



Information Sheet

First Steps in Fixing the Inequities in First Nations Child and Family Services: Immediate Action Reforms

1965 Indian Welfare Agreement (Ontario)

January 10, 2016

Introduction

The Federal Government of Canada funds First Nations child and family services on reserve through the Department of Indigenous and Northern Affairs [INAC] (previously the Department of Aboriginal Affairs and Northern Development Canada). INAC requires that First Nations child and family service agencies on reserve use provincial/territorial child welfare laws as a condition of funding. Within its First Nations Child and Family Services Program, INAC uses four child welfare funding approaches: 1) funding arrangements with provinces and territories; 2) Directive 20-1; 3) the Enhanced Prevention Focused Approach [EPFA]; and 4) the 1965 Indian Welfare Agreement in Ontario.

In 2007, the First Nations Child and Family Caring Society of Canada (Caring Society) and the Assembly of First Nations filed a complaint pursuant to the *Canadian Human Rights Act* alleging that INAC's provision of First Nations child and family services is discriminatory (CHRT 7008/1340).

The case was filed as a last resort after the federal government failed to implement the recommendations of two reviews: 1) the Joint National Policy Review of First Nations Child and Family Services (2000) and 2) the Wen:de reports (2005). After the case was filed, the Auditor

General conducted two reviews and made recommendations for reform. Few were ever implemented.

In its closing submissions before the Canadian Human Rights Tribunal, the Caring Society put forward a three-phase remedy. The first phase provided immediate relief based on the prior recommendations. The second phase involved establishing a national committee composed of the Assembly of First Nations, the Caring Society, First Nations child and family service agencies and the Government of Canada to support regional negotiations to achieve substantive equity. The third phase involved establishing an independent oversight body to ensure the federal government does not slip back into discriminatory processes.

This information sheet summarizes the immediate actions INAC must take to provide immediate relief for First Nations children and families in Ontario. This is not an exhaustive list and readers are encouraged to review all of the final written submissions filed by the parties in CHRT 7008/1340 available at www.fnwitness.ca for greater detail.

Immediate, Preliminary Reforms for the 1965 Indian Welfare Agreement

- 1) The Government of Canada to make an immediate and public statement that current inequalities in First Nations services on reserve are discriminatory and will be addressed as a matter of immediate priority. Such a statement must be accompanied with a pledge to work with First Nations, First Nations child and family service agencies and experts to develop a specific action plan with detailed timelines and budgets to immediately address inequalities in First Nations services on reserve and prevent the recurrence of discrimination.
- 2) Replacement of the federal government's current response to Jordan's Principle with the response recommended in the joint report by the Assembly of First Nations, Canadian Paediatric Society, UNICEF et al. available at: http://www.afn.ca/uploads/files/jordans_principle-report.pdf
- 3) Provision of new financial resources for First Nations agencies across Canada as set out in the INAC 2012 presentation (CHRT Tab 248) in the amount of 109 million nationally per annum plus the 3 percent inflation adjustment applied retroactively to 2012. While this amount falls short of what will be required to achieve equality in First Nations services on reserve, it provides at least some initial relief for the children and their families.
- 4) Immediately update the schedule of the 1965 Indian Welfare Agreement to include the current provisions of child welfare statutes ensuring statutory requirements such as covering the costs of band representatives and prevention services.
- 5) Cessation of the INAC practice of taking funds from other First Nations programs such as housing, water and building schools to cover shortfalls in the education, child and family services and social assistance budgets.
- 6) Make a commitment to convene a tripartite review of the 1965 Indian Welfare Agreement in consultation with the Chiefs of Ontario and First Nations child and family service agencies in Ontario. INAC must provide sufficient funds for this review including funds for experts and consultation with, and meaningful participation by, the Chiefs of Ontario, First Nations and First Nations child and family service agencies. INAC must also make a public commitment to implement the recommendations of such a review in a timely manner consistent with the best interests of children.
- 7) Fund agency building renovations by qualified contractors where facility conditions pose a health and safety hazard. Additional costs related to capital will need to be addressed in the tri-partite review.
- 8) Mandatory training of all Government Members of Parliament regarding the Truth and Reconciliation Commission ("TRC") Report and Findings. Training for INAC staff and executive staff on the TRC report and findings as well as the First Nations Child and Family Service Program including the original structure of the program, overview of First Nations child welfare and reviews of the program.
- 9) Fund the development of culturally based practice standards and programs.

Reviews of the 1965 Indian Welfare Agreement (Child Welfare Provisions)

and Hudson Bay Family Services.

- a) Auditor General of Canada (2008*, 2011).
- b) Judith Rae (2009), The 1965 Agreement: Comparison and Review prepared for the Chiefs of Ontario.
- c) David Barnes & Vijay Shankar (2006). Northern Remoteness: Study and Analysis of Child Welfare Funding Model Implications on Two First Nations Agencies: Tikinagan Child and Family Services and Payukotayno: James Bay

* Full reports available at: <http://www.fncaresociety.com/i-am-witness-first-nations-child-and-family-services-funding>

**For more information on the case go to
www.fnwitness.ca or contact info@fncaresociety.com**

First Nations Child and Family Caring Society of Canada | 309 Cooper Street, Suite 401, Ottawa ON K2P 0G5