

Nations felt the lack of investment in least disruptive measures contributed to the over representation of First Nations children in care. Directive 20-1 was studied in a joint review conducted by Indian and Northern Affairs Canada (INAC) and the Assembly of First Nations in 2000. This review, known as the *Joint National Policy Review on First Nations Child and Family Services* (NPR, MacDonald & Ladd) provides some insight into the reasons why there has been such an increase in the numbers of Registered Indian children entering into care. The review found that INAC provides funding for child welfare services only to Registered Indian children who are deemed to be “eligible children” pursuant to the Directive. An eligible child is normally characterized as a child of parents who are normally resident on reserve. Importantly, the preamble to the Directive indicates that the formula is intended to ensure that First Nations children receive a “comparable level” of service to other children in similar circumstances. Moreover, there was no evidence that the provinces step in to top up federal child welfare funding levels if the federal funding level is insufficient to meet statutory requirements of provincial child welfare legislation or to ensure an equitable level of service. There were, however, occasions where provinces provided management information or training support but there were no cases identified where the province systematically topped up inequitable funding levels created by Directive 20-1. Overall the Directive was found to provide 22% less funding per child to FNCFSAs than the average province. A key area of inadequate funding is a statutory range of services, known as least disruptive measures, that are provided to children and youth at significant risk of child maltreatment so that they can remain safely in their homes. First Nations agencies report that the numbers of children in care could be reduced if adequate and sustained funding for least disruptive measures was provided by INAC (Shangreux, 2004). The NPR also indicates that although child welfare costs are increasing at over 6% per year there has not been a cost of living increase in the funding formula for FNCFSAs since 1995. Economic analysis conducted last year indicates that the compounded inflation losses to FNCFSAs from 1999-2005 amount to \$112 million nationally.

In total, the *Joint National Policy Review on First Nations Child and Family Services* included seventeen recommendations to improve the funding formula. It has been over six years since the completion of NPR and the federal government has failed to implement any of the recommendations which would have directly benefited First Nations children on reserve. As INAC documents obtained through access to information in 2002 demonstrate, the lack of action by the federal government was not due to lack of awareness of the problem or of the solution. Documents sent between senior INAC officials confirm the level of funding in the Directive is insufficient for FNCFSAs to meet their statutory obligations under provincial child welfare laws – particularly with regard to least disruptive measures resulting in higher numbers of First Nations children entering child welfare care (INAC, 2002.)

Despite having apparently been convinced of the merits of the problem and the need for least disruptive measures, INAC maintained that additional evidence was needed to rectify the inequitable levels of funding documented in the NPR. Therefore, the First Nations Child and Family Services National Advisory Committee, co-chaired by the Assembly of First Nations and INAC, commissioned a second research project on the Directive in September of 2004. This three part research project which was completed by the First Nations Child and Family Caring Society of Canada in 2005 involved over 20 researchers representing some of the most respected experts from a variety of disciplines including: economics, law, First Nations child welfare, management information systems, community development, management and sociology. This review is documented in three volumes: 1) *Bridging Econometrics with First Nations Child and Family Service Agency Funding* 2) *Wen:de: We are Coming to the Light of Day* 3) *Wen:de: the Journey Continues*, which are all publicly available on line at www.fncfcs.com.

Findings of the Wen:de series of reports include:

- The primary reason why First Nations children come to the attention of the child welfare system is neglect. When researchers unpack the definition of “neglect”, poverty, substance misuse and poor housing are the key factors contributing to the over representation of First Nations children in substantiated child welfare cases.
- The formula drastically under funds primary, secondary and tertiary child maltreatment intervention services, including least disruptive measures. These

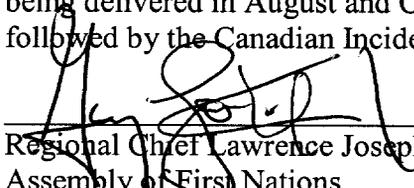
services are vital to ensuring First Nations children have the same chance to stay safely at home with support services as other children in Canada.

- Additional funding is needed at all levels of FNCFSAs including governance, administration, policy and practice in order to provide a basic level of child welfare services equitable to those provided off reserve by the provinces.
- Overall an additional \$109 million is needed in year one to redress existing funding shortfalls – representing approximately a 33% increase in the operations funding (funding not directly related to children in care) currently provided pursuant to the Directive. This represents a minimum investment to provide a basic level of equitable services comparable to those available to other Canadians, meaning that to provide anything short of this funding level is to perpetuate the inequity.
- Jurisdictional disputes between and amongst federal and provincial governments are a substantial problem with 12 FNCFSAs experiencing 393 jurisdictional disputes this past year alone. These disputes result in First Nations children on reserve being denied or delayed receipt of services that are otherwise available to Canadian children. Additionally, these disputes draw from already taxed FNCFSAs human resources as FNCFSAs staff spend an average of 54 hours per incident resolving these disputes. Jordan's Principle, a child-first solution to resolving these disputes, has been developed and endorsed by over 230 individuals and organizations. This solution is cost neutral and would ensure that children's needs are met whilst still allowing for the resolution of the dispute.
- Agencies serving less than 1000 children (and thus receive only a portion of the operations budget depending on populations levels) and agencies in remote communities require upwards adjustments in the funding formula.

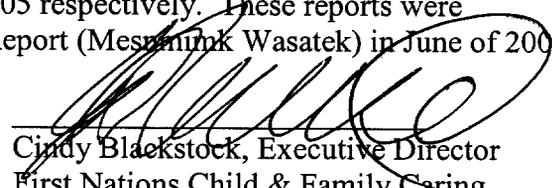
INAC recently announced it will provide \$25 million per year in additional First Nations child and family service funding for each of five years, which held some promise of relieving some of the cost pressures for FNCFSAs. Unfortunately, instead of targeting those dollars to benefit children, INAC allocated over \$15 million per year to fund its own costs arising from increased billings for children in care (due largely to lack of investments in least disruptive measures) and to hire staff. It did allocate an additional \$8.6 million per year for inflation relief for FNCFSAs, but this represents only a small portion of what is required to offset inflation losses. INAC has also stated that until it completes an evaluation of maintenance funding (funds to keep children in care) to satisfy a treasury board requirement it will not release the inflation funds for agencies. Upon questioning, INAC audit and evaluation unit was not able to identify a standard upon which it would evaluate the maintenance budget and was clearly not aware that measuring outcomes in child welfare is in the very early stages of development – even in non Aboriginal child welfare in Canada. The idea that child welfare funding to address a glaring inequality should be held back to satisfy such a poorly supported administrative requirement raises significant concerns.

The cost of perpetuating the inequities in child welfare funding are substantial – INAC maintenance costs for children in care continue to climb at over 11% per annum as there are no other options provided to agencies to keep children safely at home. Additionally, as Canada redresses the impacts of residential schools it must take steps to ensure that old funding policies which only supported children being removed from their homes are addressed.

We allege that Directive 20-1 is in contravention of Article 3 of the *Human Rights Act* in that Registered First Nations children and families resident on reserve are provided with inequitable levels of child welfare services because of their race and national ethnic origin as compared to non Aboriginal children. The discrimination is systemic and ongoing. INAC has been aware of this problem for a number of years and was presented with an evidence base of this discrimination in June of 2000 with the two *Wen:de* reports being delivered in August and October of 2005 respectively. These reports were followed by the Canadian Incidence Study Report (Mesmunk Wasatek) in June of 2006.


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