



ASSEMBLY OF FIRST NATIONS

FACT SHEET – CHILD WELFARE OCTOBER 2013

Statistics:

- As of 2010, there were approximately 27,000 Aboriginal children in state care. It is estimated that the number of Aboriginal children in care today is equal to or more than the number of children taken during the height of the residential school system.
- Aboriginal children and youth are drastically over-represented in the child welfare system. This is a national crisis. Despite representing less than 3% of the Canada's child population, Aboriginal children represent approximately 15% of the children in care.
- There are over 100 First Nations agencies serving a population of approximately 160,000 children and youth in 447 of 634 First Nations communities.
- Aboriginal Affairs and Northern Development Canada (AANDC) is responsible for the provision and funding of child welfare services for First Nations families living on reserves through its First Nations Child and Family Services (FNCFS) Program, created in 1990 and through a separate arrangement in Ontario known as the 1965 Indian Welfare Agreement.
- According to the 2005 *Wen:de* report prepared by the First Nations Child and Family Caring Society (FNCFCS), federal funding for First Nations child welfare was 22% less than provincial funding levels.
- First Nation social workers in many regions have a higher caseload than their provincial counterparts. They are required to do more work with fewer resources.
- Numerous reports and studies, including the Royal Commission on Aboriginal Peoples (1996), have proposed clear and comprehensive recommendations for immediate action and necessary changes to the First Nations Child and Family Services Program.¹

¹ Royal Commission on Aboriginal Peoples report (1995); Canadian Incidence Study on Reported Child Abuse and Neglect (2008); FNCFCS Joint National Policy Review (2000); and *Wen:de: We are Coming to the Light of Day* (2005),



ASSEMBLY OF FIRST NATIONS

- First Nations children living on-reserve are 5 times more likely to be placed in child welfare care than children living off-reserve.²
- “The funding (AANDC) provides to First Nations child welfare agencies for operating child welfare services is not based on the actual cost of delivering those services. It is based on funding formula that the Department applies in each region. Child welfare is currently funded by AANDC under three envelopes: Directive 20-1, the Enhanced Model, and the Canada-Ontario 1965 Welfare Agreement. Federal funding formula has not been changed to reflect variations in legislation and in child welfare services from province to province, or the actual number of children in care.”³
- The large number of First Nations children in care is a consequence of a wide range of social and economic challenges faced by First Nation families, which extend well beyond the scope of child welfare. Children at risk in First Nations communities face major challenges that include but are not limited to addictions, lack of suitable housing, poverty, unemployment and one of the highest suicide rates in the developed world. Until these conditions are addressed in a comprehensive manner, the risk to children’s welfare will always be present. All of the above are indices provincial child welfare legislation incorporates into the definition of “neglect”.
- Numerous studies have indicated that prevention and least disruptive measure are under-funded in First Nation communities.⁴ In provinces where the funding is under Directive 20-1 (BC, New Brunswick, Newfoundland and the Yukon), there is no funding for prevention and least disruptive measures.
- AANDC has introduced an enhanced funding formula that is used in six provinces at the present: Alberta, Saskatchewan, Nova Scotia, Quebec, PEI and Manitoba. The enhanced model provides for limited funding for preventative measures and programs geared towards keeping children in the home. This funding is insufficient to meet the needs of First Nation communities.

² 2008 audit of the FNCFS Program, the Auditor General of Canada.

³ 2008 audit of the FNCFS Program, the Auditor General of Canada.

⁴ Children First: The Aboriginal Advisor’s Report on the status of Aboriginal child welfare in Ontario (2011); Aboriginal Child Welfare in Ontario: A Discussion Paper (2011).



ASSEMBLY OF FIRST NATIONS

- In a June 2011 Status Report, the Auditor General of Canada expressed concern that “there has yet to be a notable change in the number of First Nations children in care.”

Timeline:

It is worth noting that **Canada has spent over \$3 million in legal fees in numerous attempts to have the case dismissed on legal technicalities.**

- 2007: The AFN and FNCFCFS file a human rights complaint against Indian and Northern Affairs Canada.
- 2008: The Canadian Human Rights Commission refers the complaint to the Canadian Human Rights Tribunal for adjudication.
- March 2011: The Tribunal dismisses the case, accepting the federal government's argument that federal and provincial funding levels cannot be compared.
- April 2011: The AFN, FNCFCFS and Canadian Human Rights Commission apply to the Federal Court for judicial review.
- April 18, 2012: The Federal Court overturns the Tribunal's decision to dismiss the First Nations child welfare case and returns the matter to the Canadian Human Rights Tribunal for a hearing on the merits of the case. The federal government files an appeal.

February 25, 2013: The Canadian Human Rights Tribunal begins hearing the AFN and FNCFCFS human rights complaint.

- March 6, 2013: The Federal Court of Appeal hears the Government of Canada's appeal of the Federal Court's decision to order the Tribunal to conduct the full hearing.
- March 11, 2013: the Federal Court of Appeal dismisses the Government of Canada's appeal of the Federal Courts decision.