



INDIGENOUS CHILD AT THE CENTRE
ACTION PLAN



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Introduction

While diverse in language, as well as cultural and spiritual practices, First Nations across North America share a remarkable commonality in their approaches to raising children. Invariably they place their children at the heart of a belief system closely aligned with the natural world. In many cultures, the Elders, community and the Nation play an important role in nurturing children. Indigenous systems responded to the needs of children and families who required support and care.

However, through a series of governmental policies and actions, these traditional systems have been undermined by Eurocentric practice, much of which failed, and continues to fail today. As a result, 9,274 children were in care in BC as of the end of June 2007, with 51% being Aboriginal children. The numbers are projected to grow. Further, evidences shows that, once a person has been involved in the child welfare system in their youth, the chances are higher that they will be involved in the criminal justice system, and also that their own children will be involved in the child welfare system.

The survival of Indigenous Peoples is tied to our continued ability to care for and transmit culture to our children. The ability to care for, and guide the development of, our children (including passing on language, laws, culture and traditions, and teaching about relationships with the land and living world) is not only essential to the survival and well-being of Indigenous children, but equally essential to the survival of Indigenous Nations and Peoples.

Our children are our most valued resource and First Nations have consistently stated their goal to structure and control their own child welfare systems - and to drive social services, including policy - to ensure they are culturally-based and well-serving to their children, families and communities. To this end, great efforts have been undertaken over the past several years, at all levels, to increase community capacity and control with respect to child and family issues through the exploration of models based on their goals, aspirations, traditions, and community suitability. Some communities have been exploring administrative delegation

models, while others have been exploring other options founded in their own legal and cultural traditions and outside of a delegated model. There have also been a number of recent international and political developments that provide a new context for assessing the status of ongoing efforts related to children and families, and charting the way forward.

Within this context, First Nations chose to set out a collective vision and a strategic action plan for addressing issues related to children and families – our most valued resources – on the basis of our authority. Resolutions were passed at the BC Assembly of First Nations, First Nations Summit and Union of BC Indian Chiefs Assemblies in 2007, calling upon those organizations to collaboratively hold a “First Nations Child at the Centre Chiefs’ Forum” to bring together Chiefs/leaders, along with key political and technical partners, to review, discuss and finalize a First Nations Child at the Centre Action Plan (which would include a vision, principles, key topics and actions assisting First Nations to address and advance issues

related to children and families). This Forum took place in January 2008, and a follow-up Forum was held in July 2008, where feedback and direction was provided with respect to the content of this Plan.



Context

HISTORICAL CONTEXT

While diverse in language, as well as cultural and spiritual practices, First Nations across North America share a remarkable commonality in their approaches to raising children, which invariably place their children at the heart of a belief system closely aligned with the natural world. Further, the economic and social survival of indigenous societies depended on the transmission of a vast amount of spiritual and practical knowledge from elders to the young, through an exclusively oral tradition.¹ A child was encouraged to learn from and explore their world with guidance from an extended family system, where the extended family is responsible for supporting, nurturing and caring for its members.² In many cultures, the community and Nation also played an important role in nurturing children. Elders traditionally played a key role in cultural maintenance through the socialization of children.³ Through a series of governmental policies and actions, these traditional systems have been gradually undermined by Eurocentric practice, much of which failed, and continues to fail today.

Beginning in the 1800s, the Government of Canada, aided by Christian churches, strengthened its assimilation efforts through the operation of residential schools for Indian children.⁴ The primary objective was to eliminate any vestige of Aboriginality replacing it with a Euro-western culture, knowledge and spirituality.⁵ Among other

things, the conditions of these schools were abysmal, cultural behaviours were forbidden, there was poor food and inadequate medical care, infectious and preventable diseases and widespread physical and sexual abuse. The schools continued to operate under these conditions for decades with many schools opening cemeteries on school grounds to bury the children.⁶

Generations of Aboriginal children were separated from their family, cultural and traditional teachings and the impact was devastating at the personal, kinship and community levels.⁷ They suffered loss of their language and culture, loss of emotional security and family connections, loss of respect for their own culture and learned violence. Children in residential schools did not experience healthy parental role modeling and as a result had a diminished capacity as adults to care for their children.⁸ The last residential school in BC was not closed until 1984.

Through its deliberate assault on the aboriginal family, the residential school system created the conditions that rendered First Nations vulnerable to the next wave of intervention: child abductions sanctioned by provincial child welfare laws.⁹ In the foster and adoptive care system, Aboriginal children typically vanished with scarcely a trace, the vast majority of them placed until they were adults in non-aboriginal homes where their cultural identity, their legal Indian status, their knowledge of their own First Nation

¹ Suzanne Fournier & Ernie Crey, *Stolen From Our Embrace: The Abduction of First Nations Children and the Restoration of Aboriginal Communities* (Vancouver: Douglas and McIntyre, 1997) at 52.

² Sulaimon Giwa, et al., *Reconciliation: Looking Back, Reaching Forward, Indigenous Peoples and Child Welfare. A Research Project for the First Nations Child and Family Caring Society of Canada* (Ontario: Carleton University, 2006) at 19; see also Durst at 5 citing KSCS.

³ D. Durst, *Self-Government and the Growth of First Nations Child and Family Services*. (Social Policy Research Unit: University of Regina, 2002) at 5.

⁴ Cindy Blackstock & Nicole Trocme, *Community Based Child Welfare for Aboriginal Children: Supporting Resilience through Structural Change* (Ontario: First Nations Child and Family Caring Society and Centre of Excellence for Child Welfare, University of Toronto, 2004) at 4.

⁵ *Ibid.*

⁶ J. Milloy, *A National Crime: the Canadian Government and the Residential School System 1879 - 1986* (Winnipeg: University of Manitoba Press, 1999): See also Blackstock, *supra* note 4 at 4-5.

⁷ Fournier, *supra* note 1.

⁸ Blackstock, *supra* note 5 at 5.

⁹ Fournier, *supra* note 1 at 81.

and even their birth names were erased, often forever.¹⁰

In 1947, a report to the Special Joint Committee of the Senate and House of Commons claimed that “Indian children who are neglected lack the protection afforded under social legislation available to white children...”¹¹ The result was amendments to Indian Act in 1951 that allowed provincial governments to provide services in health, welfare and education to First Nations (i.e. the addition of section 88).¹² Once the provinces were in charge, and guaranteed payment for each Indian child they apprehended, the number of First Nations children made legal wards of the state quickly ballooned.¹³ Through the 1960s-1980s, social workers without the information, skills and resources to address the poverty, disempowerment, multi-generational grief and loss of parenting knowledge - defaulted to a practice of mass removals known as the “60’s scoop”.¹⁴ In many cases, children were taken from parents whose only crime was poverty – and being aboriginal. Finding a grandmother caring for several small children in a home without a flushing toilet, refrigerator or running water was enough to spur a worker to seize the children and take them into the care of the state.¹⁵



¹⁰ Ibid.

¹¹ Ibid. at 83, note: this reference refers to a report of the Canadian Welfare Council and Canadian Association of Social Workers.

¹² Durst, supra note 3 at 8.

¹³ Fournier, supra note 1 at 83.

¹⁴ Blackstock, supra note 5 at 6. Note: this reference is referring to the 2001 Aboriginal Justice Inquiry.

¹⁵ Ibid at 86-87.

CANADIAN LEGAL CONTEXT

The written documents making up the Canadian Constitution, including the Royal Proclamation of 1763, the Constitution Act, 1867, and the Constitution Act, 1982, are relevant to understanding the roles and responsibilities over First Nations child welfare.

Federal Jurisdiction:

Section 91(24) of the Constitution Act, 1867 sets out exclusive powers to the federal government with regard to “Indians and Lands Reserved for Indians”. While this section authorizes the federal government to make laws regarding the protection and care of First Nations children, the federal government has chosen not to exercise its legislative powers under section 91(24) to regulate child welfare matters on reserves or in relation to Indians. Instead, the federal government has facilitated the application of provincial laws to First Nations peoples and children. In particular, the federal government amended the Indian Act in 1951 to make provincial laws of general application applicable to Indians residing on reserve through the enactment of section 88. The only clear policy position of the federal government in relation to children and families is Indian and Northern Affairs Canada’s Directive 20-1, which came into effect in 1991 and sets out funding criteria and requires delegated agencies to follow provincial legislation.

Section 88 of the Indian Act, and Directive 20-1 have resulted in a patchwork of provincial child welfare services to reserves.¹⁶ There is no far-reaching federal statute in Canada comparable to the U.S. Indian Child Welfare Act, which stipulates the inalienable right of an Indian child to grow up within his or her tribe of origin. The Act, though one of the most litigated Indian statutes in the U.S.,

has ensured that almost 84.5 per cent of all American Indian children are reared in Indian homes.¹⁷

Provincial Jurisdiction:

The Province of British Columbia has legislative authority in respect of the welfare of children pursuant to sections 92(13) and 92(16) of the Constitution Act, 1867. Section 88 of the Indian Act referentially incorporates provincial laws of general application so that these laws can apply to Indians (the inclusion of section 88 in the Indian Act has the impact of making provincial child welfare laws apply to Indigenous Peoples where there are no other federal or recognized Indigenous laws in place¹⁸).

The Child, Family and Community Service Act (BC) is the legislative authority for the Province’s Child Protection Services. Under the Act, the Minister designates the Director of Child Protection, who in turn delegates the provision of child protection services across the province to child protection social workers. Child protection services across the province are provided through 429 ministry offices in 5 regions and a number of delegated aboriginal agencies. The Adoption Act (BC) sets out a process that will be followed in placing children for adoption. Both provincial statutes set out processes to be followed where a child is identified as being “aboriginal”, including involvement of the “aboriginal organization” identified to have connection to the child.¹⁹

Inherent Right of Self-Government: Section 35 Aboriginal Rights:

Section 35 of the Constitution Act, 1982 recognizes and affirms existing aboriginal and treaty rights, including the right of self-government. The courts have confirmed that Indigenous customary laws are part of the constitutional fabric of Canada; courts

¹⁶ Giwa, *supra* note 2 at 21.

¹⁷ Fournier, *supra* note 1 at 91-92.

¹⁸ Walkem, *supra* note 25 at 45.

¹⁹ Walkem, *supra* note 25 at 45.

have consistently affirmed that Indigenous laws, in areas such as customary adoptions or marriage, are recognized, and form part of, the Canadian common law. Recognition has been particularly strong in areas that the courts consider to be “internal self regulation”.²⁰ Child welfare falls within this rubric and Indigenous Peoples who formulate and advance their jurisdiction based on the legal traditions of their own people should have this jurisdiction protected. Many First Nations have held that, if the problems in the system are rooted in a displacement of Indigenous jurisdiction, then solutions must be rooted in the recovery of Indigenous jurisdiction.

Several First Nations in BC have signed tripartite agreements with the provincial and federal governments; these agreements recognize First Nations jurisdiction and provide funding to First Nations to operate their own child and family services. Under these agreements, joint planning is undertaken for all children in care, and adoptive homes are sought first within the child’s extended family or tribe of origin. A few have the delegated legal power to apprehend children in need of protection, as well as to certify their own foster homes on reserve and to decide on child placements.²¹

Despite First Nations efforts to exert full authority and jurisdiction over child welfare matters, for the most part, these efforts have been limited to consultation and delegated authority within state/territorial/provincial frameworks.²² Generally speaking, models in Canada share the following features:

- The only area where there is First Nations jurisdiction (non-provincially delegated) is limited to reserve or treaty settlement lands
- All federal funding requires a delegation of provincial administrative authority (Spallumcheen and Blood (on reserve) excepted)
- All models require that Indigenous Peoples agree to “meet or beat” existing provincial standards in child welfare (Spallumcheen excepted)
- None recognize the inherent jurisdiction of Indigenous Peoples, and all require some level of delegated administrative authority, and
- Where there is administrative delegation is from the federal government, there is a greater level of control and actual authority in the Indigenous Nation (Spallumcheen)²³

²⁰ *Casimel v. Insurance Corp. of British Columbia*, 1993 BCCA 14532 at para.40. See also: *Connolly v. Woolrich*, (1867) 11 L.C. Jur. 197, 1 C.N.L.C. 70.

²¹ *Fournier*, supra note 1 at 92.

²² *Walkem*, supra note 25 at 75.

²³ See *ibid.*



INTERNATIONAL CONTEXT

United Nations Convention on the Rights of the Child:

Children are entitled to enjoy universal human rights without discrimination of any kind. This includes the rights contained in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Their rights receive specific, detailed attention under the United Nations Convention on the Rights of the Child (“Convention”). The Convention, which Canada has signed and ratified, directs that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration” (article 3). It also provides:

- Indigenous children are entitled to enjoy all of the rights recognized in the Convention. This includes the fundamental rights to life, to an identity, to the highest attainable standard of health, to an adequate standard of living, to education, and to be protected from economic exploitation and from sexual exploitation and abuse.
- Article 30 of the Convention specifically states that an Indigenous child shall not be denied the right, in community with other members of their group, to enjoy their culture, profess and practice their own religion or to use their own language. United Nations bodies have recognized that the enjoyment of these rights, particularly the right to enjoy culture, may include ways of life closely associated with territory and use of its resources. Article 30 can therefore potentially protect the relationship of Indigenous children to their traditional lands, territories and resources as part of their cultural rights.

United Nations Declaration on the Rights of Indigenous Peoples:

On September 13, 2007, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted and became an international instrument setting minimum standards for respecting the rights of Indigenous peoples. These minimum standards include:

- Recognizing the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,
- Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group. (article 7)
- Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning (article 14)
- States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities. (article 21)
- States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination. (article 22)



FUNDING CONTEXT

Directive 20-1:

Federal Directive 20-1, which is the federal government's only policy regarding First Nations child welfare, requires that provincial child and family legislation apply on-reserve and that provincial governments must be involved with child services. This Directive was developed and implemented without consultation with First Nations.

An INAC/AFN Joint National Policy Review on First Nations Child and Family Services released its report in 2000, making 17 recommendations, concluding that Directive 20-1 is “inflexible, outdated and provides insufficient resources” and a “new funding formula is required that addresses regional variations in work load, case work analysis, agency size and population demographics”.

In 2005, a more extensive review of Directive 20-1 was undertaken jointly by INAC and the AFN and is summarized in the Wen:de reports. These reports confirm that the funding formula is inadequate with severe shortages in funding for Least Disruptive Measures services. Shortages in child welfare funding services were pervasive, with Wen:de economists estimating the shortfall to be a minimum of 109 million per year nationally (excluding Ontario).

Despite initially agreeing to the Wen:de approach, INAC has now developed a region-by-region approach that leverages

the Alberta Response Model (ARM). INAC and Alberta have promoted ARM as a promising practice although there is no evidence that the approach will work with First Nations in that it does not account for structural risk factors such as poverty, poor housing and substance misuse nor does it account for the drastic shortfalls in services for families on reserve. Moreover, economic analysis of the INAC proposal in at least one region demonstrates that INAC is proposing funding levels falling far short of what was recommended as a minimum investment in the Wen:de reports

Jordan's Principle:

Research has repeatedly confirmed that status Indian children are denied, or delayed, receipt of federal and/or provincial government services available to other children due to jurisdictional wrangling between, and within, the federal and provincial governments. This issue was brought to national attention, with the tragic death of a five-year old boy from Norway House Cree Nation – Jordan River Anderson.

With the support of Jordan's family, a child-first principle to resolving jurisdictional disputes - known as “Jordan's Principle” - was developed. It provides that, where a jurisdictional dispute arises between, or within, provincial or federal governments regarding a status Indian child, the government of first contact pays for the service and then figures out the jurisdictional

dispute later. Jordan's Principle has been endorsed by over 1400 organizations, and in December 2007, Members of Parliament unanimously passed a private member's motion in support of Jordan's Principle. The province of British Columbia has also endorsed Jordan's Principle, and a tripartite (First Nations-BC-Canada) process is underway to determine an implementation approach.



INDIGENOUS CHILDREN & FAMILIES IN BC

A number of developments have focused on moving control back to First Nations communities over child and family services and ensuring that services are culturally and community-based.

Tsawwassen Accord, JAMC, Interim Authorities & Regional Aboriginal Authorities:

In June 2002, in response to a decision of the Province to delegate most functions of the MCFD to new “blended regional authorities”, Aboriginal political bodies voiced their unequivocal rejection of “blended authorities” as they would further entrench a legal and policy framework which does not reflect Aboriginal peoples’ inherent jurisdiction respecting their children and families. Aboriginal organizations instead supported “Regional Aboriginal Authorities” (whereby the Minister would delegate certain administrative powers to the Authorities) as set out in the Tsawwassen Accord signed among Aboriginal parties in June 2002.

Shortly after the Accord was reached, on September 9, 2002, a Memorandum of Understanding (MoU) was signed between the Aboriginal political organizations and the Province, supported by certain Aboriginal service delivery providers. It established the Joint Aboriginal Management Committee (JAMC) comprised of the MoU signatories.

Provincial and regional structures and mechanisms were then put in place to develop plans and legislation for the creation of Aboriginal Authorities – including five Regional Planning Committees, a joint Chairs Caucus, various working groups and committees. This MoU expired in September 2007.

On January 31, 2007, the provincial Cabinet designated two Planning Committees (the Vancouver Island Aboriginal Transition Team and the Fraser Region Interim Aboriginal Authority), as Interim Authorities under the Community Services Interim Authority Act. Draft enabling legislation for regionalization was prepared but was pulled from the legislative agenda due to a full lack of support for the initiative from First Nations, and the need for further dialogue on the regionalization approach and draft legislation.

Honourable Ted Hughes Report:

The deaths of two First Nations children in 2001 and 2002 spurred an outcry for a review of MCFD’s Child Protection System. On April 7, 2006, the Honourable Ted Hughes released An Independent Review of BC’s child protection system, BC Children and Youth Review (the “Review”), making 62 recommendations, including that:

- The provincial and federal governments work in collaboration with Aboriginal communities in working toward fulfilling the Transformative Change Accord; and
- The Province collaborate with Aboriginal communities to develop a common vision of governance for the Aboriginal child welfare system, but that, before enacting a proposed governance model, there be active and widespread community consultation.

Representative for Children and Youth (BC):

As a result of the Hughes report, a new independent Representative for Children and Youth (RCY), British Columbia was established to support children, youth and families who need help in dealing with the child welfare system, and to advocate for changes to the system itself. The Representative has released a number of reports relating to child health and welfare in BC, including a focus on Aboriginal issues.



POLITICAL CONTEXT

There have been significant political developments where First Nations, governments and others have agreed to work collaboratively to advance reconciliation, address issues of common concern, promote economic growth for mutual benefit, and to close the gap in socio-economic conditions between First Nations and other British Columbians.

Leadership Accord:

On March 17, 2005, the political executives of the First Nations Summit, Union of BC Indian Chiefs and BC Assembly of First Nations signed a Leadership Accord, committing to formalize a cooperative working relationship of the Parties to politically represent the interests of First Nations in British Columbia and develop strategies and actions to bring about significant and substantive changes to government policy that will benefit all First Nations in British Columbia.

New Relationship:

In March 2005, the Province and First Nations agreed to a government-to-government relationship based on respect, recognition and accommodation of Aboriginal title and rights and reconciliation of co-existing titles and jurisdictions. In the New Relationship, the parties agreed to “work together in this new relationship to achieve strong governments, social justice and economic self-sufficiency for First Nations that will be of benefit to all British Columbians and will lead to long-term economic viability.”

A First Nations-Federal Crown Political Accord:

On May 31, 2005, A First Nations-Federal Crown Political Accord on the Recognition and Implementation of First Nation Governments was signed between the Assembly of First Nations (AFN) and Indian and Northern Affairs Canada (INAC). It commits the parties to work jointly to promote meaningful processes for reconciliation and implementation of constitutionally recognized Aboriginal rights with First Nation Governments to achieve an improved quality of life and to support policy transformation in other areas of common interest.

Transformative Change Accord:

On November 25, 2005, a tripartite Transformative Change Accord was signed by the First Nations Leadership Council, the Government of Canada, and the Province of British Columbia. The Accord commits the parties to efforts to close the socio-economic gap between First Nations and other British Columbians over the next 10 years, reconcile Aboriginal title and rights with Crown title, and establish a new relationship based on mutual respect and recognition. Specific areas of focus under the Accord are: relationships; health; education; housing; and economic opportunities.

Final Agreements:

The Nisga'a Nation, Tsawwassen First Nation and Maa-Nulth First Nations have ratified their Final Agreements. These Final Agreements include provisions for First Nations governance and law-making authority over children and family issues.



Indigenous Child at the Centre Action Plan

Despite services and programs currently available to First Nations communities and supported by the federal and provincial governments, First Nations people fall far below the Canadian average when it comes to virtually all of the socio-economic indicators of wellness.²⁴ Statistics show that the current system is failing to bring First Nations social conditions to those of the average Canadian.

There are many reasons for the current conditions of First Nations communities, in particular the lasting impacts of colonialism, the lack of recognition of First Nations jurisdiction, and ongoing jurisdictional wrangling between the federal and provincial governments over who is responsible for funding and service delivery.²⁵

However, First Nations have consistently been clear about their goal to ultimately structure and control their own child welfare systems and to drive social services to ensure they are culturally-based. To this end, they have made great efforts over the past several years to increase community capacity and control over children and family issues, including through exploring regionalization and delegation models of service delivery. At the same time, a number of political developments have occurred that provide a new context for assessing the status of ongoing efforts related to children and families, and charting the way forward.

In this context, First Nations leaders and

others have developed this Action Plan to reflect on current models and practices – in the context of increasing unity and changing political and legal landscapes – and to identify strategies for improving child and family services and developing First Nations capacity to reassume control pursuant to their inherent right.

VISION

The First Nations of British Columbia exercising our inherent right to provide for the survival, dignity and well-being of our children. Some elements of this vision include:

- upholding traditional family law, language, culture, and community-appropriate systems of governance;
- cooperation, collaboration and mutual support amongst First Nations;
- First Nations children connected to their families, extended families, communities and Nations;
- Government-to-government decision-making processes; and
- Fair and equitable support for First Nations to provide for their children and families.²⁶

²⁴ Nancy A. Morgan & Deidre McGettigan, *Integration of Services: From Concept to Reality*, prepared for the First Nations Education Steering Committee, July 1999 at 5.

²⁵ *Ibid.* at 13.

²⁶ Condensed from "Walking Together to Keep Indigenous Children at the Centre Declaration of Commitment" and "One Heart, One Mind: Statement of Solidarity and Cooperation"

PRINCIPLES

This Action Plan will be guided by the following Principles:

- **Self-Determination:** First Nations have the inherent right to self-determination including jurisdiction with respect to children and family matters.
- **Culture and Tradition:** Governance, programs, and services must be conducted in a culturally-appropriate fashion and provide opportunities for cultural transmission.
- **Sustainability:** All human and social decisions must be assessed in light of the spectrum of needs of future generations.
- **Holistic Approach:** The best child protection approach is to make investments in all issues relating to the health and well-being of the child.
- **Inclusivity:** The needs of Elders, youth, women, the disabled, the mobile population, and those with special needs will be considered.
- **Collaboration and Partnership:** Respectful, effective working relationships contribute to effective governance and service delivery.
- **Commitment to Action:** A proactive and dedicated approach by all those involved will underpin all activities.
- **Communication, Transparency and Accountability:** All initiatives will be conducted in an open, clear and widely-understood fashion.
- **Flexibility:** This Plan, and the approach used to implement this Plan, must adapt with changing circumstances.

GOALS AND ACTIONS

The following goals for children and families have been established by First Nations in the development of this Action Plan. For each of the goals, a number of action items have been identified and are set out in the following sections.

- 1 To create a safe, nurturing environment for the health and well-being of First Nations children, youth, families and communities
- 2 To enable First Nations governance and Nation-building
- 3 To participate in the ongoing development of culturally-appropriate policy and legislation
- 4 To acquire appropriate financial resources and build human resource capacity
- 5 To build effective relationships and partnerships
- 6 To enable information and data development and sharing

Goal 1:

To create a safe, nurturing environment for the health and well-being of First Nations children, youth, families and communities

CONTEXT:

Traditional First Nations childcare approaches emphasize values such as belonging, generosity, respect and autonomy; these values are often not emphasized for First Nations children in care. For the healthy development and well-being of First Nations children, it is imperative that traditional values are transmitted.

DESIRED OUTCOMES:

- Child and family services and measures that focus on prevention and support, and only remove the child from the home as a last resort
- Implementation of culturally appropriate programs and services by First Nations
- Integrated services that address the root causes and socio-economic factors impacting families
- Services targeted to specific issues and needs relating to children and families (i.e. special needs, disabilities, transitions)

ACTION ITEMS:

The First Nations Child and Family Wellness Council will undertake the following actions:

- 1 Develop a strategy and process/program to reunite (and provide support to) survivors of the child welfare system, and children presently in the system, with communities and Nations.
- 2 Develop a legal strategy, including providing advocacy and/or legal support to First Nations, and First Nations individuals and families as required.
- 3 Develop and train First Nations response teams that can respond to crises and/or families in need as required.
- 4 Advocate for the implementation of the Aboriginal Operational and Practice Standards and Indicators.



The First Nations Child and Family Wellness Council will provide political advocacy and support, and policy and planning support as available, to First Nations on a regional and local basis to:

- 1 Develop programs and services with a strong holistic and preventative focus.
- 2 Develop and implement a comprehensive strategy to decrease the number of First Nations children in care, and to provide culturally-appropriate care services to those in care.
- 3 Develop a comprehensive strategy outlining necessary supports and resources, including life skills training and mentorship, to prepare and support youth as they age out of care (including youth with disabilities and special needs).

The First Nations Child and Family Wellness Council will work with partners to ²⁷:

- 1 Support restorative justice programs for First Nations, communities, families.

²⁷ Partners could include, but are not limited to: the First Nations Health Council; Aboriginal Provincial Health Officer; First Nations Education Steering Committee; First Nations Early Childhood Development Council; First Nations Social Development Society; First Nations Justice Council; Representative for Children and Youth BC; First Nations Summit; BC Assembly of First Nations; Union of BC Indian Chiefs; First Nations Child and Family Caring Society of Canada;

Goal 2:

To enable First Nations governance and Nation-building

CONTEXT:

First Nations child care systems have been undermined by colonial approaches and divisive policies. The ability to guide the development of our children is not only essential to the survival and well-being of Indigenous children, but also to the survival of Indigenous Nations. First Nations have been clear in our goal to resume control of child welfare systems to ensure they are culturally-based and well-serving to our children, families and communities, and contribute to the strength of our Nations.

DESIRED OUTCOMES:

- Development and implementation of governance structures that are culturally and community relevant and consistent with traditional systems and processes
- Collaborative and productive working relationships (both at governance and technical levels) at the Nation level, including respect and support amongst Nations for each Nation's decision-making and governance

ACTION ITEMS:

The First Nations Child and Family Wellness Council will undertake the following actions:

- 1 Support First Nations to assume jurisdiction and management over child welfare, including through information-sharing, providing tools, advocating as required and hosting province-wide dialogue forums.
- 2 Conduct research, identify resources and develop tools to revive the cultural family laws of First Nations, including traditional laws.

The First Nations Child and Family Wellness Council will provide political advocacy and support, and policy and planning support as available, to First Nations on a regional and local basis to:

- 1 Undertake regional, and community engagement processes with respect to governance, Nation-building, and service delivery.
- 2 Develop programs and initiatives to support cultural and linguistic continuity, including language immersion programs, culture camps, and Elder-Youth programs.
- 3 Support the involvement of Elders and youth in governance and management with respect to children and families.

The First Nations Child and Family Wellness Council will work with partners to:

- 1 Consider the establishment of a First Nations Child and Family Services accreditation body to monitor and enforce standards (including professional development standards).



Goal 3:

To participate in the ongoing development of culturally-appropriate policy and legislation

CONTEXT:

Through a series of governmental policies and actions, First Nations' traditional systems have been undermined. Yet those government policies and actions have largely failed, and the number of Aboriginal children in care outnumbers that of non-Aboriginal children in care. The current system is not working; government policy and legislation must incorporate cultural approaches to ensure that children in care have a sense of belonging, and become healthy, well-adjusted and productive members of their Nations and society in general.

DESIRED OUTCOMES:

- An ongoing process that promotes First Nations participation in government legislative, policy and program development on a government-to-government basis
- Culturally-appropriate legislation, policy, programs and services that recognize First Nations jurisdiction, focus on prevention, and maintain and facilitate connections between children and their Nations

ACTION ITEMS:

The First Nations Child and Family Wellness Council will undertake the following actions:

- 1 Hold a province-wide Forum for First Nations to specifically identify and discuss solutions to existing legislative, policy, and regulatory barriers relating to children and families.
- 2 Establish a high-level tripartite table to address policy and jurisdictional issues and barriers, and better integrate services, such as:
 - a On/off-reserve funding disparities;
 - b Regional funding equity;
 - c Definitions of maintenance;
 - d Definition of a special needs child and the services and programming special needs children require;
 - e Dispute resolution mechanisms;
 - f Services for non-status residents on-reserve;
 - g Comparability with respect to licensing, accreditation, training and qualifications; and
 - h Resources for children who have aged out of care.
- 3 Work with the federal government to develop BC-specific First Nations child welfare legislation recognizing the jurisdiction and authority of Indigenous Nations. This legislation could include:
 - a Description of the priority authority of First Nations to pass their own child welfare and adoption laws in accordance with their traditions and customs, and the application of that law to all members regardless of residency;
 - b Provisions allowing the passage of child welfare bylaws under Section 81 of the Indian Act;
 - c Recognition of the priority authority of First Nations to determine their own citizenship;
 - d Provisions for adequate funding for First Nations to resume jurisdiction over child welfare; and
 - e Provisions for the transfer of custody and records between governments.
- 4 Develop a common framework with the provincial government regarding child welfare, including:
 - a Support for First Nations child welfare structures (however First Nations opt to exercise responsibility over children and families), including with adequate human, financial and capital resources;
 - b A transition plan for child welfare dialogue and planning processes;
 - c Cooperation and accountability processes with respect to Ministerial positions relating to First Nations child welfare (including the First Nations Director);
 - d Amendment of provincial legislation, including the Adoption Act; and
 - e Restructuring of the Ministry to better interface with First Nations child and family infrastructure and activities under this Plan.
- 5 Work with governments to develop templates and tools for intergovernmental service agreements.
- 6 Work with governments to jointly develop an accountability framework, including:
 - a Appropriate measures of success;
 - b An evaluation process for child welfare systems and outcomes;
 - c Data collection; and
 - d Regular and community reporting requirements.



Goal 4:

To acquire appropriate financial resources and build human resource capacity

CONTEXT:

To support jurisdiction, governance, and program and service delivery, First Nations require financial resources, human resources (including building capacity, maintaining capacity, and skill enhancement for First Nations workers already employed in the field), and infrastructure at the community level. Resources are also required for the effective implementation of this Action Plan.

DESIRED OUTCOMES:

- Fair, equitable and multi-year financial resources to implement and support community governance, program and service delivery, and the implementation of this Action Plan
- Ongoing support for human resources, capacity-building, infrastructure development and capital costs based on actual needs
- Fully qualified First Nations people employed at all levels in the children and family development field, serving First Nations children and families
- Increased recruitment, retention and professional development of First Nations employees by First Nations employers in the child and family development sector

ACTION ITEMS:

The First Nations Child and Family Wellness Council will undertake the following actions:

- 1 Conduct a full gap analysis of all existing child welfare funding (including on- and off-reserve, First Nations and non-First Nations, and BC compared to other jurisdictions), and address funding disparities and regional inequities.
- 2 Secure financial resources for communities to develop and implement governance frameworks for children and families.
- 3 In collaboration with other First Nations organizations, update and advocate for the implementation of the Wen:De “We are Coming to the Light of Day” funding methodology (which includes issues such as Directive 20-1, Jordan’s Principle, and equity with provincial funding levels) which addresses issues such as:
 - a Workload/case analysis;
 - b Definition of “reasonably comparable;”
 - c Demographics, and the impact on large and small agencies;
 - d Economies of scale;
 - e Gaps in the operations formula;
 - f Adjustment for remoteness;
 - g Establishment of national standards;

- h* Establishment of an average cost per caseload;
 - i* Establishment of caseload/workload measurement models;
 - j* Ways of funding a full service model of First Nations Child and Family Services;
 - k* Liability;
 - l* Exploration of startup developmental costs; and
 - m* Development and maintenance of information systems and technological capacity.
- 4 Work with federal and provincial governments to explore an “exceptional circumstances” funding methodology to provide additional resources on an urgent basis for First Nations communities where large numbers of children are at risk.
 - 5 Advocate for First Nations child welfare agencies to be eligible for voluntary sector funding.
 - 6 Support the Assembly of First Nations and Child and Family Caring Society of Canada in the complaint filed with the Canadian Human Rights Commission regarding the lack of funding for First Nations child welfare.
 - 7 Increase First Nations positions, retention and training, including through:
 - a* Securing the same training opportunities as are offered to Ministry staff, including in-house and specialized training;
 - b* Working with the Ministry on its recruitment and retention of Aboriginal workers at all levels; and
 - c* Implementing comparable salaries, benefits, and working conditions within First Nations employers to non-First Nations agencies.

- 8 Work with governments and others to develop and implement cross-cultural curricula and training programs for government staff.

The First Nations Child and Family Wellness Council will provide political advocacy and support, and policy and planning support as available, to First Nations on a regional and local basis to:

- 1 Deliver cross-cultural curricula and training staff for governments and others.
- 2 Increase First Nations positions, retention and training.
- 3 Develop community infrastructure and facilities to protect children, including group homes, safe homes, and child development centres.

The First Nations Child and Family Wellness Council will work with partners to:

- 1 Develop a comprehensive First Nations capacity-building strategy, including:
 - a* Information-sharing amongst First Nations and with First Nations communities;
 - b* The voluntary sector and volunteers; and
 - c* Training for community workers and volunteers.

Goal 5:

To build effective relationships and partnerships amongst First Nations, and with governments, First Nations organizations, and others

CONTEXT:

First Nations have traditionally held a holistic and integrated worldview that today influences collaborative and cooperative approaches to policy development and service delivery. This is particularly important given the large number of organizations with connections to children and family development, including organizations that provide advocacy and services on- and/or off-reserve.

DESIRED OUTCOMES:

- Unity, mutual support and collaboration amongst First Nations
- Inter-ministerial working relationships that will eliminate bureaucratic silo approaches and result in First Nations working in a holistic manner with government agencies
- Effective and integrated partnerships amongst First Nations organizations as it relates to children and families issues
- Strategic partnerships and alliances with urban Aboriginal service providers that are accountable to First Nations, leading to seamless access to services for First Nations children and families
- Strategic partnerships with non-First Nations organizations in the interests of First Nations children and families

ACTION ITEMS:

The First Nations Child and Family Wellness Council will undertake the following actions:

- 1 Building on the “Walking Together to Keep Indigenous Children at the Centre Declaration of Commitment” and the “One Heart, One Mind Statement of Solidarity and Cooperation”, conduct ongoing activities to support First Nations unity and reconciliation, including providing tools for inter-Nation agreements.
- 2 Establish an Indigenous Child at the Centre Caucus to provide forums for dialogue, information-sharing, technical work, and strategizing amongst First Nations, Métis and urban Aboriginal organizations.²⁸
- 3 Establish relationship agreements with governments with respect to ongoing collaboration on, and transformative change in, children and families issues, and clarifying roles and responsibilities.
- 4 Build strategic relationships with non-First Nations organizations (service delivery groups, advocacy organizations, educational institutions and others) with respect to advancing the implementation of this Action Plan.
- 5 Work with existing First Nations organizations and Councils at the province-wide level (health, education, social development, and early childhood development) to develop a collaborative and coordinated approach to child health and development.

The First Nations Child and Family Wellness Council will provide political advocacy and support, and policy and planning support as



available, to First Nations on a regional and local basis to:

- 1 Engage in dialogue, collaboration, and coordination on child and family wellness issues with other local and regional organizations, such as urban Aboriginal organizations and service providers. Dialogue, collaboration and coordination could include:
 - a Forums for presentations and dialogue to foster mutual understanding of mandates, structures, services, and funding arrangements;
 - b Entering into service delivery agreements as required, particularly with respect to:
 - i. information-sharing;
 - ii cultural connection to the community; and
 - iii the equitable and seamless provision of services to all First Nations individuals regardless of residency.

²⁸ Members of the Indigenous Caucus (in addition to those organizations referenced in footnote 27) may include, but are not limited to: the United Native Nations; BC Association of Aboriginal Friendship Centres; Métis Nation BC; BC Aboriginal Child Care Society; First Nations Directors Forum (and member organizations); BC Aboriginal Network on Disability Society; Aboriginal Foster Parents Association; educational institutions; law enforcement; Caring for First Nations Children Society.

Goal 6:

To enable information, data development and sharing

CONTEXT:

Accurate and timely data/information is critical to effective decision-making and seamless service delivery. Currently, there are several jurisdictions, and a large number of First Nations organizations and service delivery providers, each with different information-sharing and development processes. First Nations communities require similar research and data, but do not have the resources at the local level to invest in research development.

DESIRED OUTCOMES:

- Research and information development that will benefit all BC First Nations
- Access to up-to-date information that is reliable and trusted by all parties
- A tripartite process and structure for user-friendly and accurate information exchange

ACTION ITEMS:

The First Nations Child and Family Wellness Council will undertake the following actions:

- 1 Conduct a literature review of prior efforts involving legislation, policy, practice, capacity development and community healing, including from other jurisdictions (i.e. New Zealand).
- 2 Develop a communications, lobbying and media strategy, for internal (to First Nations) and external relations.
- 3 Work with provincial and federal governments to provide First Nations agencies with modern information technology and appropriate office management systems and skills.
- 4 With governments and other First Nations organizations, develop shared and agreed-upon indicators for tracking successes, a process for gathering the data required to measure progress, and a reporting structure and process.
- 5 Conduct an environmental scan to identify gaps in service provision for children and families – particularly on- and off-reserve – including recommendations for additional services to address any identified gaps.

The First Nations Child and Family Wellness Council will provide political advocacy and support, and policy and planning support as available, to First Nations on a regional and local basis to:

- 1 Develop information-sharing mechanisms to improve service delivery without compromising confidentiality.
- 2 Develop and implement a research strategy and plan that incorporates traditional knowledge, is based on First Nations priorities and needs, and includes sharing and research into traditional laws and traditional parenting.

The First Nations Child and Family Wellness Council will work with partners to:

- 1 Make regular submissions to government and international bodies with respect to child welfare, and make these reports available to First Nations and First Nations organizations and agencies to submit similar materials.



Implementation

- The interim First Nations Child and Family Wellness Council will engage with First Nations in order to establish a permanent First Nations Child and Family Wellness Council responsible for coordinating the implementation of this Action Plan, including:
 - Maintaining and upholding the provisions set out in the “Walking Together” Declaration and the “One Heart, One Mind” Statement of Solidarity and Cooperation;
 - Participating in, and coordinating and facilitating dialogue as necessary through regional and provincial forums on child welfare issues;
 - Forming effective working partnerships with other First Nations organizations with mandates relating to children and families;
 - Forming effective working relationships with governments and other key partners;
 - Facilitating information-sharing amongst First Nations;
- Developing collective policy perspectives and strategies relating to children and families;
- Identifying resources to support the full implementation of this Action Plan;
- Developing and implementing a communications strategy; and
- Reporting regularly to First Nations, including through the assemblies of the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs.
- Consider the establishment of regional caucuses, processes and institutions, coordinated by the First Nations Child and Family Wellness Council, to provide ongoing support and advice with respect to the implementation of this Action Plan, and to develop regional/community-driven strategies and action plans within the broader framework.
- Establish issue-specific advisory groups as necessary to provide advice with respect to the implementation of this Action Plan.

MEASURING PROGRESS

- This Action Plan is intended to be responsive and dynamic. To gauge the effectiveness of this Action Plan, and ensure that it remains relevant and applicable over time, progress must be measured on a regular basis through the First Nations Child and Family Wellness Council establishing and tracking:

Measures

Targets

Task Responsibilities

Timelines

Outcomes

- The First Nations Child and Family Wellness Council, in collaboration with technical experts, will establish a baseline of information as an early priority, to assist with measuring progress over time.
- The First Nations Child and Family Wellness Council will report regularly to First Nations, including reporting through the BC Assembly of First Nations, First Nations Summit and Union of BC Indian Chiefs.



Progress



INDIGENOUS CHILD AT THE CENTRE ACTION PLAN

A PUBLICATION OF

