

NORTHERN ABORIGINAL AUTHORITY FOR FAMILIES - CHILD WELFARE SERVICE DELIVERY

Prepared by Lyndale George, MSW

PURPOSE

The purpose of this paper is to identify issues, recommendations and concerns in the following five areas:

1. What are the different models of service delivery?
2. What is the service menu and what are the services that we can expect to provide?
3. What are some Best Practices in service delivery?
4. How do we provide quality care to our children during the planning process?
5. What is the definition of Best Interests and how should it be reflected in our communities?

RESEARCH

Research for the paper included a literature review, a list of the references are listed in Appendix 1, and through interviews that included two NAAF Board members, staff of a delegated agency, and a staff member of an organization in the planning stages of delegation.

SERVICE DELIVERY MODELS

Author Marilyn Bennett “*A General Profile on First Nations Child Welfare in Canada*” makes reference to an article written by Cindy Blackstock “*Aboriginal Child Welfare : Jurisdictional Models of Service Delivery*” in which she (Blackstock) identifies six jurisdictional models of service delivery:

1. **Delegated Model** – which is the most common model in operation throughout Canada, since the introduction of the DIAND funding formula, Directive 20-1. The provincial or territorial governments, who have jurisdiction over Child Welfare through legislation, delegate authority to First Nations, and funding is received through DIAND. Services can also be negotiated to include off-reserve band members. Delegation can be either full (including prevention and protection services) or partial in which the agency provides support and prevention programs but protection services remain with the province.
2. **Pre-Mandated Child and Family Services** – these organizations are primarily located in the province of Ontario and they provide prevention and family support services and are seen as a “capacity building measure pending receiving adequate resources and recognition of jurisdiction, through the delegated model or tribal based authority”.

3. **Band By-Law Model** – in the 1980’s the Spallumcheen First Nation passed a by-law indicating that they would assume full jurisdiction over child and family services on reserve. Funding is through DIAND and the provincial government has recognized the band by-law authority. This is the only model of its kind in BC.
4. **Tri-partite Model** – both the Federal and Provincial governments delegate their law making authority to a First Nation. The only Tri-partite model in BC is the Sechelt First Nation. Both governments have delegated their law making authority to the Nation, but this law making authority requires that the Nation meet provincial standards. The Tri-partite model has been adopted by the First Nations in Manitoba.
5. **Self-Government Model** – Jurisdictional authority is based on treaties and allows the Nation to implement their own tribal laws. *“This model has the benefit of being based on the worldview, cultures and histories of the Aboriginal peoples and affirms, versus competes with, traditional child and family caring processes.”* Bennett/Blackstock state that many First Nations and Aboriginal groups express interest in this model, which is most likely due to the fact that they would have full jurisdiction.
6. **Aboriginal People and Nations nor served by an Aboriginal Child and Family Service Agency** - These Nations are generally served by the provincial or territorial governments due to a number of reasons; they may not have the population base to access funding through directive 20.1, the governments may not be willing to support the Nation or the communities may be satisfied with the services being delivered by the provincial or territorial government at this time. Both the authors however stress the importance of protocol agreements *“to ensure meaningful community involvement and support in the care and support of children, youth and families from their communities.”* (Bennett, date? [Blackstock, 2003])

The issue and importance of Aboriginal groups having jurisdiction dominates discussion throughout the literature, and in the interviews. In the article by McKenzie, Seidl and Bone, they write that when the Manitoba First Nations first negotiated the Tri-partite agreement, the fact that the province would have jurisdiction through legislation was seen as a “contentious issue”. The Nations regarded this as an interim measure with the longer term goal of distinct standards and legislation or jurisdiction for First Nations. The Shuswap Nation Tribal Council also states that “delegating provincial powers and provincial policies onto Indigenous communities will not work.” (Kukpi7 Christian Splotsin-Secwepemc Nation – powerpoint)

In Nancy Sandy’s NAAF Regionalization Paper, Delegated Agency staff members articulated concerns and frustrations with the regionalization process. *“It is clear from*

their responses to the interview questions that revival of First Nations inherent jurisdiction in child welfare takes precedence over plans to continue regionalization.”
(Sandy, page 62)

Is there willingness on the part of the province to address the question of jurisdiction. Are the Aboriginal groups going to have full jurisdiction, shared jurisdiction or is jurisdiction going to remain with the province. If the jurisdiction is going to remain fully or partially with the province is the province willing to look at changing policies to take into account the different or conflicting aboriginal principle and values of each Aboriginal or Metis culture of the North Region? Will there be dispute resolution mechanisms in place when there are issue of conflict between the Aboriginal/Metis principles and values and those of the Province.

If the province is unwilling to agree to amend legislation surrounding the jurisdictional issue then are they willing to engage in dialogue to amend the policy framework to fit the needs of the Aboriginal/Metis community.

SERVICE MENU

The research for this section was done in two stages; what is presently being provided and what would the various interviewees like to see provided in the future.

Within the NAAF region those Aboriginal Authorities that are providing child welfare services to their nations as Delegated Agencies or with the Nisga’a, Self Government model, are at various levels of delegation which range from partial to full delegation. Some of those services include:

- Support services for families – including counselling, in-home support for parents experiencing difficulties, respite care
- Voluntary care agreements
- Special needs agreements
- Establishing family care home
- Guardianship
- Child protection and temporary custody of children

Interviewees, all stressed the fact that they are expected to provide the same or comparable services that the Ministry provides but they are not given comparable funding to do so through Directive 20-1. This has been reiterated in the report by Nancy Sandy, in which she makes note that the funding formula is population based and the funding is not comparable to other agencies providing comparable services to the general public.

They also questioned the extensive funding that is made available through Ministry contracts to both Aboriginal and non-aboriginal organizations with little or no known accountability or evaluation on the effectiveness of those programs. This is an issue that all those interviewed would like to see addressed. They felt that information should be made public identifying what contracts are presently being funded in the NAAF region

and they would also like to see more community consultation, to determine if they are effective and if not how can they change to meet the need.

The NAAF Board has identified “Core Programs” in the July 14, 2003 *Draft Consultation Process for Discussion*:

1. **Child and Family Development** – (formerly called Family Support) programs to ensure children at risk of harm receive necessary support services.
2. **Child Protection/Guardianship/Adoption** – carries out the responsibilities outlined in the child, Family, and Community Service Act, to ensure children found to be at risk of harm are protected from further abuse or neglect. The program included foster care, and adoptions.
3. **Youth Justice** – Promotes rehabilitation services to youth in conflict with the law. Programs vary from day programs, treatment, alternative justice, to intensive supervision and community services. Provides youth custody and youth probation services to youth aged 12 – 17.
4. **Child and Youth Mental Health** – Consultation, clinical based assessment and therapy, home-based and outreach services, family development/support services, day treatment, crisis intervention, crisis intervention and stabilization services, and residential services.
5. **Special Needs for Children and Youth** – Family support and intervention programs which promote healthy development and functioning of children and youth to optimize lifetime opportunities and assist families in their role of primary caregivers.
6. **Early Childhood Development** – Encourages the development of healthy children from pregnancy to age 6 in order to prevent problems that might later require more intensive intervention.

However here again the issue of jurisdiction, is identified as a roadblock to providing these services in a model that would be culturally appropriate.

“The quandary of the federal jurisdiction in the area of “Indians” and the refusal of either level of government to relieve themselves of child welfare jurisdiction remain the impediment for FN to exercise the jurisdiction they envision for the care and control of child and family services.” (Sandy, page 10 & 11)

BEST PRACTICES

The West Region Child and Family Services of Manitoba have been providing services to Aboriginal children since 1982 and they have reported “*fewer children in care, good*

quality child protection services, new program initiatives to support families and children, culturally relevant services and high staff moral.” (McKenzie, 1997, page 1)

They have identified four main principles for the operation of their organization:

- Aboriginal control
- Community based services including community outreach and prevention programs.
- Comprehensive, team oriented services with community based staff and access to specialized services in the areas of child abuse, treatment support, and alternate care (foster care and adoptions), family violence programs, day care alternatives, treatment programs for youth and family healing programs.
- Cultural relevancy.

Why is community control important? Author Brian Wharf in “First Nations Control of Child Welfare Services, references Frank Cassidy on the potential benefits of community control.

- People are more sensitive to their own needs.
- Community organization have more access to local information; they frequently “have the advantage of a long memory and of the collective family histories of those most deeply involved” in various activities.
- Commitment to and the chance of success are greatly strengthened when those who have to live with the outcomes of governmental activities are involved in decisive ways in such activities.
- The need for transactions between external and local parties is reduced, and, as a result, programs and services tend to be more appropriate, efficient, and effective.
- More integration between government strategies, programs, and services takes place, as citizens rather than bureaucracies assert their needs.
- Involved publics are more aware of community problems and the resources that might be available to address them.
(Wharf, 1992, page 118)

Recommendations

Community driven programs that focus on:

- Developing cultural plans (such as Roots) that reunite aboriginal children who have been in care, with their family, extended family and community
- Community involvement in the planning and delivery of culturally appropriate Plans of Care
- Identifying extended family or community members as alternative placements for children
- Providing culturally appropriate support services and programs for families in crisis

- Implement prevention programs that are culturally appropriate and promote and encourage healthy families
- Develop positive working relationships with the Ministry for children and Family Development staff

PROVIDING INTERIM QUALITY CARE

Both in the literature reviews and in the interviews, the importance of protocol agreements is mentioned. Protocols between Delegated agencies, between Delegated Agencies and bands, etc. Most importantly is the need for protocols between the Ministry and those communities that are not a part of any agency and receive services from the province.

Under current legislation, the province is required to notify the community in the event of an apprehension, but a protocol agreement would ensure that the community would have input in all aspects or levels of Ministry involvement with children and families.

Secondly, team work or interagency meetings to coordinate efforts of all levels of government providing services to all Aboriginal or Metis children and families both on and off reserve to ensure that the best services are provided and that there is not duplication of services.

Recommendations:

1. That the NAAF provide assistance to those communities or organizations requiring assistance in developing protocols with all service providers

BEST INTERESTS

Problems

While the current Act, includes “best interests” and in particular the importance of maintaining culture of Aboriginal children, it does not go far enough in addressing the issue especially due to the large number of differing tribal groups and Metis in BC. In addition to this, the definition of “best interests” in relation to the culture of a child is left to the Ministry worker and or judge who are generally not familiar with the vast differences in the culture and traditions of the various tribal groups, and Metis, that reside in BC both on and off reserve. There is little understanding and this can lead to taking a “pan-Indian” approach and making assumptions, such as all Aboriginal peoples participate in sweat lodges, use sweet grass or sage, participate in pow wows, etc. when this is far from the truth.

Author Marlee Kline in her article “*Child Welfare Law, Best Interests of the Child Ideology, and First Nations*”, states:

“The tragic impact of child welfare law on First Nations can be attributed in part to the liberal form taken by the best interests principle in child welfare adjudication. It has directed judges to focus on the child as an individual abstracted out of her community and cultural contexts, and it has rendered judicial decisions impartial and objective and, thereby, unassailable.” (Kline, 1992, page 391)

The author further states that the “best interests” standard in most provincial legislation allows for broad discretion for provincial social workers and judges so that at times it seems to negate “the relevance and importance of maintaining a child’s First Nations identity and culture”. (Kline, 1992, page 393)

Kline gives four examples in which a child’s First Nations culture was not always considered by judges as an important factor in determining “best interests”;

1. **Individuation and the importance of maintaining a First Nations child’s culture and identity** - Courts may either deny the relevance of maintaining a child’s culture or “assign it little weight relative to other factors”. Judges insist that a child must be considered as an individual and therefore race and culture is irrelevant.
2. **The abstraction of culture** - Maintaining a child’s First Nations heritage is in the abstract, meaning “the specificity of different First Nations cultures is obscured.” (Kline, 1992, page 410) Judges may put weight to the idea of maintaining culture but feel that any First Nations culture will be sufficient.
3. **Psychological bonding and permanent placement versus cultural connection**- In some case where a First Nations child has been in care for an extended period of time, the judge will determine that psychological bonding (to foster parents) is more important than having the child return to live with extended family. “The closer the bond that develops with the prospective adoptive parents the less important the racial element becomes.” (Kline, 1992, page 404). In addition to this, some judges and social workers may feel that the permanent placement of a child is of more importance than maintaining culture.
4. **The construction of those who challenge disposition decisions** – in cases where a parent, a member of the extended family or the child’s First Nation challenges a court or Ministry decision, they are sometimes seen as acting for their own self interest as opposed to the child’s best interests. This again alludes to the idea that courts (and Ministry workers) see the child as an individual as opposed to a child with strong ties to an extended family, community and culture. The collective has a vested interest in a child as opposed to a selfish interest.

Placing Aboriginal/Metis children in non-Aboriginal/Metis foster or adoptive homes has resulted in them suffering from major mental health issues including identity formation, inadequate coping skills and loss of their natural support systems. (Cross, 1989)

Recommendations

The following are recommendations from each of the individuals or groups interviewed:

- The child's culture must be maintained,
- The focus must be on prevention programs and services because children need to remain with their family, extended family and community.
- The child's family or community must be involved in the Plan of Care and the return to the family
- Children that are currently in care to must make connections with their family, extended family and community

As a result of the literature review and the interviews the following should also be considered as "best interests":

- The family and or extended family should be seen as the primary system of support and preferred point of intervention.
- If substitute care is needed, the order of preference should be with the extended family, other members of the community, other Aboriginal/Metis families and last non-Aboriginal/Metis placements.
- Preservation of the child's own Aboriginal/Metis culture, language and customs is paramount in the child's life.
- Whenever possible the child and family should be able to work with an Aboriginal/Metis staff that is familiar with the child's culture and traditions

"...while advocates from minority communities clamor for culturally sensitive services, the professional world has had very little notion of what that means."
(Cross, 1989, page 12)

CONCLUSION

Through the research and interviews conducted there were concerns that kept surfacing as issues that need to be addressed in order to ensure that the best services are provided to Aboriginal and Metis children and families.

1. Jurisdiction – this has been identified as an issue that needs to be negotiated with between the NAAF and the Province. Is the NAAF going to have full jurisdiction, shared jurisdiction or is jurisdiction going to remain with the province. If the province maintains full or partial jurisdiction, what are they willing to negotiate in regard to policies and procedures in connection with Aboriginal and Metis children and families.

2. Culturally Appropriate or Sensitive programming – this can be achieved through community driven processes, beginning with community consultation, coming from those people that services are being provide to.
3. Protocol Agreements – between all levels of government, federal, provincial, delegated agencies, Metis agencies and Aboriginal communities.
4. Comparable Funding - to be negotiated with an updated Directive 20-1. This Directive is not able to provide adequate funding for BC due to the large number of small band populations.

REFERENCES

- Bennett, Marlyn. Date unknown – *First Nations Fact sheet: A General Profile on First Nations Child Welfare in Canada*.
- Cradock, Gerald. “The Politics of Kith and Kin: Observations on the British Columbia Government’s Reaction to the Death of Sherry Charlie”. *First Peoples Child and Family Review*, Vol 3, No 1, 2007 page 15-33.
- Cross, Terry L. Bazron, Barbara J., et al. March 1989. *Toward a Culturally Competent System of Care – A Monograph on Effective Services for Minority Children Who are Severely Emotionally Disturbed*. Georgetown University Child Development Center, Washington, DC
- Durst, D., McDonald, J., Rich, C. “ Aboriginal Government of child Welfare Services: Hobson’s Choice”. *Child Welfare in Canada Research and Policy Implications*.
- Kline, Marlee. 1992 – *Child Welfare Law, “Best Interests of the Child” Ideology, and First Nations*, Osgood Hall Law Journal Vol 30 No 2
- McKenzie, Brad, 1997 –. *Building a Model for Community-Based, Holistic Child and Family Services in First Nations Communities*.
www.cwlc.ca/E/publications/CanChild/spring97.html
- McKenzie, B., Sidel, E., & Bone, N. date unknown – *Child Welfare Standards in First Nations: A Community-Based Study*, Canadian Child Welfare.
- Northern Aboriginal Authority for Families. “*Consultation Process*”. 2003
- Sandy, Nancy. “*Northern Aboriginal Authority for Families: Regionalization Paper*”.
- Timpson, Joyce. 1994. *Aboriginal Families and Child Welfare: Challenges for First Nations and Family Services*. Royal Commission on Aboriginal Peoples
- Wharf, Brian. 1992 – *First Nations Control of Child Welfare Services*. McClelland and Stewart Inc, Toronto, Ont.