



HOUSE OF COMMONS  
CANADA

**CHAPTER 4, FIRST NATIONS CHILD AND FAMILY  
SERVICES PROGRAM - INDIAN AND NORTHERN  
AFFAIRS CANADA OF THE MAY 2008 REPORT OF  
THE AUDITOR GENERAL**

**Report of the Standing Committee on  
Public Accounts**

**Hon. Shawn Murphy, MP  
Chair**

**MARCH 2009**

**40th PARLIAMENT, 2nd SESSION**



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# **THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

has the honour to present its

## **SEVENTH REPORT**

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 4, First Nations Child and Family Services Program - Indian and Northern Affairs Canada of the May 2008 Report of the Auditor General of Canada and has agreed to report the following:

## INTRODUCTION

Children are amongst the most vulnerable people in society. Every effort ought to be taken to ensure that they are protected from abuse and neglect, and assistance is provided to families so children can grow up in a safe home environment. Where this is not possible, it may be necessary to find a safe, permanent home for the child.

As child welfare is a provincial responsibility, all provinces have child welfare statutes in place and have services for children at risk or in need. Providing First Nations children access to child welfare services in their communities is a recent undertaking. Formerly, many First Nations children were adopted out of their communities by provincial child welfare services; today, most provinces delegate authority for these services to local First Nations agencies which are responsible for taking appropriate actions to ensure the safety and protection of children and promoting their well-being.

As First Nations peoples living on reserves are a federal responsibility, Indian and Northern Affairs Canada operates a First Nations Child and Family Services Program. The objective of this program is to fund the provision of child welfare services that are culturally appropriate, that comply with provincial legislation and standards, and that are reasonably comparable with services provided off reserves in similar circumstances.

In May 2008, the Office of the Auditor General presented to Parliament an audit of the First Nations Child and Family Services Program.<sup>1</sup>

Given the importance of the safety and well-being of all Canadian children and the disturbing findings of the audit, the Public Accounts Committee held a hearing on this audit on 12 February 2009 with officials from the Office of the Auditor General (OAG) and Indian and Northern Affairs Canada. The OAG was represented by Sheila Fraser, Auditor General of Canada; Ronnie Campbell, Assistant Auditor General; and Jerome Berthelette, Principal. INAC was represented by Michael Wernick, Deputy Minister; Christine Cram, Assistant Deputy Minister, Education and Social Development

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<sup>1</sup> Auditor General of Canada, May 2008 Report, Chapter 4, *First Nations and Family Services Program—Indian and Northern Affairs Canada*.

Programs and Partnerships Sector; Mary Quinn, Director General, Social Policy and Programs Branch; Odette Johnston, Director, Social Programs Reform Directorate.

## **BACKGROUND**

In 1990, the federal government approved a First Nations child welfare policy that promoted the development of culturally appropriate child and family services controlled by First Nations for the benefit of on-reserve children and their families. Based on this policy, Indian and Northern Affairs Canada (INAC) created the First Nations Child and Family Services Program. Under this program, INAC provides funding to First Nations, their organizations, and provinces to cover the operating and administrative costs of the child welfare services provided to children and families living on reserves, as well as the costs related to First Nations children placed in care.

In 2007, INAC spent \$450 million on the First Nations Child and Family Services Program: \$270 million on direct support for First Nations children in care and \$180 million on the operations and administration of child welfare services provided to First Nations. The Program supports 105 First Nations Child and Family Services Agencies to deliver child and family services to approximately 160,000 children and youth in approximately 447 out of 573 First Nation communities.

The statistics of the number of First Nations children in care are alarming. At the end of March 2007, there were about 8,300 on-reserve children in care, a little over 5 percent of all children living on reserves. This proportion is almost eight times that of children in care living off reserves. Some of the major contributing reasons for children coming into care are poverty, poor housing conditions, substance abuse, and exposure to family violence.

The objective of the OAG's audit was to determine whether INAC was fulfilling its responsibility, under federal policy, to support child welfare services to on-reserve children and families that are culturally appropriate and reasonably comparable with provincial services available off reserves in similar circumstances.



## **ACTION PLAN**

The audit made six recommendations, and the Committee fully supports these recommendations. As Indian and Northern Affairs Canada agreed with all of the recommendations, the Committee expects that the Department will fully implement them.

In response to audits by the Office of the Auditor General, the Committee expects that departments prepare an action plan that details what actions will be taken in response to each recommendation, specifies timelines for the completion of the actions, and identifies responsible individuals for ensuring the actions are undertaken in a prompt and effective manner. An action plan demonstrates management's commitment to implementing the OAG's recommendations, provides transparency about the department's plans, and allows the department to be held to account for specific actions.

The Committee also expects that departments provide detailed action plans before their hearing. This allows Committee members to review the action plan and to develop questions for departmental officials.

The work for the audit on the First Nations Child and Family Services Program was completed on 9 November 2007, and the audit was tabled in Parliament on 6 May 2008. However, the Deputy Minister and Accounting Officer for INAC, Michael Wernick, only provided vague generalities in his opening statement about the Department's actions in response to the audit; though, he did commit to providing a follow-up report to the Committee in April. When asked if he had a concrete and specific action plan to provide to the Committee, Mr. Wernick said, "we have an action plan in the sense that we're pursuing these various initiatives. That was the undertaking I made at the beginning: that it would be going to my audit committee in the month of April and we'd provide it to the committee. It will go through each recommendation and give more specifics on what we're doing or what we already have done."<sup>2</sup>

While the Deputy Minister verbally committed to providing an action plan and follow-up report to the Committee in April, the Committee is very concerned that

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<sup>2</sup> House of Commons Standing Committee on Public Accounts, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Meeting 4, 17:10.

there is no evidence of an action plan currently in place, and that it would take so long to finalize an action plan. The Committee agrees that the departmental audit committee should be regularly examining this issue and ensuring that appropriate progress is made. In order to ensure that INAC follows through on its commitment, the Committee recommends:

### **RECOMMENDATION 1**

**That Indian and Northern Affairs Canada provide a detailed action plan to the Public Accounts Committee by 30 April 2009 on the implementation of the Office of the Auditor General's recommendations included in the May 2008 audit of the First Nations Child and Family Services Program.**

### **POLICY REQUIREMENTS**

According to the audit, the federal government's First Nations child welfare policy commits the government to fund child welfare services that are culturally appropriate, that comply with provincial legislation and standards, and that are reasonably comparable with services provided off reserves in similar circumstances.<sup>3</sup> Similar wording is provided on INAC's website, "The First Nations Child & Family Services (FNCFS) Program assists First Nations in providing access to culturally sensitive child and family services in their communities, and ensures that the services provided to First Nations children and their families on-reserve are comparable to those available to other provincial residents in similar circumstances."<sup>4</sup>

However, the audit found that INAC had not analyzed and compared the child welfare services available on reserves with those in neighbouring communities off reserves.<sup>5</sup> In some cases comparability may not be appropriate, as First Nations communities often cannot rely on other social and health services to help keep a family together, services are sometimes delivered in isolated areas, and First Nations communities may face more challenging situations than other communities.

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<sup>3</sup> Chapter 4, paragraph 4.17.

<sup>4</sup> <http://www.ainc-inac.gc.ca/hb/sp/fncf/index-eng.asp>

<sup>5</sup> Chapter 4, paragraph 4.19.

Nonetheless, it should be possible to compare the level of funding provided to First Nations child and family services agencies to similar provincial agencies, and given their unique and challenging circumstances, it would be reasonable to expect First Nations agencies to receive a higher level of funding. Yet, when asked how the funding for First Nations child and family service agencies compares to agencies for non-natives, the Assistant Deputy Minister said, "I'm sorry, but we don't know the answer."<sup>6</sup> The same question was put to the Deputy Minister and he replied, "Our accountability is for the services delivered by those agencies to the extent that we fund them."<sup>7</sup>

The Committee finds these responses quite disappointing. The Deputy Minister's response was unsatisfactory because the issue under discussion is the extent to which the agencies are funded. Also, to not know how the funding compares to provincial agencies makes the Committee wonder how the level of funding is determined, and how the Department can be assured that it is treating First Nations children equitably.

Some indication of how the funding level for First Nations child welfare agencies compares to provincial agencies can be found in the *Joint National Policy Review* conducted in 2000. This review found that, "DIAND [Department of Indian and Northern Development] has been limited to 2% budgetary increases for the department while expenditures for FNCFS [First Nations child and family services] agencies have been rising annually at an average rate of 6.2%. The average per capita per child in care expenditure of the DIAND funded system is 22% lower than the average of the selected provinces."<sup>8</sup>

This review, though, is now somewhat dated and is not a complete picture of all provinces. As the policy requires First Nations child welfare services to be comparable with services provided off reserves and the Committee believes that First Nations children should be treated equitably, the Committee believes that INAC must

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<sup>6</sup> Meeting 4, 16:10.

<sup>7</sup> Meeting 4, 16:25.

<sup>8</sup> Dr. Rose-Alma J. McDonald, Dr. Peter Ladd, et. al., *First Nations Child and Family Services Joint National Policy Review*, June 2000, page 14. This report was prepared for the Assembly of First Nations with First Nations Child and Family Service Agency Representatives in partnership with the Department of Indian Affairs and Northern Development.

have comprehensive information about the funding level provided to provincial child welfare agencies and compare that to the funding of First Nations agencies. This does not mean that INAC should adopt provincial funding formulae for First Nations agencies as the needs for First Nations agencies are unique and often greater. Nonetheless, at the very least, INAC should be able to compare funding. Consequently, the Committee recommends:

## **RECOMMENDATION 2**

**That Indian and Northern Affairs Canada conduct by 31 December 2009 a comprehensive comparison of its funding to First Nations child and family welfare services agencies to provincial funding of similar agencies and provide the Public Accounts Committee with the results of this review.**

In addition to comparability, the policy also requires that child welfare services be “culturally appropriate.” The audit found that INAC had not yet defined the meaning of “culturally appropriate services.”<sup>9</sup> The main indicator of culturally appropriate used by the Department is the number of agencies being funded. However, many of these agencies provide only a limited portion of services, while provinces continue to provide the rest.

When asked whether the Department had defined “culturally appropriate services,” the Deputy Minister somewhat flippantly replied, “Culturally appropriate services are not really something that I, as a white bureaucrat in Ottawa, can define for a first nations agency operating in a particular community.”<sup>10</sup> The Committee was not expecting the Deputy Minister to provide the definition, but instead he should have had a clear grasp of what progress the Department has made in working with its partners to develop a definition, especially as the Department’s response to the OAG’s recommendation states, “Definitions of culturally appropriate services will be developed through discussions with the various First Nations based upon community

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<sup>9</sup> Chapter 4, paragraph 4.23.

<sup>10</sup> Meeting 4, 16:20.

circumstances, and are targeted for completion in 2012.”<sup>11</sup> As the Committee would like to know what progress has been made to date, the Committee recommends:

### **RECOMMENDATION 3**

**That Indian and Northern Affairs include a clear indication of progress made in defining “culturally appropriate services” in its follow-up report on the Office of the Auditor General’s audit of the First Nations Child and Family Services Program to be provided to the Public Accounts Committee in April 2009.**

### **FUNDING FORMULAE**

Indian and Northern Affairs currently has two funding formulae in place for the First Nations Child and Family Services Program: one formula, known as Directive 20-1, was designed in 1988 and has not been significantly modified since, and a new formula that is being developed in tripartite agreements with First Nations and provinces. There are currently tripartite agreements in place with Alberta, Saskatchewan, and Nova Scotia.

The older funding formula has the effect of increasing the number of children in care because the costs of in-care options—foster care, group homes and institutional care—are fully reimbursed under this formula. In other words, under Directive 20-1, the Department will cover the costs of children in care regardless of the amount, but it will provide minimal funding for supports for children to be cared for safely in their own family.

Moreover, the audit points out that this formula does not ensure an equitable allocation of program funding.<sup>12</sup> It is based on the assumption that each First Nations agency has 6 percent of on-reserve children placed in care. Though, the audit found that the actual percentage of children in care can range from 0 to 28 percent. The formula is also unresponsive to factors that can cause wide variations in operating costs, such the capacity of small agencies to provide the required range of child welfare services.

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<sup>11</sup> Chapter 4, response to recommendation 4.26.

<sup>12</sup> Chapter 4, paragraph 4.52.

The Deputy Minister acknowledged the flaws in the older funding formula and pointed to the new approach:

What we had was a system that basically provided funds for kids in care. So what you got was a lot of kids being taken into care. And the service agencies didn't have the full suite of tools, in terms of kinship care, foster care, placement, diversion, prevention services, and so on. The new approach that we're trying to do through the new partnership agreements provides the agencies with a mix of funding for operating and maintenance--which is basically paying for the kids' needs--and for prevention services, and they have greater flexibility to move between those.

In other words, the new formula is based on an enhanced prevention approach, which is intended to improve outcomes for children and families and reduce the need for out-of-home placements. The enhanced prevention approach provides First Nations child welfare agencies greater flexibility to fund such options as family supports, in-home services, and kinship care. This new approach has been called the "Alberta Response model," and it should lead to better outcomes for children and possibly lower costs in the long-term. The Committee supports this prevention-based approach as it brings together a range of community partners to support children and their families.

However, both funding formulae are currently in place. The Assistant Deputy Minister, Christine Cram, described the current situation:

We currently have two formulas in operation. We have a formula for those provinces where we haven't moved to the new model. Under that formula, we reimburse all charges for kids who are actually in care, and that's why the costs have gone up so dramatically over time. There were comments made about the fact that under the old formula there wasn't funding provided to be able to permit agencies to provide prevention services. That's a fair criticism of the old formula. Under the new formula, as the deputy was mentioning, we have three categories in the funding formula. We have operations, prevention, and maintenance. So those are each determined on a different basis.<sup>13</sup>

So, First Nations child welfare agencies in the three provinces noted above are funded by the new formula, but agencies in the rest of the country are funded under the old formula, until new tripartite agreements are signed, which the Department hopes to achieve with all provinces by 2012.

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<sup>13</sup> Meeting 4, 16:05.

The Committee is quite concerned that the majority of First Nations children on reserves continue to live under a funding regime which numerous studies have found is not working and should be changed. According to the Joint National Policy Review, “The funding formula inherent in Directive 20-1 is not flexible and is outdated.”<sup>14</sup> The 2005 *Wen:de* report, which undertook a comprehensive review of funding formulae to support First Nations child and family service agencies, found that the current funding formula drastically underfunds primary, secondary and tertiary child maltreatment intervention services, including least disruptive measures. The report writes, “The lack of early intervention services contributes to the large numbers of First Nations children entering care and staying in care.”<sup>15</sup> An evaluation prepared in 2007 by INAC’s Departmental Audit and Evaluation Branch recommended that INAC, “correct the weaknesses in the First Nations Child and Family Service Program’s funding formula.”<sup>16</sup> The OAG concluded, “As currently designed and implemented, the formula does not treat First Nations or provinces in a consistent or equitable manner. One consequence of this situation is that many on-reserve children and families do not always have access to the child welfare services defined in relevant provincial legislation and available to those living off reserves.”<sup>17</sup>

Yet, this funding formula continues. As the Auditor General puts it, “Quite frankly, one has to ask why a program goes on for 20 years, the world changes around it, and yet the formula stays the same, preventative services aren’t funded, and all these children are being put into care.”<sup>18</sup>

While the Committee appreciates the efforts the Department is making to develop new agreements based on the enhanced prevention model, the Committee completely fails to understand why the old funding formula is still in place. Moving to new agreements should in no way preclude making improvements to the existing formula, especially as it may take years to develop agreements with the provinces. In

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<sup>14</sup> Dr. Rose-Alma J. McDonald, Dr. Peter Ladd, et. al., *First Nations Child and Family Services Joint National Policy Review*, June 2000, page 17.

<sup>15</sup> First Nations Child and Family Caring Society of Canada, *Wen:de: The Journey Continues*, 2005, page 35.

<sup>16</sup> Indian and Northern Affairs Canada, Departmental Audit and Evaluation Branch, *Evaluation of the First Nations Child and Family Services Program*, March 2007, page 48.

<sup>17</sup> Chapter 4, paragraph 4.66.

<sup>18</sup> Meeting 4, 17:15.

the meantime, many First Nations children are taken into care when other options are available. This is unacceptable and clearly inequitable. The Committee recommends:

#### **RECOMMENDATION 4**

**That Indian and Northern Affairs immediately modify Directive 20-1 for the funding of First Nations child and family services agencies to allow for the funding of enhanced prevention services, and report back to the Public Accounts Committee on its progress in making this change by 30 June 2009.**

The Auditor General also expressed concerns with the new funding formula. She told the Committee that:

the new formula does not address the inequities of the existing formula. It still assumes that a fixed percentage of first nations children and families need child welfare services. Agencies with more than 6% of their children in care will continue to be hard-pressed to provide protection services while developing family enhancement services. In our view, the funding formula should be more than a means of distributing the program's budget; it should take into account the varying needs of first nations children and communities.

The Committee could not agree more, especially as the Department has known about this problem in the old formula yet has repeated it in the new formula. The Committee is very disturbed that the Department would take a bureaucratic approach to funding agencies, rather than making efforts to provide funding where it is needed. The result of this approach is that communities that need funding the most, that is, where more than six percent of the children are in care, will continue to be underfunded and will not be able to provide their children the services they need. The Committee strongly believes that INAC needs to develop a funding formula that is flexible enough to provide funding based on need, rather than a fixed percentage. The Committee recommends:

#### **RECOMMENDATION 5**

**That Indian and Northern Affairs Canada ensures that its funding formula for First Nations child and family services agencies is based upon need rather than an assumed fixed percentage of children in care, and report back to the Public Accounts Committee on its progress in making this change by 31 December 2009.**



## REALLOCATIONS

In order to moderate the pace at which program expenditures were growing, in 1995 the Department's annual funding increases were limited to 2 percent. The First Nations Child and Family Services Program's budget, though, has increased significantly over the last few years—from \$193 million in 1997 to \$450 million in 2007. The Program's needs and consequent expenditures are growing faster than the department's overall budget. This has led INAC to reallocate funding from other programs, such as community infrastructure and housing.<sup>19</sup> This means that spending on housing has not kept pace with growth in population and community infrastructure has deteriorated at a faster rate.

The OAG recommended that INAC should determine the full cost of meeting the policy requirements of the First Nations Child and Family Services Program. While the Committee believes that this is a positive first step, it does not resolve INAC's continuing problem of constantly having to reallocate funds from one program to another in order to meet emergencies. This means that other pressing needs are underfunded. As the Committee is troubled by the problem of continuing reallocations within INAC, it recommends:

### RECOMMENDATION 6

**That Indian and Northern Affairs Canada determine the full costs of meeting all of its policy requirements and develop a funding model to meet those requirements.**

## THE BEST INTERESTS OF CHILDREN

In order to determine whether or not a program is having its intended effects, it is necessary to set clear and concrete objectives and to collect information about the program's results as assessed against these objectives. In this case, the goal of the First Nations Children and Family Services Program should be to ensure that First Nations children are protected from abuse and neglect and are able to grow up in a safe environment. INAC should know whether or not children are better off as a result of

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<sup>19</sup> Chapter 4, paragraph 4.72.

this program. Measuring results would allow the department to modify and improve the program based upon solid empirical information.

However, the audit found that the information collected by INAC is mostly for program budgeting purposes. INAC has little information on the outcomes of its funding on the safety, protection, or well-being of children living on reserves.<sup>20</sup> In other words, INAC does not know whether its funding is in the best interests of First Nations children.

If INAC had been collecting this information, then perhaps it would have realized long ago that its old funding formula, Directive 20-1, encouraged agencies to put children into care, rather than fund family-based prevention services. It is not in the best interests of children to place more children into care than is necessary, and it is not in the best interests of children to provide funding based on a fixed percentage of costs rather than on need.

The Committee believes that if INAC were to set criteria based on the best interests of children and to measure the results of its program on the basis of these criteria, then it might better manage the program to meet the needs of First Nations children. Consequently, the Committee recommends:

#### **RECOMMENDATION 7**

**That Indian and Northern Affairs Canada develop measures and collect information based on the best interests of children for the results and outcomes of its First Nations Child and Family Services Program.**

#### **CONCLUSION**

The Committee recognizes that some progress is being made. Tripartite agreements have been signed with Alberta, Nova Scotia, Saskatchewan, and First Nations groups. The new approach to child welfare in Alberta is a model that the government is seeking to replicate across Canada. As Ms. Fraser noted, “I think we can be somewhat hopeful when we look at the Alberta model, which is recognizing that services have changed and funding based on that example is going to go up quite

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<sup>20</sup> Chapter 4, paragraph 4.86.

significantly.”<sup>21</sup> The Committee also recognizes the increase in funding for the First Nations Child and Welfare Services Program over the last few years from \$193 million in 1996-1997 to a projected \$523 million in 2008-2009.

Despite this progress, First Nations children are particularly vulnerable and the necessity of adequate funding of First Nations child and family services cannot be denied. The Committee is disappointed with the bureaucratic approach taken by Indian and Northern Affairs Canada to funding its First Nations Child and Family Services Program. It is continuing to use a funding formula with extensive flaws and its new funding formula incorporates some of those same flaws. The formula is not based on the actual cost of delivering services, is not sufficiently linked to the costs of meeting provincial requirements and standards, does not reflect the current range of child welfare services, nor does it take into account the varying populations and needs of First Nations communities

Continuing to use a flawed funding formula means that First Nations child and family services agencies are often underfunded, and First Nations children and their families do not receive the services that they need. Instead, First Nations children are much more likely to enter into and stay in care, and their families are not given the full range of support services to help them provide a safe environment for their children. This situation is not tenable. The Committee sincerely hopes that INAC will take prompt action to ensure that First Nations children are provided appropriate and adequate services in a manner that treats them equitably with all other Canadian children.

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<sup>21</sup> Meeting 4, 17:15.

## APPENDIX A LIST OF WITNESSES

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Organizations and Individuals	Date	Meeting
<b>Department of Indian Affairs and Northern Development</b> Christine Cram, Assistant Deputy Minister, Education and Social Development Programs and Partnerships Sector  Odette Johnston, Director, Social Programs Reform Directorate  Mary Quinn, Director General, Social Policy and Programs Branch  Michael Wernick, Deputy Minister	2009/02/12	4
<b>Office of the Auditor General of Canada</b> Jerome Berthelette, Principal  Ronnie Campbell, Assistant Auditor General  Sheila Fraser, Auditor General of Canada		

# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 4, 6 and 8](#)) is tabled.

Respectfully submitted,

Hon. Shawn Murphy, MP

Chair