, 2002. (Cliff # 10299)

KPMG Consulting. Regional Authority Readiness Criteria. Prepared for the Ministry of Children and Family Development. August 19, 2002. (Cliff # 10299)

Ministry of Children and Family Development. A Guide to Establishing Interim Authorities' Readiness for Transition to Permanent Authorities. Prepared by BearingPoint for Regional Interim CEO's. March 14, 2003. (Cliff # 6560)

Ministry of Children and Family Development. 2008/09 Annual Service Plan Report.

Ministry of Children and Family Development. Board Governance. Emails and attachments related to Comparing Legislation Related to Board Development for New Authorities and Jurisdictional Review. September 23, 2005. (Cliff # 9165)

Ministry of Children and Family Development. Briefing Note Prepared for Executive Committee for decision. Decision required on the development of models for governance and the development of a governance transition team. October 12, 2001. (Cliff # 9322)

Ministry of Children and Family Development. Briefing Note. Formation of Provincial Interim Authority (ies) for Aboriginal and Child and Family Development. November 23, 2003. (Cliff # 6136)

Ministry of Children and Family Development. Briefing Note. Child and Family Development Governance – Progress to date and status report. February 12, 2004. (Cliff # 9074)

Ministry of Children and Family Development. Briefing Note. Re: Regional Aboriginal Planning Committees for Aboriginal Political Leaders. August 12, 2005. (Cliff # 9340)

Ministry of Children and Family Development. Briefing Note Prepared for Executive Governance Team for Discussion. Proposal for the role of headquarters in a community governance model. August 29, 2005. (Cliff # 9322)

Ministry of Children and Family Development. Briefing Note Prepared for Acting Deputy Minister Arn van Iersel and ADM Lenora Angel. For a meeting with Aboriginal Peoples Family Accord on March 17, 2006. March 10, 2006. (Cliff # 8330)

Ministry of Children and Family Development. Briefing Note Prepared for Deputy Minister, Lesley du Toit and Acting Deputy Minister Arn van Iersel. For a meeting of the Joint Aboriginal Management Committee (JAMC) on May 5, 2006. Debra Foxcroft, Chair of the Aboriginal Chairs Caucus (ACC) asked for “Stabilized funding for Regional (Aboriginal) Planning Committees be an agenda item for the JAMC meeting.” March 10, 2006. (Cliff # 10043)

Ministry of Children and Family Development. Cabinet Document. Moving towards Regional Aboriginal Authorities for Child and Family Development Services. Honourable Gordon Hogg, Minister of Children and Family Development. Ministry Document Number: 02/03 Draft Numbers: 5 & 7. (Cliff # 10293)

Ministry of Children and Family Development. Presentation to B.C. Cabinet by the Honourable Tom Christensen, Minister of Aboriginal Relations and Reconciliation. “WE ARE ALL HERE TO STAY” A New Relationship with First Nations and Aboriginal People July 14, 2005. Version II. July 11, 2005. (Cliff # 7207)

Ministry of Children and Family Development. Cabinet Decision Document. Recommitment to General Authorities for Child and Family Services. Honourable Stan Hagen, Minister of Children and Family Development. February 2006. (Cliff # 9246)

Ministry of Children and Family Development. Cabinet Decision Document. Implementation of Aboriginal Authorities for Child and Family Services. Honourable Stan Hagen, Minister of Children and Family Development. February 2006. (Cliff # 9247)

Ministry of Children and Family Development. Cabinet Briefing Issue. Approval of the Shareholder's Letter of Expectations for the Fraser Region Interim Aboriginal Authority (FRIAA). Honourable Tom Christensen, Minister of Children and Family Development. January 01, 2008 (estimated date). (Cliff # 5242) (Cliff # 5190)

Ministry of Children and Family Development. Cabinet Briefing Issue. Approval of the Shareholder's Letter of Expectations for the Vancouver Island Aboriginal Transition Authority (VIATA). Honourable Tom Christensen, Minister of Children and Family Development. January 01, 2008 (estimated date). (Cliff # 5923)

Ministry of Children and Family Development. Child and Family Development Transition to Community Governance (timelines). (Cliff # 8541)

Ministry of Children and Family Development. Child and Family Support, Assessment, Planning and Practice (CAPP) Initial Implementation Plan.

Ministry of Children and Family Development. A Child's Roots are Forever. Report to Interim CEOs. November 12, 2003. (Cliff # 4882)

Ministry of Children and Family Development. A Child's Roots are Forever. Midterm Report. 2004/05 – (estimated date). (Cliff # 4880)

Ministry of Children and Family Development. Cultural Planning "Roots". Presentation. March, 2007. (estimated date). (Cliff # 4988)

Ministry of Children and Family Development. MCFD Aboriginal Regional Support Services Team with support from External Researcher/Evaluator – Coral Bowman, MA Candidate, University of Victoria. A Child's Roots are Forever Project Program Evaluation. March 15, 2007. (Cliff # 4987)

Ministry of Children and Family Development. A Child's Roots are Forever Annual Report – April 2007. Submitted by Jennifer Danison, Aboriginal Roots Liaison, Provincial Office. June 29, 2007. (Cliff # 4878)

Ministry of Children and Family Development. A Child's Roots are Forever Program Summary. June, 2007. (estimated date). (Cliff # 4998)

Ministry of Children and Family Development. A Child's Roots are Forever. Review of Aboriginal Children in Care. July 11, 2008. (Cliff # 5000)

Ministry of Children and Family Development. Community Service Interim Authority Resource Handbook. March 14, 2003. Within handbook: A Guide to Establishing Interim Authorities' Readiness for Transition to Permanent Authority – for regional Interim CEOs. (Cliff # 9076)

Ministry of Children and Family Development. Corporate Accountability and Performance Framework. Draft #4. Draft 02/07/12. (Cliff # 6558)

Ministry of Children and Family Development. Corporate Accountability and Performance Framework. March 2003. (Cliff # 8804)

Ministry of Children and Family Development. Current Issues in MCFD – Aboriginal Governance. April, 2008. (Cliff # 7973)

Ministry of Children and Family Development. Decision Note Prepared for Deputy Minister for Decision. With regard to transition funding for Aboriginal Transition Teams, require until the end of this fiscal year, to cover their commitments and planning community initiatives. February 27, 2004. (Cliff # 9477)

Ministry of Children and Family Development. Decision Note Prepared for Minister Christy Clark for Decision. With regards to the approach to governance. March 11, 2004. (Cliff# 6139 & 9074)

Ministry of Children and Family Development. Decision Note Prepared for Minister Christy Clark for Decision. With regard to the management process for 2004/2005 transition funds for regional Aboriginal Transition Councils. March 31, 2004. (Cliff # 10072)

Ministry of Children and Family Development. Decision Note Prepared for Minister Christy Clark for Decision. With regard to the Transition Funds for Aboriginal Transition Councils for 2004/2005. April 18, 2004. (Cliff # 8010 and also relates to Cliff # 10072: April 13, 2004)

Ministry of Children and Family Development. Decision Note Prepared for Deputy Minister Alison MacPhail. With regard to Vancouver Coastal Aboriginal Planning Committee. September 01, 2004. (Cliff # 8569)

Ministry of Children and Family Development. Decision Note Prepared for ADM Lenora Angel for Executive Decision. With regard to planning and funding options for Aboriginal planning. November 23, 2004. (Cliff # 7725)

Ministry of Children and Family Development. Decision Note Prepared for Deputy Minister Alison MacPhail for Executive Decision. With regards to establishing five Regional Interim Aboriginal Authorities pending achievement of five prerequisite factors. January 18, 2005. (Cliff # 6137)

Ministry of Children and Family Development. Decision Note Prepared for Minister Tom Christensen for Decision Regarding Permanent Authorities Legislation. June 15, 2007. (Cliff # 6044)

Ministry of Children and Family Development. Development of Aboriginal Authorities in B.C.: A Chronology. April 23, 2007. (Cliff # 5343)

Ministry of Children and Family Development. Discussion Paper. Moving Forward with Regional Aboriginal Authorities Working Groups. April 01, 2006 (estimated date). (Cliff # 7426)

Ministry of Children and Family Development. Email from Kim Tran, on behalf of Kim Henderson, ADM, to Cliff Dezell, Past Chair, Child and Family Services North Regional Transition Council regarding his letter. June 11, 2004. (Cliff # 9428)

Ministry of Children and Family Development. Estimates Binder. November 2009.

Ministry of Children and Family Development. Estimate Note. Topic: Establishment of Joint Multi-Year Plan and Topic: Details the Joint Multi-Year Plan. January 25, 2005. (Cliff # 9137)

Ministry of Children and Family Development. Estimate Note. Title: Membership and Staffing of the Vancouver Coastal Aboriginal Planning Committee. January 25, 2005. (Cliff # 9137)

Ministry of Children and Family Development. Estimate Note. Title: Regional Aboriginal Planning Committee Audits. January 25, 2005. (Cliff # 9137)

Ministry of Children and Family Development. Estimate Note. Title: Transition Funding Management. January 25, 2005. (Cliff # 9137)

Ministry of Children and Family Development. Estimate Note. Title: Office of the Auditor General Report – Ministry Actions in Response to Recommendations. October 27, 2009.

Ministry of Children and Family Development. Executive Committee Meeting – February 02, 2005. Appendices support (Cliff # 6137)

Ministry of Children and Family Development. Feedback on Roadmap to Readiness. July 24, 2008. (Cliff # 6135)

Ministry of Children and Family Development. Financial Management Agreement between the Interior Regional Aboriginal Planning Committee and the Ministry of Children and Family Development. Final signed copy. March 23, 2005.

Ministry of Children and Family Development. Financial Management Agreement between the Northern Regional Aboriginal Planning Committee (the committee or NAAFF) and the Ministry of Children and Family Development. Final. March 23, 2005. (Cliff # 5024)

Ministry of Children and Family Development. Financial Management Agreement between the Vancouver Coastal Regional Aboriginal Planning Committee (the committee) and the Ministry of Children and Family Development. Final signed copy. April 02, 2005. (Cliff # 5023)

Ministry of Children and Family Development. Framework. Proposed Devolution Project Framework. Presentation to Transition Managers and Regional Aboriginal Coordinators by MCFD. January 23, 2004. (Cliff # 6473)

Ministry of Children and Family Development. Framework. Project Management Framework Meeting in Vancouver, BC. MCFD, Regional Coordinators and Transition Managers in attendance. January 29, 2004. (Cliff # 6500). Links to Cliff # 6491: Working Group Terms of Reference.

Ministry of Children and Family Development. Framework. Child and Family Development Move to Community-based Governance Project Management Framework Summary. February 03, 2004. (Cliff # 6485)

Ministry of Children and Family Development. Framework. Project Management Framework Transition to Community Governance Version 2. February 04, 2004. (Cliff # 6479)

Ministry of Children and Family Development. Framework. Project Management Framework: Transition to Community Governance. Version 2. February 13, 2004. (Cliff # 6480)

Ministry of Children and Family Development. Government's/Shareholder's Letter of Expectations. Shareholder's Letter of Expectations Between the Minister of Children and Family Development (as Representative of the Government of British Columbia) and the Chair of Community Living British Columbia (CLBC) (as Representative of the Corporation). Signed March 27, 2007. (Cliff # 5463)

Ministry of Children and Family Development. Government's/Shareholder's Letter of Expectations. Government's Letter of Expectations Between the Minister of Children and Family Development (as Representative of the Government of British Columbia) and the Chair of the Vancouver Island Aboriginal Transition Authority (VIATA) as Representative of the Agency. Signed June 08, 2007. (Cliff # 5450)

Ministry of Children and Family Development. Government's/Shareholder's Letter of Expectations. Government's Letter of Expectations Between the Minister of Children and Family Development (as Representative of the Government of British Columbia) and the Chair of the Fraser Region Interim Aboriginal Authority (FRIAA) as Representative of the Agency. Signed September 16, 2007. (Cliff # 5239)

Ministry of Children and Family Development. Government's/Shareholder's Letter of Expectations. Government's Letter of Expectations Between the Minister of Children and Family Development (as Representative of the Government of British Columbia) and the Chair of the Vancouver Island Aboriginal Transition Authority as Representative of the Agency. Signed by Minister on January 29, 2008 and by Chair on December 07, 2007. (Cliff # 5448)

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