

First Nations Child and Family Services

Joint National Policy Review Final Report June, 2000



Prepared for:

Assembly Of First Nations With First Nations Child And Family Service
Agency Representatives In Partnership With The
Department Of Indian Affairs And Northern Development

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2000**

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Executive Summary

First Nations Child and Family Services

National Policy Review

Introduction

We believe that the Creator has entrusted us with the sacred responsibility to raise our families. The future of our communities lies with our children who need to be nurtured within their families and communities (RCAP vol. 3 Chapter 2).

Traditionally the family in First Nation societies stood between the individual and the larger society. The family helped individuals understand and respond to the expectations of the society around them. It also helped engage individuals in constructive ways and discipline them when they ventured off course.

Several experiences of massive loss have disrupted First Nation families and resulted in identity problems and difficulties in functioning. In 1996, more than 10% of Aboriginal children (age 0-14) were not living with their parents. That is 7 times more compared to non-Aboriginal children. In 1996, three of every ten First Nation children resided in lone parent families, a rate roughly twice that of the non-First Nation population. Four percent of First Nation children were in the custody of Child and Family Service agencies in 1996/97. Compared to the total number of children in Canada, First Nation children are four times more likely to die from injury. For pre-school aged children, the rate is five times as great.

Expenditures to improve coverage and the quality of First Nation specific child welfare services have been increased over the years to individuals ordinarily resident on-reserve and through child-in-care costs charged back to DIAND. In 1992-93, according to RCAP, the department allocated \$159.8 million to child and family services representing 78 per cent of the welfare services budget. Although this was a significant increase from expenditures a decade before, it was evident the needs of First Nation families far outweighed the modest successes afforded by the social reform of the time.

The Purpose

The purpose of this document is to provide a summary of the research that was conducted between March 1, 1999 to March 31, 2000 under the joint management of the Department of Indian Affairs and Northern Development (DIAND) and the Assembly of First Nations (AFN). In partnership the AFN (along with First Nations and First Nations Child Family Services Agencies) agreed to jointly carry out with DIAND a review of its' national policies with respect to First Nation Child and Family Services (FNCFS). This review was undertaken consistent with Canada's commitment to work with First Nations in a spirit of partnership under the auspices of the *Agenda for Action for First Nations*. The intent of review was to identify

possible improvements to current policy regarding the development and operation of FNCFS agencies that provide necessary, culturally sensitive and statutory child and family services.

Objectives Of The Study

The principal objectives of this policy review were as follows:

- 1) To identify and record areas of concern raised by First Nations and DIAND across Canada including, but not limited to, those areas of concern outlined in the information gathering plan, with respect to required changes to DIAND's national policy.
- 2) To prepare a Report that presents an analysis of the issues, outlines the responses of the parties to the review of issues and makes agreed upon recommendations for changes to DIAND's national policies. Where recommendations for changes cannot be arrived at, the Report will outline options that are reflective of both First Nations and DIAND's perspectives.
- 3) Recommend an Action Plan, which identifies concerns, a plan of action to address the concerns, as well as, time frames for action.

Globally the review undertook the analysis of four key areas: legislation and standards, agency governance, funding and communication issues. The work conducted on these research themes was contracted out to technical consultants who conducted the data gathering and analysis. A fifth consultant was commissioned as a synthesis writer for the final report, as well as, to facilitate the final analysis of the technical reports with the National Policy Review Team to formulate the final recommendations for the review.

Time frame For The Study

The First Nations Child and Family Services National Policy Review process began on March 1, 1999 and an interim report was provided to the Policy Review Joint Steering Committee on September 15, 1999. The completion date for the National Policy Review was June 30, 2000.

Project Description

To address the four key issue areas that were identified, various data collection methodologies were utilized. The first was surveys and interviews of individuals and organizations at the DIAND regional, provincial, provincial Child and Family Service agency, FNCFS agency and First Nation level. The second data collection methodology was a review of documents and files which included, but were not limited to, agreements for child and family service delivery between First Nations, provinces and/or DIAND, First Nation standards developed in the regions, and annual reports of the FNCFS. Finally, case studies and best practices research was conducted to identify examples of what was successfully working in the program.

The four themes are described below. A comparative analysis was conducted on various elements on each of these themes.

Agency Governance and First Nations Child and Family Services

Practices vary considerably from agency to agency and from region to region in the manner by which agencies organize themselves and conduct their business. Under current policy, in most provinces agencies are incorporated under provincial legislation and that they comply with provincial legislation and standards. Agencies are also required to provide information to DIAND and the provinces in areas determined by agreement and policy. Within these restrictions, however, there is considerable room for differences in the way agencies operate. The national policy review analyzed data to identify the impacts of these variances nationally.

Legislation and Standards and First Nations Child and Family Services

The current policy Directive 20-1 requires First Nations child and family services agencies to have delegated authority from provincial/territorial governments in order to receive funding from either DIAND or provincial authorities. The delegated authority is provided by provincial/territorial governments by virtue of provisions within the appropriate provincial/territorial legislation or by agreement. Along with the legislation are a set of standards which are developed by provincial/territorial governments to direct the manner in which the legislation is to be administered. DIAND's Directive 20-1 encourages the development of FN standards to be incorporated within provincial standards. The national policy review analyzed the impacts of the various provisions of provincial/territorial legislation and standards nationally on the effectiveness of Directive 20-1.

Communications Issues and First Nations Child and Family Services

The policy Directive 20-1 encourages the development of culturally appropriate services to First Nation persons. Further, the Guiding Principles of the Policy Review emphasize the need to involve community, parents, extended family, First Nation governments and Elders in the development and provision of service. There is also a recognition in many quarters of the need to promote greater integration of services in the community with child and family services and to develop a more holistic model of service delivery where possible at the community level. The policy review analyzed the various models of community involvement in service delivery nationally of First Nations child and family service programming

Funding Issues and First Nations Child and Family Services

Within Directive 20-1, a funding formula was developed in an effort to provide **equity, predictability and flexibility** in the funding of First Nations Child and Family Services agencies. Prior to the development of the formula, funding for agencies was inconsistent and often inequitable. The formula has been in place since fiscal year 1991/92. Since its implementation, the field of First Nations child and family services has changed dramatically with the creation of many new agencies in various provinces. With these changes, have come questions as to the continuing suitability of this funding methodology in light of current needs and expectations. The funding methodology used is a key factor in an attempt to ensure that there are adequate resources for agencies to fulfill their legislative mandate and that the funding is sufficiently flexible to allow agencies to respond to changing conditions and identified community needs. The policy review analyzed the adequacy of resources based on national data.

The Research Process

The National Policy Review was undertaken using several mechanisms to ensure maximum participation from all the agreed upon parties. These mechanisms included various levels of consultation consisting of groups of individuals from the First Nation and government side who constituted several years of expertise administratively and at the community level. The research plan for the study was developed based on seventeen issues that were identified by FNCFS agencies, the guiding principles of the National Policy Review and the priorities as identified by the Policy Review Project Team.

The Data Collection Process

The research projects started in December, 1999 and were completed in May 2000. Several revisions to the reports were required to reflect as much accurate data as possible. The observations from the reports were reviewed by the National Policy Review Project Team, analyzed and discussed. From this data the Team, specifically, the Joint Steering Committee, was responsible for determining the actions required based on each study observation followed by potential recommendations for changes. Each of the research projects had varying degrees of participation and response to surveys from FNCFS agencies, provinces and DIAND regions. This information provided enough to facilitate discussions related to recommendation development.

Findings

Governance

There are two kinds of agreements in place to facilitate the provision of child and family services to First Nation children. The first is through agreements with provincial governments to set out delegation of authority processes to First Nations agencies or representatives from the province. The second is through funding agreements with the federal government to allow First Nations to effectively carry out child and family services on reserve via Directive 20-1. FNCFS Agency

responses indicated that there were three main categories within which the governing body falls. They were: (a) Chief and Council or Chiefs of Tribal Councils; (b) Chiefs of First Nations or Tribal Councils as Board of Directors; and (c) Board of Directors.

Ultimately all of the FNCFS Agencies identified their role and responsibility as being the carrying out of day-to-day administration, case management and planning functions for child and family services. The primary role of FNCFS agencies was to implement the agreements entered into with the provincial and federal governments.

The number of employees varied greatly between agencies although the vast majority of employees were full-time. The numbers of full-time employees range from a high of 72 at the largest agency to a low of three at the smallest. The majority of the employees were case workers, social workers or child and family services workers, who carried the caseloads of the agencies. In those agencies with only a few employees, many of them were reported as serving dual roles with active caseloads and managerial responsibilities. Of the agencies surveyed, several reported that they **did not receive any support to facilitate training for their employees.**

Legislation and Standards

Some provincial legislation creates circumstances for the FNCFS Agencies that are inconsistent with DIAND's funding policy statement regarding the evaluation requirement. DIAND only provides funding to new FNCFS agencies for 3 year and 6 year evaluations, however, provincial legislation requires on-going evaluations.

Legislative authority regarding child and family services in Canada is vested with provinces and territories. First Nations Child and Family Services agencies derive the authority for the provision of protection and other statutory services from provincial/territorial statutes.

All provinces/territories have legislation to protect children from neglect or abuse, and to extend a range of services aimed at ensuring the safety and sound development of children who are at risk. 'Child in need of protection' is described as being a child who meets one of the specified conditions set out in the legislation as placing a child at risk. There is some variation in the descriptions of these conditions, but there is an overall correspondence of meaning and intent.

Definitions of prevention services or protection services could not be found in the legislation or standards of any province/territory. Neither DIAND nor provincial/territorial program standards provide a definition of maintenance. All provinces/territories do, however, provide extensive lists of items that are provided to, or in behalf of, children in care. The range of items varies considerably by province.

The data indicated that generally there were limited institutional facilities available to FNCFS agencies. This made out-of-province placements necessary.

First Nations have to comply with the same administrative burden created by change in provincial legislation but have not received any increased resources from DIAND to meet those responsibilities. This contradicts the principle of Directive 20-1, especially since DIAND is committed to the expansion of services on reserve to a level comparable to the services provided off reserve in similar circumstances.

Not all agreements provide for the development and implementation of First Nation standards for the delivery of services. Funding is not adequate to enable FNCFS agencies to meet expanded responsibilities under the 1996 Act. The agreements are substantially, but not entirely, in accord with the directive.

Directive 20-1 requires that FNCFS agencies, or their governing bodies, enter into agreements with provinces that provide for the delegation of statutory powers and duties to the agencies. This is also required for the exercise of those powers and duties in accordance with provincial service standards or for First Nation standards established and adopted with the concurrence of the province.

In nearly all cases it is noted there is no formal mechanism in place resulting in informal methods being deployed to address various dispute mechanisms.

Communications

The objective of the data collection was to determine the impact of Policy Directive 20-1 on communications and how agencies encourage the development of culturally appropriate services. The instrument probed the role of community members, parents and extended family, First Nations governments, Tribal Councils and of Elders in the development and delivery of FNCFS services.

On a national basis, the most common ways for community members to participate in the development of FNCFS programs and services were reported as: direct contact with the agency, public meetings, committee and volunteer work.

Promoting community involvement and an understanding of the programs was reported by 48 percent of the agencies as a challenge. Lack of resources and training was cited by 20 percent of all agencies.

Health services predominated with 60 percent of all the agencies indicating some form of communication. Police services followed with 32 percent of all agencies indicating regular contact. Schools, alcohol and drug agencies, and social agencies were each identified by 28 percent, 26 percent, and 24 percent of all FNCFS agencies respectively.

Communication and collaboration were generally not formalized among FNCFS agencies and did not show a consistent pattern across the country. Communications with other service providers tend to be direct and personal either face-to-face or by phone or fax.

With respect to relationships and communications with the federal government (DIAND) the most commonly addressed topics were either funding issues or program and management issues. This differs from the topics commonly communicated with the provincial government, which showed greater emphasis on policy and legislative issues. Sixty-six percent of all agencies identified funding as the topic most commonly addressed with the federal government .

Overall, Policy Directive 20-1 was reported as having a negative impact on communications. The policy is viewed as rigid and unilateral with little room for FNCFS input in the interpretation, or allocation of funds. FNCFS agencies noted that funding inevitably affected communications.

Funding

FNCFS Agencies are expected through their delegation of authority from the provinces, the expectations of their communities and by DIAND, to provide a comparable range of services on reserve with the funding they receive through Directive 20-1. The formula, however, provides the same level of funding to agencies regardless of how broad, intense or costly, the range of services is.

The reimbursement method of funding maintenance was intended by DIAND as a means of protecting agencies from the consequences of unexpected increases in maintenance costs. Maintenance is not defined in Directive 20-1. The evaluation conducted by DIAND in 1995 concluded that the definition of maintenance should be clarified. There have been no national changes made to the definition since that recommendation was made.

FNCFS agencies, regions and provinces, all reported that the phasing-in of operational funding did not reflect reality. In reality, agencies are expected to deliver the full range of services as soon as the agency begins operations. Consequently, the reduced funding in the early years of operations for agencies seriously limits their capacity to deliver the services expected of them. There was consensus among agencies, regions, and provinces that the concept of phasing-in should be considered for termination.

The major advantage of block funding for the FNCFS agencies is the increased ability to establish their own program and administrative priorities. There are several disadvantages of block funding from an FNCFS agency perspective. Agreements lack specific criteria by which the funding can be adjusted during the term of the agreement, and similarly they lack criteria that can be used to determine the starting budget base for a subsequent multi-year term. Currently there are several regional pilot projects under way. Further research should be undertaken to assess the merits of these pilot projects.

There is a continuing steep growth in annual spending which will see total maintenance expenditures doubling well before the end of the decade if no changes are made to the policy. There is no adjustment in the formula for cost sensitive items, increases in volume of children in care or new programs introduced by the provinces

The most contentious issue for FNCFS agencies is the definition and the method of funding maintenance costs. One solution would be to define maintenance and its corresponding funding method which could be directly linked to provincial legislation, policies and practice standards.

The policy when implemented deviates considerably from region to region. This deviation occurs to allow for circumstances that were established prior to the implementation of the directive, to align the directive to match provincial legislation, policy and practices, and to fill definitional vacuums. This phenomenon is not necessarily formally approved by DIAND. It is also not equitably or consistently applied. Furthermore, it is not necessarily consistent with the intent of the policy, nor does it always support sound social work practice.

There are no routine price adjustments incorporated in the operations formula. There appears to have been no price adjustments to the formula since the 1994/95 fiscal year. FNCFS agencies indicated that they all thought that an adjustment for remoteness was necessary.

DIAND has been limited to 2% budgetary increases for the department while expenditures for FNCFS 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.

There appears to be consistency across the country in the application of the formula for operations and the reporting requirements of the CFAs, Directive 20-1, and the First Nations National Reporting Guide. There is considerable variance in the definition of maintenance from region to region.

The formula does not provide a realistic amount of per organization funding for agencies serving small on-reserve populations. To agencies serving an on-reserve 0-18 population of less than 801, and particularly those that are serving even smaller populations, the formula did not provide realistic administration support.

Agencies have suggested that some form of tribunal would be helpful in resolving financial responsibility in some of the more complex case transfers.

The impact of the operations formula on agency ability to deliver a range of services is compounded by agency size and remoteness. The smaller the agency, the more difficult it is to have the staff size, or level of expertise to provide a full range of services

Directive 20-1 does not clearly address how FNCFS agencies are supposed to cope with poor social conditions in communities which most significantly contribute to the high demand for services.

Recommendations

The findings of the National Policy Review resulted in 17 final recommendations related to the four themes of the study: governance, legislation and standards, communications and funding. The review was based on the following principles:

- 1. The objective of the FNCFS Agencies is to protect and defend the well being of children, in particular, the protection of children from abuse and neglect.*
- 2. The involvement of community, parents, and extended family is a corner stone of effective and culturally sensitive, Child and Family Service delivery.*
- 3. The well being of children is the primary responsibility and obligation of the parents, the extended family and the community.*
- 4. First Nations have an interest in the well being of all of their band members, regardless of where they live.*
- 5. FNCFS programs should be based on First Nation values, customs, traditions, culture and governance.*
- 6. FNCFS programs should be responsive to community needs and realities.*
- 7. The Agencies through its financial and program administration shall be accountable to members of the First Nation(s), First Nation's leadership, and, when appropriate, the provincial and federal governments.*
- 8. FNCFS agencies should have access to effective First Nation models for design and delivery of Child and Family Services and mechanisms for sharing information on effective practices.*
- 9. This review process will in no way reduce current funding level or numbers of arrangements for First Nations Child and Family Services Agencies.*

The recommendations of this policy review are as follows:

- 1a. The Joint Steering Committee of the National Policy Review recognizes that Directive 20-1 is based on a philosophy of delegated authority. The new policy or Directive must be supportive of the goal of First Nations to assume full

jurisdiction over child welfare. The principles and goals of the new policy must enable self-governance and support First Nation leadership to that end consistent with the current policy of the Government of Canada as articulated in *Gathering Strength*.

- 1b. The new policy or directive must support the governance mechanisms of First Nations and local agencies. Primary accountability back to community and local leadership must be recognized and supported by the policy.
2. The Joint Steering Committee recognizes the need for a national process to support First Nation agencies and practitioners in delivery of services through various measures including best practices.
3. A national framework is required that will be sensitive to the variations that exist regionally in relation to legislation and standards. Tripartite tables consisting of representatives from First Nations, DIAND and the provinces/territories are required to identify issues and solutions that fit the needs of each province/territory. Some of the issues that will need to be addressed by these regional tables consist of (but are not limited to) the following:
 - a) definitions of maintenance
 - b) identification of essential statutory services and mechanisms for funding services
 - c) definitions of target populations (as well as, the roles of federal/provincial/territorial governments related to provision of services)
 - d) adjustment factors for new provincial programs and services – processes for FNCFS agencies to adjust and accommodate the impacts of changes in programs and services
 - e) definition of special needs child
 - f) dispute mechanisms to address non-billable children in care
 - g) definition of range of services
 - h) definition of financial audit and compliance comparability/reciprocity between provincial and First Nation accreditation and qualifications requirements of staff (e.g. licensing criteria)
4. DIAND, Health Canada, the provinces/territories and First Nation agencies must give priority to clarifying jurisdiction and resourcing issues related to responsibility for programming and funding for children with complex needs such as handicapped children, children with emotional and/or medical needs. Services provided to these children must incorporate the importance of cultural heritage and identity.
4. A national framework is needed that includes fundamental principles of supporting

- FNCFS agencies that is sensitive to provincial/territorial variances and has mechanisms to ensure communication, accountability and dispute resolution mechanisms. This will include evaluation of the roles and capacity of all parties.
5. The funding formula inherent in Directive 20-1 is not flexible and is outdated. A methodology for funding operations must be investigated. Any new methodology should consider factors such as work load/case load analysis, national demographics and the impact on large and small agencies, and economy of scale. Some of the issues a new formula must address are:
 - a) Gaps in the operations formula. A clear definition is required.
 - b) Adjustments for remoteness
 - c) Establishment of national standards
 - d) Establishment of an average cost per caseload
 - e) Establishment of caseload/workload measurement models
 - f) Ways of funding a full service model of FNCFS
 - g) The issue of liability
 - h) Exploration of start up developmental costs
 - i) Develop and maintain information systems and technological capacity.
 6. The Joint Steering committee found that the funding formula does not provide adequate resources to allow FNCFS agencies to do legislated/targeted prevention, alternative programs and least disruptive/intrusive measures for children at risk. It is recommended that DINAD seek funding to support such programming as part of agency funding.
 7. DIAND must pursue the necessary authorities to enable FNCFS agencies to enter into multi-year agreements or block funding as an option to contribution funding to further enhance the ability of First Nation's to deliver programs that are geared to maintaining children within their families, communities and reuniting those children-in-care with their families. This requires the development of a methodology for establishing funding levels for block funding arrangements that encompass:
 - a) a methodology and authority for second generation agreements
 - b) multi-year authorities for these programs with a criteria for measurement of success (DIAND) may need to go to Cabinet to get authority for this.
 8. An "exceptional circumstances" funding methodology is required to respond to First Nation communities in crisis where large numbers of children are at risk. Best practices must be the basis of the development of this methodology.
 9. A management information system must be developed and funded for First Nations in order to ensure the establishment of consistent, reliable data collection, analysis and reporting procedures amongst all parties (First Nation's, regions, provinces/territories

and headquarters).

10. Funding is required to assist First Nations Child and Family Service Agencies in the development of their computerization ability in terms of capacity, hardware and software.
11. Funding is required for ongoing evaluation based on a national framework with a national guideline to be developed.
13. DIAND and First Nations need to identify capital requirements for FNCFS agencies with a goal to develop a creative approach to finance First Nation child and family facilities that will enhance holistic service delivery at the community level.
14. Funding is required for ongoing standards development that will allow FNCFS agencies to address change over time.
15. Priority consideration should be given to reinstating annual cost of living adjustments as soon as possible. Consideration should also be given to address the fact that there has not been an increase in cost of living since 1995-96.
16. Phased in funding is a problem in the formula and should be based on the level of delegation from the province.
17. An immediate tripartite review (Canada, Ontario and Ontario First Nations) be undertaken in Ontario due to the implications of the 1965 Indian Welfare agreement, current changes to the funding formula and the Ontario Child Welfare Reform.

Conclusion

A new policy to replace current Directive 20-1 (Chapter 5) must be developed in a joint process that includes all stakeholders and ensures funding support for that process to the following action plan.

ACTION PLAN

Step One: Consultation and Ratification Process

- Delivery of report to AFN National Chief and DIAND Minister (June 30, 2000)
- Distribution of Report to FNCFS Agencies, First Nations, Health Canada, HRDC, DIAND regions and all provinces and territories (July 2000-August 2000)
- Presentations to: AFN National Chief, DIAND Minister, AFN Confederacy Meeting, Provincial Directors of Child Welfare and National First Nations ICFS Conference in Saskatchewan (August 2000-October 2000)

Step Two: Implementation Phase

a. Maintaining the Partnership

- Establish interim national joint committee to oversee ratification plan and to develop work plan, including identification of resources for development of new funding policy (naming delegates: June 30, 2000)
- Develop plan of action for recommendations assigned a short term implementation date by interim national joint committee (July 2000)
- Complete detailed work plan, to include terms of reference for national table and provincial tables, deliverables, time frames and required resources (September 2000)

b. Research and Data Collection

- Identify areas for additional research arising from National Policy Review
- Review and develop work plan to conduct further research
- Incorporate into detailed work plan (all by September 2000, prior to AFN Confederacy Meeting)

CHAPTER ONE

FIRST NATIONS CHILD AND FAMILY SERVICES NATIONAL POLICY REVIEW

BACKGROUND

Children hold a special place in Aboriginal and First Nation cultures. They bring a purity of vision to the world that can teach their Elders. They carry within them the gifts that manifest themselves as they become teachers, mothers, hunters, councillors, artisans and visionaries. They renew the strength of the family, clan and village and make the Elders young again with their joyful presence. (*RCAP Vol. 3 Chp. 2*)

Since the early 1980's the Department of Indian Affairs and Northern Development, First Nations and provincial governments have negotiated various types of agreements to provide First Nation managed child and family services to First Nation communities across Canada. The demand for these services has grown significantly over the decades and costs have nearly tripled since then. In 1991 a Directive was issued by DIAND when Cabinet approved a new policy and management framework for an on-reserve First Nation Child and Family Service Program. Directive 20-1 was the DIAND document that implemented this Cabinet decision. In December 1992 the child population was 135,635. On March 1994 the number of children in-care was 4,763 for which the federal government had funding responsibility.

Directive 20-1 states the department's policy regarding the administration of the First Nations Child and Family Services Program. The authority for the directive was a follow-up to the Cabinet Decision of July 27, 1989 and was issued under the authority of the Assistant Deputy Minister of Corporate Services. The directive applies to all employees both at headquarters and in the regions, in the carrying out of the department's functions in regard to the funding and support of children and family services on reserves.

The stated principles of Directive 20-1 are as follows:

1. *The department is committed to the expansion of First Nations Child and Family Services on reserve to a level comparable to the services provided off reserve in similar circumstances. This commitment is independent of and without prejudice to any related right which may or many not exist under treaties.*
2. *The department will support the creation of Indian designed, controlled and managed services.*

3. *The department will support the development of Indian standards for those services, and will work with Indian organizations to encourage their adoption by provinces/territory.*
4. *The expansion of First Nations Child and Family Services (FNCFS) will be gradual as funds become available and First Nations are prepared to negotiate the establishment of new services or the take over of existing services.*
5. *Provincial child and family services legislation is applicable on reserves and will form the basis for this expansion. It is the intention of the department to include the provinces in the process and as party to agreements.*

From a First Nation and FNCFS Agencies' perspective Directive 20-1 is restrictive and limits First Nation aspirations, positions and intents with respect to the development and delivery of services; specifically those that are First Nations defined and operated community base Child and Family Services. As a result of these concerns a Joint Review Process was designed to develop recommendations for the Minister of DIAND on changes needed to the current policy governing the FNCFS program. A proposed Action Plan for the implementation of the recommendations were developed and form a major part of this report.

PURPOSE

The purpose of this document is to provide a summary of the research that was conducted between March 1, 1999 to March 31, 2000 under the joint management of the Department of Indian Affairs and Northern Development (DIAND) and the Assembly of First Nations (AFN). In partnership the AFN (along with First Nations and First Nations Child Family Services Agencies) agreed to jointly carry out with DIAND a review of its' national policies with respect to First Nation Child and Family Services (FNCFS). This review was undertaken consistent with Canada's commitment to work with First Nations in a spirit of partnership under the auspices of the *Agenda for Action for First Nations*. The intent of review was to identify possible improvements to current policy regarding the development and operation of FNCFS agencies that provide necessary, culturally sensitive and statutory child and family services.

OBJECTIVES OF THE STUDY

The principal objectives of this study were as follows:

- 1) To identify and record areas of concern raised by First Nations and DIAND across Canada including, but not limited to, those areas of concern outlined in the information gathering plan, with respect to required changes to DIAND's national policy.

- 2) To prepare a Report that presents an analysis of the issues, outlines the responses of the parties to the review of issues and makes agreed upon recommendations for changes to DIAND's national policies. Where recommendations for changes cannot be arrived at, the Report will outline options that are reflective of both First Nations and DIAND's perspectives.
- 3) Recommend an Action Plan, which identifies concerns, a plan of action to address the concerns, as well as, time frames for action.

Globally the review undertook the analysis of four key areas: legislation and standards, agency governance, funding and communication issues. These themes guided the research which is summarized herein. The work conducted on these research themes was contracted out to technical consultants who conducted the data gathering and analysis. They were Keystone Consulting Services (legislation and standards), Blue Hills (MTC) Inc. (funding), Poirier Communications (communications) and Helen Semaganis (agency governance). A fifth consultant, Katenies Research and Management Services (Dr. Rose-Alma J. McDonald), was commissioned as a synthesis writer for the final report, as well as, to facilitate the final analysis of the technical reports with the National Policy Review Team to formulate the final recommendations for the review.

TIMEFRAME FOR THE STUDY

The First Nations Child and Family Services National Policy Review process began on March 1, 1999 and an interim report was provided to the Policy Review Joint Steering Committee on September 15, 1999. The purpose of this report was to indicate the status of the review and projected completion time. The completion date for the National Policy Review was originally March 31, 2000 and later extended to June 30, 2000.

PROJECT DESCRIPTION

To address the four key issue areas that were identified various data collection methodologies were utilized. The first was surveys and interviews of individuals and organizations at the DIAND regional, provincial, provincial Child and Family Service agency, FNCFS agency and First Nation level. The second data collection methodology was a review of documents and files which included, but were not limited to, agreements for child and family service delivery between First Nations, provinces and/or DIAND, First Nation standards developed in the regions, and annual reports of the FNCFS. Finally, case studies and best practices research was conducted to identify examples of what was successfully working in the program, however, needs to be conducted in this area.

The four themes are described below. A comparative analysis was conducted on various elements on each of these themes.

Agency Governance and First Nations Child and Family Services

Practices vary considerably from agency to agency and from region to region in the manner by which agencies organize themselves and conduct their business.

Under current policy, it is required that agencies in some regions be incorporated under provincial legislation and that they comply with provincial legislation and standards. Agencies are also required to provide information to DIAND and the provinces in areas determined by agreement and policy.

Within these restrictions, however, there is considerable room for differences in the way agencies operate.

Legislation and Standards and First Nations Child and Family Services

The current policy Directive 20-1 requires First Nations child and family services agencies to have delegated authority from provincial/territorial governments in order to receive funding from either DIAND or provincial authorities. The delegated authority is provided by provincial/territorial governments by virtue of provisions within the appropriate provincial/territorial legislation or by agreement.

Along with the legislation are a set of standards which are developed by provincial/territorial governments to direct the manner in which the legislation is to be administered. DIAND's Directive 20-1 encourages the development of FN standards to be incorporated within provincial standards.

Communications Issues and First Nations Child and Family Services

The policy Directive 20-1 encourages the development of culturally appropriate and culturally sensitive services to FN persons. Further, the Guiding Principles of the Policy Review emphasize the need to involve community, parents, extended family, First Nation governments and Elders in the development and provision of service.

There is also a recognition in many quarters of the need to promote greater integration of services in the community with child and family services and to develop a more holistic model of service delivery where possible and appropriate at the community level.

Funding Issues and First Nations Child and Family Services

Within Directive 20-1, a funding formula was developed in an effort to provide Equity, predictability and flexibility in the funding of First Nations Child and Family Services agencies.

Prior to the development of the formula, funding for agencies was inconsistent and often inequitable.

The formula has been in place since its implementation in fiscal year 1991/92. Since its implementation, the field of First Nations child and family services has changed dramatically with the creation of many new agencies in various provinces. With these changes, have come questions as to the continuing suitability of this funding methodology in light of current needs and expectations.

The funding methodology used is a key factor in **an attempt to ensure** that there are adequate resources for agencies to fulfill their legislative mandate and that the funding is sufficiently flexible to allow agencies to respond to changing conditions and identified community needs.

Four technical reports were produced and summarize in detail the comparative data under these themes. This report is a summary of these data.

HISTORY OF DIRECTIVE 20-1

There is no federal child welfare legislation. The federal government, therefore, entered into agreements with the provinces to deliver child welfare services on reserve. DIAND reimbursed the provinces for services based on billing agreements between the two parties for the full cost of services. Minimal services, however, were provided by the provinces to First Nation children and families.

In the 1970's and early 1980's First Nation concerns over the lack of appropriate services provided by the provinces and the alarming numbers of First Nations children being removed from their communities started a move toward First Nation take over of these services. "Ad hoc" arrangements resulted with the First Nations who wanted to take over services. Authorities, however, were not clear and funding was inconsistent.

In 1986 DIAND put a moratorium on ad hoc arrangements. No new agencies were developed in First Nation communities during this moratorium period. It was agreed however, that the ad hoc arrangements that were already in place would continue.

In 1989 DIAND started the development of the Directive 20-1 which was put into place in an attempt to provide equity, comparability and flexibility in funding agencies. Two components to the financing of FNCFS resulted. The first was operations costs, which were funded by a formula specified in the 1991 Directive. The second was maintenance costs, which were reimbursed according to actual in-care expenditures. The principles underlying the regime were:

Equity amongst the FNCFS organizations, which will be funded on the same basis across Canada;

Comparability between the child and family services provided to First Nation residents on-reserve and the services provided to non-First Nation individuals in comparable communities, so there is access to the same level of services;

Flexibility so that FNCFS organizations can plan their services and set their own priorities based on community needs.

A presentation was made to agencies and provincial government following the Cabinet decision to implement the policy.

In 1991 Directive 20-1 was implemented and new agencies were funded as per the formula. Under the Directive agencies had to be provincially mandated, were federally funded and services had to be First Nation delivered. The impact of the directive on pre-directive agencies were two fold. First, agencies funded at a level below the formula received increased funding upon implementation of the policy. Second, agencies funded at a level above the formula did not receive additional funding, however, their funding levels remained the same until they fell in line with the formula over time.

By 1998 DIAND records show that 91 full service agencies were in operation. Fourteen new agencies were in the developmental stages and over 70% of the on-reserve population was serviced. The total First Nation agency expenditures for 1997/98 were \$195,338,000.00.

**Table 1.1
Number of Agencies, First Nations Serviced and Pilot Projects by Province
as of 1998 (based on DIAND statistics)**

Province	Number of Agencies	Number of First Nations Served	Number of Pilot Projects
British Columbia	16	97	2
Alberta	15	34	3
Saskatchewan	15	53	2
Manitoba	9	61	3
Ontario	5	58	1
Quebec	18	27	1
New Brunswick	11	15	1
Nova Scotia	1	13	0

Prince Edward Island	0	0	0
Newfoundland	1	1	0
Total	91	359	13

GUIDING PRINCIPLES

There has been incremental increases up until 1995-96 resulting in a total increase of 11% over that period of time. Budgets are only adjusted based on population counts as per DIAND records. Directive 20-1 does not allow for any on-going increments to compensate for cost of living increases.

Since 1991 DIAND has conducted two internal reviews of the Directive. These reviews consisted of a comparative analysis of provincially funded child welfare services to federally funded child welfare agencies and concluded that First Nations agencies received significantly more funding than their provincial counterparts. First Nations agencies across the country argued that these reviews did not adequately reflect the real circumstances of FNCFS agencies.

DIAND subsequently agreed to conduct this National Policy Review in 1998. It took approximately one year from that date to negotiate the Terms of Reference for the Review. Discussions resulted in a process which would include equal representation from both DIAND, First Nations Child Welfare Agencies and the Assembly of First Nations, who would coordinate the process. It was agreed to insure maximum input into the process that each region would appoint a First Nations and DIAND representative to the various committees.

Nine guiding principles for the provision of First Nations Child and Family services in Canada also resulted from the year of deliberations and are a major piece of the Terms of Reference. They constitute the philosophy behind the program, this Review and the long-term goal for services after this Review is completed. They are as follows:

1. *The objective of the FNCFS Agencies is to protect and defend the well being of children, in particular, the protection of children from abuse and neglect.*
2. *The involvement of community, parents, and extended family is a corner stone of effective and culturally sensitive, Child and Family Service delivery.*
3. *The well being of children is the primary responsibility and obligation of the parents, the extended family and the community.*
4. *First Nations have an interest in the well being of all of their band members, regardless of where they live.*

5. *FNCFS programs should be based on First Nation values, customs, traditions, culture and governance.*
6. *FNCFS programs should be responsive to community needs and realities.*
7. *The Agencies through its financial and program administration shall be accountable to members of the First Nation(s), First Nation's leadership, and, when appropriate, the provincial and federal governments.*
8. *FNCFS agencies should have access to effective First Nation models for design and delivery of Child and Family Services and mechanisms for sharing information on effective practices.*
9. *This review process will in no way reduce current funding level or numbers of arrangements for First Nations Child and Family Services Agencies.*

THE RESEARCH PROCESS

The National Policy Review was undertaken using several mechanisms to ensure maximum participation from all the agreed upon parties. These mechanisms included various levels of consultation consisting of groups of individuals from the First Nation and government side who constituted several years of expertise administratively and at the community level. A research plan for the study was developed based on seventeen issues that were identified by FNCFS agencies, the guiding principles of the National Policy Review and the priorities as identified by the Policy Review Group.

The draft research plan was sent out to all agencies for review and feedback and was reviewed by the Policy Review Group and the Joint Steering Committee. The draft plan was revised to accommodate suggested additions from both DIAND and First Nations representatives.

The research plan resulted in four main research components and consultants were recruited to conduct the survey, provide an analysis of information collected and provide observations from the findings. The intent of the research projects was to provide the Joint Steering Committee with information to guide their discussions on potential recommendations for changes to the Directive.

The oversight groups consisted of the following:

An oversight **Joint Steering Committee (JSC)** was developed composed of (2) Co-Chairs, eight (8) representatives of DIAND and eight (8) Agency Directors. Their role was to direct the over all work of the project, provide final approval of work plans and approval of the final report to the Minister/AFN National Chief. Their role was also to ensure that the completion of the Policy Review was timely.

The **Project Management Team (PMT)** was comprised of representatives of DIAND, the AFN and FNCFS Agencies. The PMT was Co-Chaired by the DIAND Director General of Learning, Employment and Economic Participation and the AFN Director of Social Development and consisted of three permanent members, 1 DIAND coordinator, 1 Agency Director and 1 AFN coordinator. The PMT also included support as needed from the DIAND regions, Finance Branch and FNCFS agencies. The Project Management Team was responsible for the design of the Policy Review objectives, oversight of the research activities and design and implementation of the consultation processes with First Nations organizations, DIAND regions and headquarters groups and provincial/territorial officials. The Team also oversaw the analysis of information gathered and preparation of reports to the Joint Steering Committee.

The **Policy Review Group (PRG)** was Co-Chaired by the DIAND and AFN project coordinators. The Policy Review Group consisted of 20 permanent members of whom 10 were FNCFS agency directors and 10 were DIAND representatives. The Policy Review Group provided advice on the development of the research plan, literature review, initial survey questionnaires, analysis of findings and initial recommendations and action plan.

The **Consultant(s)** assisted the **Project Management Team**, the **Joint Steering Committee** and **Policy Review Group** to carry out the research and/or consultation as required as part of the National Policy Review process. The process for identifying and engaging consultants was determined by the JSC upon recommendation(s) from the Project Management Team.

A **National Political Forum** was identified by the AFN Executive Committee, for the purpose of sharing the National Policy Review Final Report for ratification by the Chiefs in Assembly. This forum was designed to ensure the sharing of information nationally with First Nations who may wish to participate in or contribute to the study. The forum also ensured that provincial/territorial organizations contributed to the political analysis and were kept abreast of the issues related to the FNCFS and broader reform issues. Finally, the forum facilitated in a formal way the information sharing opportunities.

Specific issues to be included in the National Policy Review were as follows:

1. **Sufficiency of Current DIAND Funding levels** – Whether or not DIAND’s funding of FNCFS agencies is sufficient to enable the Agencies to deliver Child and Family Services on-reserve at a level comparable to Child and Family Services provided to nearby off-reserve communities of similar size and circumstances.
2. **Definition of Maintenance** – A review regarding the definition of Maintenance.

3. **Definition of Operations** – A review regarding the definition of Operations
4. **A review of the developmental stages:** of First Nations Child and Family Services Agencies.
5. **Phase in of Operations Funding for New Agencies-** does the current policy constitute the most effective and efficient method of funding new FNCFS agencies?
6. **Review Canada’s Information Exchange Requirements** –what is Canada’s commitment for sharing the results of its pilots, evaluations, and the wide range of information available to DIAND, which could be of assistance to FNCFS Agencies for planning, start-up, and operations.
7. **Review Canada’s Reporting Requirements** - in the context of DIAND’s commitment to ensure that reporting requirements are as minimal as possible in the context of accountability for funding, reporting of results and compliance.
8. **Different types of Funding Arrangements** – what are DIAND’s funding arrangements including potential new arrangements in the FNCFS area to determine the range of, and the suitability of DIAND’s funding arrangements for FNCFS Agencies.
9. **Dispute Resolution Mechanisms**- Are existing dispute resolution mechanisms effective, or do they require change?
10. **Remedial Action** – Are there alternate remedial action procedures that can be taken when Agencies experience operating difficulties?
11. **Termination** – what is the policy regarding termination given Canada’s commitment to work with First Nations in a spirit of partnership
12. **Funding for Unforeseen Events** – what is Canada’s policy regarding FNCFS funding for unforeseen events?
13. **Eligibility** – what is Canada’s policy regarding the definition of “Indian Resident on Reserve” in the context of eligibility for FNCFS services.
14. **Case Management** – what are DIAND practices in reference to current policy (i.e. no DIAND involvement in case management)?
15. **Non-Insured Health Benefits** – what is the policy regarding how, and to what extent these costs will be covered by Canada?
16. **Provincial/First Nation/Federal Agreements** – what is DIAND’s policy concerning agreements that have been entered into between Canadian governments and First Nations.

17.Children with Complex Medical Needs -- to what extent are these costs covered by the First Nation Child and Family Services program.

THE DATA COLLECTION PROCESS

The research projects started in December, 1999 and were completed in May 2000. Several revisions to the reports were required to reflect as much accurate data as possible. The observations from the reports were reviewed by the Joint Steering Committee, analyzed and discussed. From this data the Joint Steering Committee was responsible for determining the actions required based on each study observation followed by potential recommendations for changes. Each of the research projects had varying degrees of participation and response to surveys from FNCFS agencies, provinces and DIAND regions. This information provided enough to facilitate discussions related to recommendation development.

The Project Management Team had a total of 10 meeting days in between Policy Review Group and Joint Steering Committee meetings. These meetings consisted of conference calls and various sessions in Ottawa.

The Policy Review Group had a total of 7 meetings. They identified priorities, reviewed the draft research plan, reviewed the Terms of Reference for contractors, made recommendations to the Joint Steering Committee on the research plan and research reports. The Joint Steering Committee met for a total of 14 days on 7 different occasions in various sites across the country.

To ensure First Nation Agency participation throughout the process of the review, letters were sent to all agencies early in the project with copies of the draft research plan and terms of reference for contractors to solicit their feedback. For those agencies who responded their comments/recommendations were incorporated into the final research plan. A second letter was sent to all agencies with copies of the amended research plan and the contractors who were recruited for the four research projects were introduced. Agencies were advised in this letter that the contractors would be contacting them for information as part of their data gathering responsibility.

All four contractors contacted agencies as required in their respective contracts. The Funding and Communications project consultants sent survey instruments to all FNCFS agencies across the country. The Legislation project consultant did a review of the legislation and standards from each province and contacted various agencies that had developed First Nation standards. The Governance project consultant collected data from a small sample of agencies due to very tight time restrictions. Survey instruments were mailed or faxed out to agencies by the consultant which was then followed up by telephone interviews. Site visits to agency directors also took place as part of some of the project activities and other agencies participated by submitting completed surveys to the contractors via such mechanisms as e-mail and/or fax.

Although the completion date for the National Policy Review was originally set for March 31, 2000 DIAND agreed to extend the review to June 30, 2000. This extension however did not reflect an expansion to the budget.

CHAPTER TWO

FIRST NATIONS CHILD AND FAMILY SERVICES

THE CONTEXT

Overview

We believe that the Creator has entrusted us with the sacred responsibility to raise our families. The future of our communities lies with our children who need to be nurtured within their families and communities (RCAP vol. 3 Chapter 2).

Traditionally the family in First Nation societies stood between the individual and the larger society. The family helped individuals understand and respond to the expectations of the society around them. It also helped engage individuals in constructive ways and discipline them when they ventured off course.

In urban society social institutions have been created that play the same mediating roles that families traditionally fulfilled in Aboriginal society. In non-First Nation urban settings neighborhoods, schools, unions, churches and voluntary associations fulfill the role of socialization and mediation that up to recently was traditionally done within the setting of our own communities.

According to the Royal Commission on Aboriginal Peoples, First Nation peoples have undergone all the stresses that any hunter-gatherer or agricultural institution undergoes as it is plunged into an urbanized, specialized, industrial or post industrial world. There are huge demands on one's adaptability. In addition to this phenomenon First Nations have been subjected to disruption and loss through colonization and instigation from the dominant powers of Canada

Several experiences of massive loss have disrupted First Nation families and resulted in identity problems and difficulties in functioning (RCAP). First was the historical experience of residential schooling, which resulted in children being removed from their families at very early ages for months and years at a time. Loss of language and rejection of traditional ways resulted and many children were lost through exposure to disease or never even lived to benefit from the education they received.

A second experience of loss was to children whose parents relinquished their responsibility to interpret the world for them. This was where schools taught First Nation children Euro-Canadian philosophy and First Nation competence was devalued. In this situation the world was interpreted by two institutions: school and family. This resulted in confusion as contradictory messages were received. Removal from family and community during the residential school period resulted in children receiving destructive experiences and devaluation of culture, which

was continued and passed on by some survivors. These experiences included emotional, physical and sexual abuses. Coping mechanisms such as addictions were also passed on to the survivors of the residential school era. These effects were experienced by whole communities, not in one region, but to a large degree nationally.

The third situation where children suffered identity confusion was when their parents were insecure in who they were, what their responsibilities were and how they should fulfil them. Lack of confidence and life skills stemming from the boarding school experience had devastating effects. As well repeated experiences of failure in colonial school environments where demands were foreign and unfamiliar effected First Nation children and parents' identities. This brought thousands of First Nation children into foster care and adoption in non-native settings. This impact has spanned generations.

The final situation putting stress on families and children was migration outside the close knit communities of reserves where social supports from networks of siblings and relatives had formerly provided a social safety net. Considerable personal alienation and family stress was experienced by those who left their communities. Many individuals encountered expectations similar to what immigrants do when they come from other countries to Canada and could not cope. The expectation of adapting to a predominately secular, francophone or anglophone, European based institutional culture resulted for many First Nation people in a major disruption of the traditional concept of family (RCAP 1996).

First Nation families have been in the centre of a historical struggle between colonial government on one hand, who set out to eradicate their culture, language and world view, and that of the traditional family, who believed in maintaining a balance in the world for the children and those yet unborn. This struggle has caused dysfunction, high suicide rates, and violence, which have had vast inter-generational impacts.

Expenditures to improve coverage and the quality of native specific child welfare services have been increased over the years to First Nation individuals ordinarily resident on-reserve and through child-in-care costs charged back to DIAND. In 1992-93, according to RCAP, the department allocated \$159.8 million to child and family services representing 78 per cent of the welfare services budget; these were funds that were allocated to both provinces and First Nations. Although this was a significant increase from expenditures a decade before, it was evident the needs of First Nation families far outweighed the modest successes afforded by the social reform of the time. This is particularly true since the percentage of children currently in-care remains six times that of children from the general population.

In the case of First Nations Child and family workers, many of them have also been affected by the conditions described by the Royal Commission on Aboriginal Peoples. Many live in First Nation communities and have been touched by poor parenting, various kinds of violence, addictions, the justice system, suicide or suicide attempts, if not personally, then by someone in their extended family.

Community support is required not only in the form of services such as alcohol and drug treatment centres, homemaker services, crisis intervention teams but in the form of healing. The following is some of the statistical realities facing First Nation Child and Family Service agencies across Canada:

The Situation

The Aboriginal population (all ages) for Canada is 799,010. Of that figure 529,035 are First Nation citizens. The First Nation children population (aged 0-14) equals 80,420 or 35% compared to the general Canadian population (aged 0-14) of 5,899,200 or 20.7%.

Children In-care

In 1996, more than 10% of Aboriginal children (age 0-14) were not living with their parents. That is 7 times more compared to non-Aboriginal children (apprehension by child and family services represents one of the most common reasons). In 1996, 3 of every 10 First Nation children resided in lone parent families, a rate roughly twice that of the non-First Nation population. Four percent of First Nation children were in the care of Child and Family Service agencies in 1996/97.

Poverty/Income

Fifty percent of First Nation children living on or off reserve are living in poverty. Earned income per employed Aboriginal person in 1991 was \$14,561 compared to \$24,001 for the general Canadian population.

Health

The most prevalent health problems among First Nation children include ear infections and respiratory conditions, broken bones and emotional and behavioral problems, child abuse, neglect and addictions. First Nation children have a higher risk of contracting diseases such as tuberculosis, Hepatitis A and B, meningitis and gastroenteritis than non-First Nation children.

First Nation infants are at an increased risk of being stricken with Sudden Infant Death Syndrome. Infant mortality rates for First Nation babies is roughly twice the Canadian average.

Compared to the total number of children in Canada, First Nation children are four times more likely to die from injury (63 versus 17 per 100,000). For pre-school aged children, the rate is five times as great (83 versus 15 per 100,000).

More than half (52%) of First Nation households live in homes that fall below one or more of the basic Canadian housing standards as compared to 32% for non-First Nation households

More than 20% of First Nations have problems with their water supply which is a threat health and safety

Youth Population

The Aboriginal population (youth, aged 15-24) totals 143,790 or 18% compared to the general Canadian youth population (aged 15-24) which is 3,849,025 or 13.5%. This indicates that trends for youth continue to be high. It is further noted that the First Nation population continues to display a “youthful” age structure. In 1996 the average age of the First Nation population was about 25.5 years: approximately 10 years younger than the non-First Nation population.

Income Adequacy

First Nation youth incomes averaged \$ 6,930 in 1995, about 82% that of non-Aboriginal youth at \$ 8,493. More than 45% of all First Nation youth live in a low income households, a rate roughly 1.9 times that of non-First Nation youth.

Earnings from employment per person aged 15+ equaled \$9,140.00 for First Nation persons compared to the Canadian population at \$17,020.00

Living Arrangements

The 1996 census found that approximately 57% of First Nation youth resided in two parent households, 25% lived in lone parent households and 18% lived in non-family settings. Compared to non-Aboriginal counterparts, First Nation youth are 1.6 times more likely to report living in a lone parent family and about 1.4 times more likely to report living in a non-family setting.

Mobility

High rates of mobility characterize the First Nation youth population. Between 1995 and 1996, more than one-third of First Nation youth reported a change in residence, a rate roughly 1.4 times higher than that of non-Aboriginal youth.

Education

More than two-thirds (67.4%) of First Nation youth reported an education level below high school, about 11% reported completion of high school only, 13% had undertaken some post-secondary schooling, 8% earned post-secondary certificates and 1% had earned university degrees.

The rate of school attendance among First Nation youth was about 69%. However, 65% of First Nation youth never complete high school. By contrast only 31% of non-Aboriginal children fail to obtain a secondary school diploma.

Eleven percent of First Nation youth have attended university versus 23.3% of the general youth population. Rates of First Nation youth aged 20 to 24 attending university was 12% compared to 35% of general population. Completion rates for First Nation youth were approximately 31% compared to 58% of general population.

Labour Market Behaviour and Outcomes

1996 census estimates the rates of labour force participation among First Nation youth at 51% for females compared to 77% for the general population and 67% for males versus 86% for the general population.

In addition to being less active in the labour force, Aboriginal youth were much more likely than non-Aboriginal youth to report unemployment. At the national level in 1996, the rate of unemployment among female youth was about 31% (about 2.1 times higher than non-Aboriginal female youth) and approximately 38% for males (about 2.3 times greater than non-Aboriginal male youth).

Average employment income of First Nation youth working full time in 1995 was \$18,693.00 which is about \$777.00 lower than the average among similar non-First Nation workers. Youth on reserve reported average FYFT (full year/full time) earnings of \$4,487.00 lower than non-First Nation youth.

Health and Safety

Mortality: Among Aboriginal youth there are 250 deaths per 100,000 persons, a rate approximately 3.6 times higher than deaths reported for all Canadian youth.

Suicide: Suicide deaths accounted for nearly one-third of all deaths among registered First Nation youth. For males, the suicide rate was 125.7 per 100,000 (5.2 times higher than all male youth). For females, 24.1 per 100,000 (7.8 higher than all female youth). Suicide rates of registered Aboriginal youth (ages 15 to 24) are eight times higher than the national rates for females, and five times higher for males.

Disability: Approximately 6.5% of First Nation youth reported disabilities, which limited their daily functioning. The incidence of disability among Aboriginal youth is 1.7 times higher than the general population. Aboriginal youth are at elevated risk of suffering from a physical, developmental or learning disability. According to the Aboriginal Peoples Survey, nearly a third of all First Nations peoples aged 15 and older had a disability (31%) which is more than double the national rate during the same time period.

Pregnancy and STDs: Aboriginal youth are at elevated risk of becoming pregnant at an early age and are at greater risk of contracting sexually transmitted disease.

Justice

Rates of incarceration (age group 15 to 19) are nine times higher among the First Nation population at approximately 45.7 per 10,000 compared to non-First Nation youth at 4.9 per 10,000. Rates of incarceration for ages 20 to 24 are approximately seven times that of the non-First Nation population at 210 per 10,000 versus 28.8 per 10,000.

Rates of incarceration for violent crimes are nearly nine times higher for First Nation youth at 103 per 10,000 compared rates of 11.8 per 10,000 for the general population.

Vicarious liability

Given the current situation in First Nations communities it may be assumed, that as RCAP has described, much of the dysfunction that First Nation societies experience is the result of the boarding school experience. Given this fact it must also be added that impacts from the boarding school era continue to resonate throughout the country in a wide variety of forms. For example, in a recent study of institutional sexual abuse claims *vicarious liability* and risk management has prevailed. In examining the issue, the obligations of Canada to the Aboriginal community as articulated by the Supreme Court in *R v. Sparrow* clearly states that:

“the government has the responsibility to act in a fiduciary capacity with respect to Aboriginal peoples, the relationship between the government and Aboriginals (sic) is trust like, rather than adversarial and contemporary recognition and affirmation of Aboriginal rights must be defined in light of this historic relationship.”

Under the *Indian Act* and other various regulations, Canada placed itself in the position of guardian over Native children thereby displacing the traditional role that families and communities played in that regard. In doing so Canada assumed parent-like obligations through the placement of Native children in residential schools. Given Canada’s role as guardian, combined with its fiduciary obligations for these children, the statutory duty it had to protect these children while at residential schools could not be delegated.

As the “employer” Canada introduced risk into the community. Also, Canada’s statutory and non-delegated duties to Native children were such that the risk it created could not be shifted onto the churches and others who operated residential schools on its behalf. In the court ruling by McLachlin, J. in *Jacobi* the statement was clear *“fair compensation involves internalizing the cost of a risk on the appropriate party, judged not by the ability to pay but the introduction of the risk that led to the tort.”*

Vicarious liability is sometimes imposed on employers. This term applies when one part (such as an employer or government) is held responsible for the acts of another part (such as an employee or contractor). *Vicarious liability* applies whether or not the employer itself has been negligent, for example in the hiring of the employee, the systems established or, in the case of residential school, the failure to properly monitor and supervise.

Bazley and *Jacobi* are two Supreme Court Cases on *vicarious liability*. In the *Bazley* case the facts were that two brothers were apprehended under the Protection of Children Act and placed under the authority of the Provincial Superintendent of Child Welfare. The children were placed under the guardianship of the Children's Foundation which operated residential care facilities. At one of these facilities a pedophile abused the children. Based on the facts of the case it was concluded that the Children's foundation was liable. It practiced "*total intervention*" in all aspects of the lives of the children it cared for. It also "*authorized its employees to act as parent figures for the children.*" The connection between the risk created by the Foundation (entrusting children to employees with parent-like authority and contact) and the harm that occurred (abuse by an employee while on the job) was sufficiently strong to create *vicarious liability*. Similarly in the *Jacobi* case it was found that *vicarious liability* was appropriate where government confers 24-hour-a-day parental authority on a third party.

In summary, vicarious liability for governments in both cases squarely poses the question of liability of employers. Upon the review of the case law the courts appear to be inclined to hold the federal government vicariously liable for placing children in the 24-hour-a-day of church authorities (such as was the case in boarding schools). Source: Sammon, Insurance Institute and *Bazley* and *Jacoby*.

Jurisdiction and First Nations Child and Family Services

First Nations in Canada adhere to provincial child welfare legislation because of the absence of federal or First Nation specific legislation. This jurisdictional issue is critical to understanding the plight of First Nation children because of its impacts on the adequacy of services to First Nation communities.

Pursuant to the Constitution Act, child welfare falls within provincial jurisdiction, and responsibility to legislate on behalf of *Indians* is within federal jurisdiction. The position of the federal government in the absence of federal legislation on child welfare for *Indians* has been provincial child welfare laws, being laws of general application, apply pursuant to section 88 of the *Indian Act*.

Section 88. Subject to the terms of any treaty and of any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule,

regulation or by-law made thereunder, and except to the extent that such laws make provisions for any matter for which provision is made by or under this Act.

Provincial governments in response point to federal jurisdictions over *Indians* on-reserves and have been reluctant because of financial concerns to extend provincial services to First Nations. This has led to tremendous disparity in the quantity and quality of services available to First Nations from one province to another over the years. Some provinces provide services on the condition of compensation by the federal government and others provide limited services, but only in life and death situations.

Historically First Nations have been resistant to the encroachment of provinces in Native issues. The White Paper in 1969 was an example where whole scale assimilation of Native people into mainstream society was rejected by First Nations. The extension of provincial child welfare jurisdiction was viewed as yet another attempt at cultural genocide and destroying of the culture. Many First Nation leaders pointed out that the absence of specific federal legislation did not give the provinces rights over their people.

The issue of validity of provincial child welfare legislation in relation to status *Indians* was dealt with by the Supreme Court of Canada in *Natural Parents v. Superintendent of Child Welfare*. The question in that appeal dealt with the validity of an adoption order in respect of a male native child in favor of a non-native couple pursuant to the *B.C. Adoption Act*. The Court was divided on the question of the constitutionality of whether section 88 of the *Indian Act* made provincial laws of general application binding as referentially incorporated in the *Indian Act* or was provincial law applicable to all citizens of the province including status *Indians*. The court in the end ruled that “*all laws of general application from time to time in force in any province cannot be assumed to have legislated a nullity but rather to have in mind provincial legislation, which, per se, would not apply to Indians under the Indian Act unless given force by federal reference.*”

(Source: Canadian Children: Have Child Welfare Laws Broken the Circle).

In summary provincial law of general application was found as binding on all citizens of the province including *Indians* providing it did not affect a right granted to an *Indian* under the *Indian Act*.

Inherent Right of Self- Government Section 35

The Government of Canada recognizes the inherent right of self-government as an existing Aboriginal right under section 35 of the *Constitution Act, 1982*. Recognition of inherent right is based on the view that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal in their communities, integral to their cultures, identities, traditions, languages and institutions, and with respect to their special relationship to the land and resources.

The federal government also recognizes that Aboriginal governments and institutions require the jurisdiction and authority to act in a number of areas in order to give practical effect to the inherent right of self-government. Broadly stated the government views the scope of Aboriginal jurisdiction or authority as extending to matters that are internal to the group and is essential to its operation as a government or institution. The range of matters that the federal governments sees as subjects for negotiation include adoption and welfare, education, health, social services, policing, property rights, membership, establishment of governing structures, internal constitutions, leadership selection processes, housing, taxation, etc.

Today approximately 80 tables to negotiate self- government arrangements have been established to bring First Nations communities together with the federal government, provinces and territories. Federal departments continue to devolve program responsibility and resources to Aboriginal organizations. All of these initiatives provide opportunities for significant input into program design and delivery and ultimately to lead to direct control of programming by Aboriginal governments and institutions. New approaches to negotiations have led to agreements on processes that have included widely encompassing issues, one of which includes child welfare.

Given this fact it must be stated that it is the clear goal of First Nations to exercise jurisdiction in the field of child welfare in the future. First Nations during the early treaty making process came to those tables with the objective of protecting the children yet unborn – the seven generations. Over time First Nations leaders have seen the effects of change on their communities and continue to struggle with the impacts of colonialism. To make things better for the future generations they know it is their responsibility to make sure that family and community structures are strengthened and supported. Laws and traditional values of caring based on spirituality, language, cultural values and a First Nation worldview are integral to the realization of this vision. Canada, as articulated through its policy on self-government and “*Gathering Strength*” must work in partnership with First Nations to ensure the mechanisms necessary to see this vision through are put in place.

Social Work in the Context of a First Nation Community

Mechanisms must also be in place to provide the climate necessary to ensure that prevention, protection, care, programming, standards, access and control of services and repatriation are driven by the best interests of First Nations children. The following table outlines the realities of First Nations social workers as they deal with the conditions in their communities that have been described in this Chapter. This should be kept in mind as a context for this report:

Table 2.1
Comparison of Social Work in a First Nation and Non-First Nation Setting

Social Work in First Nation Communities	Social Work in Non-First Nation Communities
Clients are usually known personally to the social worker	Clients are usually not known personally to the social worker
The clients extended family is usually known to the social worker	The extended family is usually not known to the social worker
The social worker is usually known to the community	The social worker is often a stranger to the community
Social workers are part of extended families in the community where they practice social work	Social workers do not necessarily work in their own communities
The extended family often participates in decisions that must be made	The extended family is not usually considered as caretakers for a child when alternate care is required
The community often has input into how social work is carried out	The community does not usually participate in social work activities
Although not as much as in the past, children are still seen as the responsibility of the community	The nuclear family is usually seen to be responsible for their children
The community often shares a history of residential schools, non-native child welfare system	The community is more likely not as uniformly affected by culturally divisive events
Traditional child rearing practices have been interrupted by outside influences	Child rearing practices are not as likely to have been altered by outside influences
Cultural practices have been interrupted by outside forces	Cultural practices are not usually changed by assimilation legislation
The raising of children by grandparents is seen as an honour	The raising of children by grandparents is often seen as a failure of the natural parents
It is not uncommon for children to be raised by a member of the extended family, and children do not appear to experience trauma	It is not common for children to be raised by a member of the extended family, and children know that it is not common
Generally, ownership of property is not an issue	Property is usually willed by legal heirs
Legal implications of a case is not initially a primary concern	Legal implication of a case is initially a primary concern

Source: First Nation Family Services Working Group Report 1996, New Brunswick

Summary

In this Chapter we have seen the various reasons for the high need for child and family services in First Nation communities, the current situation in First Nations across Canada, and the jurisdictional concerns of First Nations as it relates to federal and provincial responsibility for services. This information has been provided as a context on the issue of Child and Family Services for this national policy review.

CHAPTER THREE

GOVERNANCE AND FIRST NATIONS CHILD AND FAMILY SERVICES

Background

First Nations view the responsibility for the well being of their children as a sacred trust bestowed upon them by the Creator. Historically, they upheld this trust by relying on their traditional values, practices and customs to raise their children into healthy, self-reliant citizens. Traditionally First Nations exercised control and authority over their children through relationships based on a family or clan system. Although this traditional system was disrupted through colonialism, First Nations have and continue to, exercise responsibility for the welfare of their children within their communities in a variety of different ways.

Overview

In the past two decades First Nations have been successful in regaining various elements of control over the welfare of their children through various arrangements with provincial and federal governments. Current constitutional structure in Canada is such that jurisdiction over child welfare matters is within the purview of the provincial government pursuant to Section 92 of the Constitution Act, 1867. Provincial governments occupy this field through Child Welfare legislation that sets out the legal process for allowing state intervention for the purpose of protecting the best interests of all children in the province. This jurisdiction also extends to First Nations children residing on reserve because of the absence of comparable First Nations legislation.

The federal government, through the Department of Indian and Northern Affairs has the constitutional jurisdiction for First Nations children by virtue of Section 91(24) of the Constitution Act, 1867. In recognition of its fiduciary responsibilities, DIAND developed Program Directive 20-1 to provide funding and support on reserve for child and family services.

There are two kinds of agreements in place to facilitate the provision of child and family services to First Nation children. The first is through agreements with provincial/territorial governments to set out delegation of authority processes to First Nations agencies or representatives from the province/territory. These agreements are for the primary purpose of transferring statutory powers and authority to First Nations or their appropriate governing body to administer child and family services pursuant to provincial legislation. Additionally, funding agreements with the federal government allow First Nations to effectively carry out child and family services on reserve via Directive 20-1.

Six research questions were developed to address the issue of governance as a part of this review. They dealt with the analysis of agency structures and governance and how provincial structures impact on 20-1 and current agency operations; the analysis of the roles & responsibilities of key stakeholders such as Board of Directors, Chief and Councils, staff and committees, Elders, etc. in FNCFS; the analysis of staff and administrative qualifications in relation to provincial human resources standards; the analysis of the reporting mechanisms; and the analysis of agency evaluations to determine common concerns and problems experienced by agencies nationally.

The method of research utilized to collect the data was by structured interviews to gather information specific to governance issues of FNCFS Agencies. The data obtained was from a small sample of FNCFS Agencies who were asked to give their insights into the effect of government policy and law on that ability to administer programs.

Information was obtained through surveys that were developed and distributed to the research participants. The research participants were a sample of fifteen FNCFS Agencies, eight Department of Indian Affairs and Northern Development regions and one provincial Department of Social Services. Attempts to involve other provincial governments were not successful due to the fact that time constraints provided limited opportunity to participate. Although only one provincial government was surveyed directly, actual agreements from various other provincial governments were reviewed and relevant information was extracted for the analysis of data for this review. Finally, provincial child welfare legislation from eight provinces was also reviewed and forms part of the data summarized in this Chapter.

The research participants were contacted in writing with follow-up by telephone. A survey instrument consisting of thirty-four items was developed to respond to the research questions. Each survey took approximately three hours to complete. Responses were hand written and later type written verbatim.

A second survey instrument was designed and administered to the eight regions of DIAND. This survey was designed to assess and compare the nature and level of support provided to the FNCFS Agencies by the regional authorities in their implementation of the Directive 20-1. It also sought out information on the decision making process of the region and the relationship between the region and the Agencies. The surveys were administered by telephone. The responses to the questions were hand written and later type written verbatim. Each survey took approximately two to three hours to complete.

The third survey was designed to extract information from the provinces about their requirements of FNCFS Agencies in relation to legal status, standards, monitoring, limitations or restrictions on activities, decision making processes, qualifications, insurance, reporting and evaluations.

Ontario FNCFS Agencies were excluded from the national sample because these Agencies do not operate under DIAND's Directive 20-1. However, the Ontario FNCFS Agencies and all other FNCFS Agencies not selected in the national sample were given an opportunity to complete all questions relating to the national policy review.

Fifteen (15) Agencies responded to the survey conducted for this national policy review. Given this small sample the information contained in this chapter cannot be generalized from a national perspective but can however provide a "snapshot" into governance issues based on the information that was collected. The survey participants represented the following:

Research Participants		
DIAND REGION	AGENCIES	FIRST NATIONS REPRESENTED
British Columbia	Knuwewtwecw Society	Williams Lake, Soda Creek, Canoe Creek, Canim Lake
	Nuuchahnulth Community & Human Services	Ahousaht, Detedaht, Ehattsah, Hesquiat, Hutocasath, Huuayahp, Ka:yu:'kth/che:k'tles 7et'h, Mowachaht, Tla-o-qui-aht
	Heiltsuk Indian Band	Heiltsuk
Alberta	Athabaska CFS	Fort McMurray, Fort Mckay, Janvier, Fort Chipewyan, Mikisew
Saskatchewan	Kanawayimik CFS Inc.	Moosomin, Red Pheasant, Saulteaux
	Touchwood CFS Inc.	Daystar, Fishing Lake, Gordons, Kawacatoose, Muskowekan
	Lac La Ronge CFS Inc.	Lac La Ronge
	Ahtahkakoop CFS Inc.	Ahtahkakoop
Manitoba	Island Lake First Nation Family Services	Garden Hill, St. Theresa Point, Red Sucker Lake, Wasagamack
	Cree Nation Child & Family Caring Agency Inc.	Grand Rapids, Moose Lake, Indian Birch, Pukatawagan, Easterville, Shoal River
Quebec	Kahnawake Social Services	Kahnawake
	Listuguj Mi'gmaq First Nation Council	Listuguj
New Brunswick	Big Cove FNCFS	Big Cove
Nova Scotia	Micmac Family & Children's Services of Nova Scotia	Acadia, Afton, Annapolis, Bear River, Chapel Island, Eskasoni, Horton, Membertou, Millbrook, Pictou Landing, Indian Brook, Wagmatcook, Waycobah
Newfoundland	Miawpukek Mi'kamaway Health & Social Services	Conne River

It is important to acknowledge that the FNCFS Agencies operating across Canada have very unique circumstances and broader governance objectives and aspirations than the scope of this review. Also, not all FNCFS Agencies fall under program Directive 20-1.

Another important consideration is that not all of the FNCFS Agencies operate as full service agencies. The Province of Quebec, for example, has a delegation process that flows to the designated staff positions within the social service structure of the First Nation instead of the Agency as a whole.

Another important factor is that, although some FNCFS agencies were in existence prior to the establishment of the Directive, these agencies have been gradually brought under program Directive 20-1. This may also help explain some of the inconsistency in the application of the program directive from region to region on the part of DIAND.

From the FNCFS Agency perspective, there is an acknowledgment that such governing activities are limited by provincial legislation and standards. In some cases there is a statutory duty imposed on FNCFS Agencies to provide prevention and support services in an effort to avoid placing the child in care. The majority of FNCFS Agencies surveyed expressed a concern that prevention and support services is not supported to the level it should be. Those Agencies who focus their efforts on prevention services run the risk of not being able to provide other required services. Most FNCFS Agencies surveyed favored providing more prevention services than currently offered.

FNCFS Agency responses indicated that there were three main categories within which the governing body falls. The following table sets out those three categories of governing bodies and the lines of authority:

Chief & Council or Chiefs of Tribal Council

Agencies reported that the First Nation's Chief and Council served as their governing body and that no Board of Directors existed. In these cases, the lines of authority flowed top-down from the Chief and Council or Tribal Council Chiefs to a Director or Executive Director.

In cases where the Chief and Council were the governing body, the delegation of authority for child and family services matters was to the staff positions within the FNCFS Agency and not directly with the FNCFS Agency. Also, where the First Nation Chief and Council is the governing body, there was an arms length relationship between the Chief and Council and the FNCFS Agency in relation to case management activities. In some cases the Chief and Council was involved in some administrative matters involving work plans and financial planning, however, there were clear indications that the Chief and Council were not involved in the day-to-day administration of the FNCFS Agency. In other cases, First Nation policy directs that the Chief and Council not be involved in the administrative and case management functions of the FNCFS Agency.

The reporting of activities between the Director of the FNCFS Agency and the Chief and Council in most cases was on a monthly basis.

Chiefs of First Nations or Tribal Councils as Board of Directors

Agencies reported that the Chief and Council of the First Nation or the Chiefs of the Tribal Council make up the Board of Directors and that the Board of Directors functions as the governing body. The lines of authority for the Agencies generally flow down from the Board of Directors to a Director or Executive Director. Other variations of these include: the line of authority flows from the Tribal Council to the Board of Directors; First Nations are represented by members on the Board; or authority flows from the Chief and Council to the Director through a General Band Manager.

Generally it was reported that Boards act in an advisory capacity and are not involved in the day-to-day administration and case management activities of the FNCFS Agencies. There is a difference, however, in the delegation of authority process. Delegation of statutory authority rests in the staff positions within the FNCFS Agency, namely the Director of the Agency.

The delegation of authority process from the provincial government also helps to keep the operations of the FNCFS Agencies separate from the political activities of the Tribal Councils. There is an acknowledgment, as well, from the FNCFS agencies that the Chiefs provide the direction through policies and it is the FNCFS agencies responsibility to implement those policies.

Board of Directors

Agencies indicated that they have a Board of Directors separate and apart from the Chief & Council and Tribal Council structure with accompanying committee structures, generally a local child care committee. The lines of authority in these cases are reported as flowing down from the Board of Directors to a Director or Executive Director. Other variations include authority flowing down to a Committee or line of authority flowing from its Chief and Council to the Board of Directors.

Most respondents indicated they had a Board of Directors as their governing body or were incorporated separate from their First Nation and/or Tribal Council. Of these FNCFS agencies five said they serve more than one First Nation and two said they serve single First Nations.

As for the composition of these Boards there were some variances. Corporate structures allowed for the Chief and Council to appoint from its Council representation to the Board of Directors. The remaining positions were from community members at large. Another allowed local communities to select from their membership representation to the Board and there was a specific requirement in the Agency by-law that the Chief and Council was not to be represented on the Board.

In cases where Boards were the primary governing bodies of the FNCFS Agencies their authority did not include case management matters. The clear intention was to keep the Board's responsibilities limited to strategic planning and general policy development. It was also clear

that representation on the Board of Directors was non-political. Some FNCFS Agencies had specific by-law requirements that the composition of their Boards not include Chiefs and Council members. In all the cases where the Board of Directors was the governing body of the FNCFS Agency, the final decision-maker for administrative and case management matters was the Director of the FNCFS agency.

FNCFS Agency Structure - the Provincial Structures impact on Directive 20-1 and current agency operations

Seven (7) of the eight-(8) responding DIAND regions indicated that they did not require a separate legal status from the First Nation or tribal council. This requirement originates from the individual provinces. If provincial legislation requires it, FNCFS agencies will be required to incorporate separately in order to be a child and family service agency and for the region to provide services.

The Province of Saskatchewan, for example, does not have a legislative requirement for the agency to be a separate legal entity from the First Nation. Each FNCFS agency has the right to incorporate separately from the First Nation or Tribal Council if they wish.

Provincial Legislation & Child Welfare Agreements

Directive 20-1 does not require that a First Nation establish a separate legal entity for its Child and Family Services agency. It does, however, require that the provincial child and family services legislation apply on reserve. In most case provincial child welfare legislation requires that Child and Family Services agencies incorporate under its Act and take on a separate legal status from the First Nation. The requirement that the agency be a separate legal entity thereby dictates the structure and governance of the agency and in this respect the Agency has no say.

Roles and responsibilities of Boards of Directors, Chiefs and Councils, Staff, Committees, Elders

Regardless of whether the governing body was a Chief and Council, a tribal council or a Board of Directors, all respondents indicated consistently that the governing body's roles and responsibilities included strategic planning, policy development, consultation, the establishment of long-term goals or some combination of these. Eleven of the respondents specifically indicated that their governing body was not involved in the day-to-day operations or administration of the agency.

All respondents indicated that their governing body was not involved in the case management aspects. Eight of the surveyed Agencies indicated that there was an arm's length relationship maintained between their governing body and the agency staff. These agencies described no direct interaction between the Staff and Board, and monthly verbal reports from the director of the agency to the governing body were required.

The roles and responsibilities of the FNCFS Agency

Ultimately all of the FNCFS Agencies identified their role and responsibility as being the carrying out of day-to-day administration, case management and planning functions for child and family services. A small number of agencies also indicated they were responsible for strategic planning and implementation. The primary role of FNCFS agencies was to implement the agreements entered into with the provincial and federal governments.

The roles and responsibilities of the community

Some agencies reported that the communities they served had no formal role in the agency. Others measured interest and involvement of community members by indicating that individuals from the community were members of their governing body. Several reported that community child care committees, consisting of community members, played active roles in advising on child placement issues, foster care support, as well as, assisting in public education and awareness at the community level.

Role and responsibility of the Elders

Respondents indicated there was no consistency in the role of Elders in their agencies. Other agencies reported that they made it a requirement that an Elder be appointed to the governing body. Others reported they had formal Elders Advisory Councils that provided support and guidance to the front line workers and those families who used the services of the agency. Other agencies reported they did not have formal involvement of Elders in their programs.

Management, support or professional Development

The number of employees varies greatly between agencies although the vast majority of employees were full-time. The numbers of full-time employees range from a high of 72 at the largest agency to a low of three at the smallest. The number of employees directly relates to the number of the First Nations served, their geographical locations, and the size of the First Nation population being serviced. In addition to variation in staff sizes, the agencies reported a variation in the titles and roles of the employees. Typically the majority of the employees were caseworkers, social workers or child and family services workers, who carry the caseloads of the agencies. The agencies that service larger populations reported larger numbers of support staff and management. In a number of the agencies with only a few employees, many of them were reported as serving dual roles with active caseloads and managerial responsibilities. Most of the responding agencies reported that they had low numbers with respect to staff turnover. Only two agencies described their staff turnover as moderate with another two reporting it as high.

Qualifications and Training

Seven agencies reported the requirement for a Bachelor of Social Work degree in the hiring of their caseworkers. Four agencies reported they required their employees to have training in social work or training in Child and Family Services. Three agencies required their employees to undergo cultural or community-based training specific to their role in a First Nation setting. And, five agencies required core training for their employees that directly related to their specialization within the agency. Generally provinces differ from one to another with regard to entry level standards for workers.

Training Support

Of the 15 agencies surveyed, seven reported that they **did not receive any support to facilitate training for their employees**. Six agencies reported that DIAND supports training initiatives through their base funding to the agencies' operating budgets. Another six agencies indicated that the provincial governments offer access to their training programs at no charge, although the agency was generally responsible for any required travel costs.

Employee benefits including professional development, career enhancement opportunities and educational courses

Eight agencies reported having Employee Assistance Programs which they described as offering both preventative measures and counseling for those experiencing job stress. Two agencies offered extended leave to employees experiencing job stress; five agencies reported they designate sick leave for this purpose.

All of the agencies surveyed reported that they offered the basics of Canada Pension and Employment Insurance. In addition to this, the following benefits were specifically mentioned by the FNCFS agencies in describing their employee benefits packages: pension plans, short & long term disability, health benefits, dental benefits, life insurance, employee assistance programs, cultural leave and mutual fund investments.

DIAND provisions for coverage of employee benefits

DIAND regional surveys indicated for the most part that these programs were covered by First Nations through additional funding to their operating budgets. The Quebec region indicated that these benefits were based on a funding formula and child population in the community and that each First Nation had its own pay scales. Manitoba and Saskatchewan reported that it provided coverage of employee benefits based on a fixed amount, separate from the operations budget, based on the number of employees per agency. Band employee benefits were frozen a number of years ago therefore making it difficult to include new staff in the benefits package.

Professional Development

Approaches to professional development varied among the respondents. Eight respondents indicated they honor requests for education leave; nine reported they encourage employees to attend workshops and conferences applicable to their fields; eight reported they provide training courses in relevant program areas; and one indicated they hold two professional development courses annually.

Internal Reporting- From FNCFS Agency to First Nation Governments

Generally speaking, the agencies reported that their internal reporting followed the line of authority upwards. In essence, staff report to the agency Director and the agency Director reported to the governing body which may be a Board of Directors, Chief and Council or Tribal Council.

The majority of FNCFS agencies indicated that formal reports by the Director were given on a monthly basis to the governing body. Several others reported that they produce an annual report that summarizes their activities for the Chief and Council or Tribal Council Chiefs and their membership at annual general meetings.

One agency that serves multiple communities indicated that the Director attends community meetings every two to three months to make community specific reports. Another indicated that a monthly newsletter was produced for the community it serves.

Reporting Mechanisms Established in Agreements between the FNCFS Agencies and Provincial Governments

Although the general procedure for reporting from the FNCFS agency was in the form of regular written reports and verbal update reports, some Agreements that FNCFS agencies entered into did describe other reporting mechanisms to be utilized between the parties. In some cases the provincial government endorsed all aspects of the reporting procedures established between the FNCFS agency and DIAND in program Directive 20-1. In other cases the Agency provided the provincial government, in addition to program directive requirements, statistics on services on a quarterly basis.

In yet other cases the reporting procedure was such that the FNCFS agency provided the provincial government with a copy of the FNCFS agency's annual report along with information pertaining to the day-to-day operations of the program.

Sometimes an agency may even be required to maintain and report annually to the province, the number of cases by type, the number of support services in use during the year such as foster care, group homes, homemaker hours, number of meals served, as well as, a quantitative

description of other work carried out by the FNCFS agency during the year. In some other cases the Agency may be required to provide immediate notice of the name and birth date of a child taken into care, or released from care. Additionally, the agency may also have to produce bi-monthly reports covering at a minimum such information as: 1) the number of children in care and their status; 2) volume of intake; 3) type of agreements; 4) placement on or off reserve; and 5) any other information relevant to Child and Family Services. Often these reporting mechanisms were established by provincial standard.

The reporting procedures established by DIAND pursuant to Directive 20-1

- To produce an Operations report twice a year on September 30 and March 31 to report specific information related to services provided by the FNCFS agency. The Operations Report must contain the FNCFS agency's activities in relation to prevention services engaged in to keep children from coming into care, and protection services activities relating to children in care.
- Prevention services information must include: 1) list of services provided; 2) number of families served (by service); 3) number of children included in families served (by service); 4) number of local child and family services' committees; 5) number of Elders' committees; and 6) number of public information/education related sessions/workshops.
- Protection services information must include: 1) list of services provided; 2) number of families served (by service); 3) number of foster homes; 4) number of adoption homes.
- To produce a Maintenance Report on a monthly basis the FNCFS Agency must report information required for the actual reimbursement of maintenance. The Maintenance Report must contain information relating to: 1) the number of children in care at the end of each month by type of placement (foster home, group home, institution); and 2) the number of care days, unit cost and total cost for each type of placement.
- An Annual Report.

In the circumstance where FNCFS agencies were bound by reporting procedures established in provincial child welfare legislation, DIAND adopted those same reporting procedures in the agreements they entered into with the FNCFS agencies.

The DIAND regions reported that they provide only third and sixth year funding to support an agency's capacity to develop internal review processes.

In some provinces, the FNCFS agency is required to engage in an annual evaluation of its operations. In other cases, the Province undertakes to produce a written evaluation of the agency's operations.

Some provincial legislation creates circumstances for the FNCFS Agencies that are inconsistent with DIAND's funding policy statement regarding evaluation requirement. DIAND only provides funding to FNCFS agencies for 3 year and 6 year evaluations, however, provincial legislation requires on-going evaluations.

For the FNCFS agencies that were in existence prior to the establishment of Directive 20-1, DIAND did not qualify these agencies for the funding to do evaluations. Some of these agencies were also in provinces where they are required by legislation to perform the evaluations of the agency's operations.

SUMMARY

The purpose of this review was to measure the degree to which FNCFS agencies were able to influence the design, control and management of their programs. We found in this chapter that such governing activities were limited by provincial legislation and standards.

We also found there was a statutory duty imposed on some FNCFS Agencies to provide prevention and support services in order to avoid placing the child in care. In other cases the duty arose when the child comes into care. In Manitoba and Saskatchewan, the DIAND Region acknowledged that their requirements were inconsistent in that a child must be in care or in apprehended status to be provided prevention and support services. The majority of FNCFS agencies surveyed expressed a concern that prevention and support services was not supported to the level it should be.

On the basis of the data collected we found that where the First Nation Chief and Council was the governing body, there was an arms length relationship between the Chief and Council and the FNCFS agency in relation to case management activities. There was a clear indication that the Chief and Council were not involved in day-to-day administration of the FNCFS agency.

Ultimately the final decision maker for administrative and case management matters was the Director of the FNCFS agency. It was also the clear intention that most Board's roles were limited to long-term strategic planning, development of policies and procedures, and providing broad guidance and direction. It was further clear that Board's have no involvement in the administration or case management of the FNCFS agency resulting in an arms length relationship between the decision maker for the agencies on administrative and case management matters and the political body of the First Nation.

Some provincial legislation created circumstances for the FNCFS agencies that were inconsistent with DIAND's funding policy statement regarding evaluation requirements. **DIAND only provided one time funding to FNCFS Agencies for 3 year and 6 year evaluations, however, provincial/territorial legislation requires on-going evaluations.**

CHAPTER FOUR

LEGISLATION, STANDARDS AND FIRST NATIONS CHILD AND FAMILY SERVICES

Introduction

This Chapter is a summary of the comparative analysis that was conducted on (1) provincial child and family services legislation similarities/differences; (2) First Nation and provincial child and family services program standards by province; (3) tripartite and complementary bilateral agreements in each region to determine their consistency with provincial legislation, standards and Directive 20-1; (4) the application of Directive 20-1 as it relates to agency compliance with First Nations and provincial standard; (5) mechanisms for the resolution of differences in the interpretation of legislation and standards; and (6) the labour codes under which FNCFS agencies operate.

The information and findings relevant to the purposes of this policy review were obtained and analyzed as follows:

First Nation, provincial/territorial, and DIAND representatives were contacted nationally to gather data related to provincial/territorial child and family services legislation, policies, standards, directives, and agreements. To achieve this task provincial/territorial legislation was obtained from provinces, and libraries, as well as, other sources. Once collected the data were analyzed to identify all key similarities and differences, by province and territory. The legislation data were also examined to determine the manner in which authority for child and family services were delegated, by province and territory.

Provincial/territorial legislation was researched for definitions of “child in need of protection,” and similarities and inconsistencies in the definitions were identified by province and territory. In addition to the legislation data, policy manuals and other literature were obtained from provincial and DIAND sources, and were reviewed to determine whether or not there were clear distinctions between protection services and prevention services.

DIAND Directive 20-1 was examined in relation to the child and family services legislation of each province/territory to determine whether the directive reflected the spirit and intent of the legislation.

First Nation and provincial/territorial standards for the administration of child and family services were obtained from First Nation and departmental sources, and were used to determine in which regions standards were developed and/or implemented, and whether t

they had been incorporated into provincial/territorial standards. Provincial/territorial standards, as found in policy and procedure manuals and other provincial literature were reviewed to determine whether or not each jurisdiction provided a clear definition of maintenance.

Procedures for the handling of institutional care placements and potential problems of these services were examined and the information outlined by region. The impact on First Nation agencies of changes in provincial standards as a result of provincial reviews, and the compatibility of changes with Directive 20-1 were also reviewed

Tripartite and complementary bilateral agreements were obtained from First Nation and regional sources, and analyzed by region for consistency with legislation, standards, and Directive 20-1. The compatibility of Directive 20-1 with First Nation and provincial/territorial standards, and of DIAND's consistency in applying the policy were analyzed by region. Finally, information on the labour codes under which FNCFS agencies operate, and information on professional standards, were obtained and compiled.

Legislative Similarities and Differences

The essential role of child and family services is to protect children from neglect and abuse. The child welfare legislation of all provinces/territories contain precise descriptions of the conditions that place a child at risk, and the roles of provincial officials and other child and family services agencies are set out in the legislation and related standards and guidelines. These include investigating allegations of child abuse and neglect, taking appropriate action to protect children, and providing for the care and supervision of children who come into care through voluntary agreements or other court orders. Child and family services also include counseling, homemaker, and other services to families of children who have remained in their homes or who have been discharged from care.

Based on the data collected it was noted that there was a trend in some sections of Canada to move away from apprehension of children who are in need of protection to a mediated approach which seeks to resolve or mediate family problems which may place a child at risk by extending a cluster of services to the entire family.

As indicated in Table 4.1 child and family services legislation nationally is very similar in content, particularly as it relates to the definitions of child in need of protection, court procedures, review and appeal provisions, services to children and families and other key provisions. It is noted that where the protection legislation does not include adoption services, provinces have enacted separate adoption legislation.

Table 4.1
Key Aspects of Provincial Child and Family Services Legislation
(Provision included in Act = X)
As of March 31, 2000

	NF	NS	PE	NB	PQ	ON	MB	SK	AB	BC	YT
Voluntary temporary care agreements	X	X	X	X	X	X	X	X	X	X	X
Voluntary permanent Care agreements			X	X			X		X		
Court-appointed legal Counsel	X	X		X	X	X	X		X	X	X
Order for temporary care and custody	X	X	X	X	X	X	X	X	X	X	X
Order for permanent care and custody	X	X	X	X	X	X	X	X	X	X	X
Order for supervision in parental home	X	X	X	X	X	X	X	X	X	X	X
Extension of care beyond age of majority	X	X		X	X	X	X	X	X	X	X
Restraining orders		X	X	X	X	X	X	X	X	X	
Access orders		X		X	X	X	X	X	X	X	X
Review and appeal	X	X	X	X	X	X	X	X	X	X	X
Mandatory reporting of child abuse/neglect	X	X	X	X	X	X	X	X	X	X	
Child abuse register		X				X	X	X	X		
Inter-jurisdictional transfer of care/custody		X	X	X	X	X	X	X	X	X	X
Consideration of child's cultural heritage	X	X	X	X	X	X	X	X	X	X	X
Specific provisions for Indian/native children		X				X	X	X	X	X	
Statement of rights of children					X	X				X	
Children's Advocate		*1			X	X	X	X	X	X	

* Note 1: The Nova Scotia Ombudsman carries this role at present.

Comparison of How Authority For CFS Is Delegated By Provinces

Legislative authority regarding child and family services in Canada is vested with provinces and territories. First Nations Child and Family Services agencies derive the authority for the provision of protection and other statutory services from provincial/territorial statutes. Table 4.2 describes the conditions for delegation. **FNCFS agencies acceptance of this process of delegation is temporary until such time as self-government negotiations result in First Nations specific legislation.**

Table 4.2
Delegation of Statutory Child and Family Services As of March 31, 2000

Newfoundland And Labrador	<ul style="list-style-type: none"> • Act does not provide for establishment of C&FS agencies.
Nova Scotia	<ul style="list-style-type: none"> • Agency requires recommendation of Minister and approval of Governor in Council. • Governor in Council approves name, constitution, jurisdiction, and by-laws. • Constitution and by-laws must be filed with Registrar of Joint Stock Companies.
Prince Edward Island	<ul style="list-style-type: none"> • Agency requires recommendation of the Director and approval by Lieutenant Governor in Council. • Group of 12 or more persons residing in area of agency's jurisdiction may apply for incorporation under the Act.. • Constitution, objects, and by-laws must be filed with Director.
New Brunswick	<ul style="list-style-type: none"> • Minister may approve any community social services agency that meets standards and criteria of legislation, and additional criteria as Minister sees fit.
Québec	<ul style="list-style-type: none"> • Act does not provide for establishment of C&FS agencies; however, Québec has stated it will modify the Act to enable establishment of agencies with full statutory powers.
Ontario	<ul style="list-style-type: none"> • Minister may designate an approved agency as a children's aid society for a specified territorial jurisdiction. • By-laws and amendments to by-laws must be approved by Minister. • Minister may designate a community as a <i>native community</i>, and make agreements with bands/native communities and other parties designated by bands/native communities as Indian or native C&FS agencies.
Manitoba	<ul style="list-style-type: none"> • Minister with approval of Lieutenant Governor in Council may enter into agreements with an Indian Band or Tribal Council and Government of Canada for incorporation by Band or Tribal Council of an agency. • Lieutenant Governor in Council orders that the persons who have signed the application shall be a body corporate.
Saskatchewan	<ul style="list-style-type: none"> • Minister may enter into an agreement with a Band or other legal entity for the provision of services and exercise of powers specified in the agreement.
Alberta	<ul style="list-style-type: none"> • Minister may delegate specified duties or powers imposed on him/her under the Act, and enter into an agreement with any person for provision of protective services.
British Columbia	<ul style="list-style-type: none"> • Minister may make an agreement with an Indian Band or a legal entity representing an Aboriginal community and the Government of Canada. • A Director may make agreements with an Indian Band or a legal entity representing an Aboriginal community for the provision of services, and with the Government of Canada to promote the purposes of the Act.
Yukon Territory	<ul style="list-style-type: none"> • Commissioner in Executive Council may delegate to a community group or person some or all of the powers of the Director.

The Definition of Children in Need of Protection

All provinces/territories have legislation to protect children from neglect or abuse, and to extend a range of services aimed at ensuring the safety and sound development of children who are at risk. 'Child in need of protection' is described as being a child who meets one of the specified conditions set out in the legislation as placing a child at risk. There is some variation in the descriptions of these conditions, but there is an overall correspondence of meaning and intent.

Table 4.3
Conditions Placing a Child in Need of Protection – as of March 31, 2000
(Condition included in Act = X)

	NF	NS	PE	NB	PQ	ON	MB	SK	AB	BC	YT
Abandonment	X	X	X	X	X	X	X	X	X	X	X
Loss of parents	X	X			X	X			X	X	
Lack of parental care	X	X	X	X	X	X	X	X	X	X	X
Beyond parental control	X		X	X			X		X		
Failure to provide medical treatment	X	X	X	X	X	X	X	X	X	X	X
Physical or sexual abuse	X	X	X	X	X	X	X	X	X	X	X
Emotional abuse	X	X	X	X	X	X	X	X	X	X	X
Cruel treatment or punishment	X	X	X	X	X	X	X	X	X	X	X
Runaway child		X	X	X	X	X				X	X
Request by parent				X		X					
Inadequate provision for child's education			X	X	X						
Child likely to injure self or others	X	X	X	X	X	X	X	X	X	X	X
Child under 12 years committing an offence	X	X		X	X	X		X	X	X	X
Disproportionate work or public performance in unacceptable manner			X		X						
Child subject of							X				

unlawful adoption											
Child in custody of person without consent of parent/guardian				X							
Pregnant child unable to care for self and child			X								

Protection And Prevention

The research indicated that definitions of prevention services or protection services cannot be found in the legislation or standards of any province/territory. **There is a distinctive difference between protection and prevention services. Protection services are provided to specific children deemed to be at risk. Prevention services are provided to the general population and not to specific cases.**

Spirit and Intent of Provincial Legislation

The extent to which Directive 20-1 reflects the spirit and intent of provincial/territorial legislation is measured by the degree to which the principles incorporated in the directive correspond with related provisions of the legislation. The following table illustrates the specific correspondences between legislation and the directive.

Table 4.4
Correspondence of Directive 20-1 and Legislation – As of March 31, 2000
(Legislation and directive correspond = X)

	NF	NS	PE	NB	PQ	ON	MB	SK	AB	BC	YT
Creation of Indian-designed, controlled, and managed services		X	X	X		X	X	X	X	X	X
FNCFS services may be expanded to level of off-reserve services		X	X	X		X	X	X	X	X	
Development and adoption of Indian standards		X		X		X	X	X	X	X	
FNCFS expansion may be gradual		X		X		X	X	X	X	X	X
Provincial legislation applicable on reserves	X	X	X	X	X	X	X	X	X	X	X

With Changes To Provincial Legislation And Impact On 20-1

Table 4.5 illustrates that there were legislative changes in Ontario, Saskatchewan, Alberta, and British Columbia during the period of the review that had significance on First Nation Child and Family Service Agencies.

Table 4.5
Provincial and First Nation Service Standards
As of March 31, 2000

Newfoundland and Labrador	First Nation standards have not been incorporated into provincial standards. Community-based standards, developed from provincial standards by a First Nation and provincial-working group, have been adopted and implemented by the First Nation.
Nova Scotia	First Nation standards have not been incorporated into provincial standards. First Nation standards have not yet been developed.
PEI	Not applicable.
New Brunswick	First Nation standards have not been incorporated into provincial standards. First Nation standards have been developed and are used by most First Nations; some First Nations use provincial standards.
Québec	First Nation standards have not been incorporated into provincial standards. First Nation standards have been developed, but are not yet implemented.
Ontario	First Nation standards have not been incorporated into provincial standards. Canada/Ontario have funded a First Nations group to develop Indian standards, but they have not yet been developed.
Manitoba	First Nation standards have not been incorporated into provincial standards. First Nation standards have not been developed. (FNCFS agreements are premised on core First Nation values, and provincial standards are considered sufficiently flexible to enable FNCFS to incorporate cultural values into their service delivery and practices.)
Saskatchewan	First Nation standards have not been incorporated into provincial standards. First Nation standards have been developed, and are included in FSIN legislation, <i>The Indian Child Welfare and Family Support Act</i> . Province has acknowledged that the FSIN Act is equivalent to the provincial Act, and that standards apply to all FNCFS agencies.
Alberta	First Nation standards have not been incorporated into provincial standards. Chiefs Summit III approved the development of First Nation standards, but standards are not completed as yet.
British Columbia	First Nation standards have been incorporated into provincial “Aboriginal Operational and Practice Standards” and distributed for implementation.
Yukon Territory	Not applicable.

Definition Of Maintenance Within The Standards

Neither DIAND nor provincial/territorial program standards provide a definition of maintenance. All provinces/territory do, however, provide extensive lists of items that are provided to or in behalf of children in care. These expenditures by FNCFS agencies were

in most cases reimbursed by regions (except where special funding arrangements such as block-funding arrangements exist) as the provisions of Directive 20-1 and tripartite/complementary agreements demand. The range of items varies considerably by province.

Institutional placements

The data indicated that generally there were limited facilities available to FNCFS agencies. This made out-of-province placements necessary, particularly in the Atlantic provinces and Saskatchewan. In other regions out-of-province placements required prior DIAND approval or placements had to be screened and approved by the province. Table 4.6 summarizes for each region the various issues related to institutional placements.

Table 4.6
Institutional Care Services as of March 31, 2000

Atlantic	<p>Few institutional care cases in region; handled by agencies on case-by-case basis.</p> <p>Problems:</p> <ul style="list-style-type: none"> • Lack of care spaces, esp. specialized services care spaces. • First Nation children placed out of province. • Difficult to maintain ties with family and community. • High travel costs.
Québec	<p>Follow provincial procedures; placements usually made on recommendation of judge, except if it is a voluntary agreement.</p> <p>Problems:</p> <ul style="list-style-type: none"> • Distance between care facilities and communities: difficult to maintain family links, reintegrate children with families. • Services not adapted to children’s language/cultural needs. • Services in English may be limited. • Relations between First Nation and non-FN children may be difficult. • First Nations want own institutions, situated on reserves.
Ontario	<p>Under 1965 agreement, institutional care services are integrated with those of province and handled by the province.</p> <ul style="list-style-type: none"> • No problems were identified.
Manitoba	<p>Placements made by agencies, but all placements are screened and approved by province.</p> <p>Problems:</p> <ul style="list-style-type: none"> • Institutions have set aside ‘federal beds’ for which they charge FNCFS admin/service fee. • At times, FNCFS have had problems accessing placements because these

	<p>beds were full.</p> <ul style="list-style-type: none"> • FNCFS are limiting usage of institutional facilities, and are opting instead to use specialized foster home placements.
Saskatchewan	<p>Placements made by agencies, following same procedures as province.</p> <p>Problems:</p> <ul style="list-style-type: none"> • Out-of-province facilities require approval from DIAND. • Province is reluctant to conduct accreditation examinations and compliance reviews for on-reserve facilities. • Region is currently reviewing services with a view to develop regional policies.
Alberta	<p>Placements are made by FNCFS in on- and off-reserve institutions. DIAND requires on-reserve facilities be approved by province. Province certifies on-reserve facilities only at request of FN.</p> <p>Problem:</p> <ul style="list-style-type: none"> • Lack of foster care resources on reserve obliges FNCFS to develop high-cost group care resources.
British Columbia	<p>Agencies make placements, following same procedures as province. DIAND reimburses province for actual per diem costs for a FN child.</p> <p>Problem:</p> <ul style="list-style-type: none"> • DIAND may ask province and FNCFS to provide confirmation of per diem rate because there have been instances where reimbursement has been requested at institutional rate rather than group rate. • FN and DIAND disagree on the use of a provincial list of resources which meet criteria for institutional care.
Yukon Territory	<p>Placements handled exclusively by territorial government.</p>

Provincial standards and FN agencies and comparability to 20-1

In New Brunswick, a provincial team recently developed a number of recommendations for changes to the Act and service standards for the improvement of services to children and families. The effects of the changes were seen as positive by First Nation representatives, however, they created additional administrative and service-delivery responsibilities for which agencies are not being adequately funded.

In Saskatchewan, the Children’s Advocate office recently carried out a review of the circumstances relating to the death of a child, and made a number of recommendations concerning the application of child and family services policies and standards, which were already in place before the incident but possibly not always adhered to by staff. However, as a result of the incident the province moved forward a plan for the hiring of 50 new staff, including 43 child welfare workers. First Nations have to comply with the same administrative burden created by the recommendations, as well as, continuing service demands, but have not received

any increased resources from DIAND to meet those responsibilities. If it should be the case that insufficient DIAND funding for

FNCFS staff prevents the agencies from meeting their increased responsibilities, this may contradict the principle of Directive 20-1. Especially since DIAND is committed to the expansion of services on reserve to a level comparable to the services provided off reserve in similar circumstances.

Federal/provincial agreements

Tripartite and complementary agreements transfer control and responsibility to First Nations for the provision of child and family services to people in their communities. Directive 20-1 establishes the essential terms and conditions which must be included in the agreements, which are (1) provincial child and family services legislation is applicable on reserves and will form the basis for the expansion of First Nations child and family services; (2) an agreement must provide for a comprehensive range of child and family services, which may be taken on gradually; (3) an agreement must describe the service delivery mode; (4) the respective roles and responsibilities of the parties (FNCFS, DIAND, and Province/territory) must be described; (5) the terms and conditions applicable to Comprehensive Funding Arrangements must be included; (6) there must be provision for the development by FNCFS agencies of Indian service-delivery standards; and (7) there must be a regional tripartite panel or committee, composed of representatives of DIAND, FNCFS agencies, and the province/territory to review program objectives and the development of Indian standards, and to be a vehicle for ongoing discussions on issues of regional concern.

Not all agreements provide for the development and implementation of Indian standards for the delivery of services. Funding may not be adequate to enable FNCFS agencies to meet expanded responsibilities under the 1996 Act. The agreements are substantially, but not entirely, in accord with the directive.

Table 4.7
Consistency of Agreements with Legislation, Standards, and Directive 20-1
As of March 31, 2000

	NF	NS	PE	NB	PQ	ON	MB	SK	AB	BC	YT
Agreements are consistent with legislation	No	Yes	NA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA
Agreements are consistent with standards	No	Yes	NA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA
Agreements provide for comprehensive services	NA	Yes	NA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA
Agreements describes service-delivery mode	NA	Yes	NA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA
Agreements define roles/responsibilities	NA	Yes	NA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA
Agreements include CFA	NA	Yes	NA	Yes	Yes	Yes	9 Yes 2 No	Yes	11 Yes 3 No	Yes	NA
Agreements provide for Indian standards	NA	Yes	NA	Yes	No	No	Yes	Yes	Yes	2 Yes; 14 No (1)	NA
Agreements specify regional tripartite panel	NA	Yes	NA	Yes	No	Yes	No	1 Yes 6 No	Yes	No (2)	NA
Agreements are substantially in accord with	No	Yes	NA	Yes	Yes (3)	No	4 Yes 7 No	Yes	Yes	Yes	NA

Directive 20-1											
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Note 1: Although most BC agreements do not provide for development and adoption of Indian standards, the province and First Nations through a joint consultation process have established Aboriginal Operational and Practice Standards which are applicable throughout the province.

Note 2: No agreements provide for a tripartite panel; however, every Delegation Enabling Agreement contains a clause concerning resolution of differences among the parties.

Note 3: An amendment to the Youth Protection Act will permit the negotiation of agreements as foreseen by Directive 20-1.

Note 4: In Manitoba there are very few tripartite and/or master agreements that exist at this time.

Are regions of DIAND consistent in their application of the policy

Directive 20-1 requires that FNCFS agencies, or their governing bodies, enter into agreements with provinces that provide for the delegation of statutory powers and duties to the agencies. This is also required for the exercise of those powers and duties in accordance with provincial service standards or for First Nation standards established and adopted with the concurrence of the province.

Table 4.8
Verification of First Nation Standards
(Yes = X)

	NF	NS	PE	NB	PQ	ON	MB	SK	AB	BC	YT
First Nation Standards completed and implemented	X			X				X		X	
Standards being developed		X			X				X		

Table 4.9 summarizes by region current arrangements that exist to resolve differences in interpretation of legislation and standards between provinces, DIAND and FNCFS Agencies. In nearly all cases it is noted there is no formal mechanism in place resulting in informal methods being deployed to address various contentious issues.

Table 4.9
Dispute Resolution Mechanisms As of March 31, 2000

Newfoundland And Labrador	No formal mechanism for dispute resolution. Informal discussions between First Nations and provincial representatives.
Nova Scotia	Tripartite Agreement provides for discussion of differences in interpretation of legislation and standards. Any party to agreement may raise concerns for discussion.
PEI	Not applicable.
New Brunswick	No formal mechanism for dispute resolution. Differences of opinion would be looked at on a case-by-case basis.

Québec	No formal mechanism for dispute resolution. Director of Centre de protection de l'Enfance et de la Jeunesse is responsible for interpreting legislation and standards.
Ontario	No formal mechanism for dispute resolution. Provincial and children's aid society officials are responsible for interpreting legislation and standards.
Manitoba	No formal mechanism for dispute resolution. Province is viewed as having final authority in interpretation of legislation and standards; DIAND on funding matters. When issues arise, parties meet to resolve concerns. If agreement not possible, FNCFS would call for advice of elected FN leaders.
Saskatchewan	No formal mechanism for dispute resolution. Differences are resolved on an <i>ad hoc</i> basis by parties to agreements.
Alberta	Most agreements provide that differences in interpretation of legislation and standards are to be resolved at meetings of the Steering Management Committee. DIAND attends by invitation only.
British Columbia	Every Delegation Enabling Agreement contains clause on resolution of differences of opinion on legislation and standards. Differences are dealt with according to protocols established by FNCFS and the provincial Director.
Yukon Territory	Not applicable.

Application of Labour Codes and Professional Certification Requirements

Directive 20-1 does not set out any specifications or guidelines concerning labour codes, professional certification or educational standards for FNCFS agencies. Consequently standards vary considerable from one province to the other, with some agencies applying provincial or federal legislation or standards and other agencies applying their own. Table 4.10 summarizes the practices and requirements concerning the application of labour codes, professional licensing/registration and degree certification for social work staff.

Table 4.10
Application of Labour Codes, and Professional Certification and Degree Requirements
As of March 31, 2000
(Applicable to FNCFS = X)

	NF	NS	PE	NB	PQ	ON	MB	SK	AB	BC	YT
Provincial labour code			NA			X		X	X		NA
Federal labour code	X	X	NA	X			X			X	NA
FN labour code			NA		X						NA
Registration	X	X	NA	(4)	(3)	(1)	(2)	(3)	(3)	(2)	NA
Degree requirement	X	X	NA	(4)	(3)	(3)		(3)	(3)	X	NA

Note 1: Ontario legislation was recently enacted; not effective until June 2000. Application to FNs not known yet.

Note 2: No legislative requirements for licensing or certification.

Note 3: FNCFS agencies not obliged to adhere to provincial requirements.

Note 4: Most agencies.

SUMMARY

In this chapter we found that ‘child in need of protection’ is described as being a child who meets one of the specified conditions set out in the legislation as placing a child at risk. The current funding mechanism does not provide enough flexibility for agencies to adjust to changing conditions.

Effects of some provincial legislation changes are often seen as positive by First Nation representatives, however, it creates additional administrative and service-delivery responsibilities for which agencies are not being adequately funded. If insufficient DIAND funding prevents the agencies from meeting their obligations, there would appear to be a conflict with the fundamental principle of comparability of services expressed in Directive 20-1.

CHAPTER FIVE COMMUNICATIONS AND FIRST NATIONS CHILD AND FAMILY SERVICES

OVERVIEW

The First Nations Child and Family Services Program promotes the development and establishment of agencies that provide child and family services. The objective is to enable First Nations children and families living on reserve to have access to culturally sensitive child and family services within their communities. These services are to be comparable to those available to other provincial residents in similar circumstances. The goal is to restore jurisdiction of child and family services to the First Nations in Canada.

Policy Directive 20-1 encourages the development of culturally appropriate and culturally sensitive services to First Nation persons. The Guiding Principles of the Policy Review emphasize the need to involve community, parents, extended family, First Nation governments and Elders in the development and provision of services. There is also a recognition of the need to promote greater integration of services in the community and to develop a more holistic model of service delivery where appropriate at the community level.

A survey instrument was developed comprised mainly of open-ended questions related to communications issues which was distributed by fax to all 94 FNCFS agencies in Canada. Fifty agencies completed the survey. A total of 211 First Nations were represented, or were receiving child and family services, from the 50 responding agencies. Although this is nearly a half response rate the information contained in this chapter should be viewed as a “snapshot” of the national reality of communications across the country.

Of the fifty completed survey instruments received, most were submitted by agency Executive Directors or Directors. The actual personnel completing the questionnaires were identified as follows:

Position	Total	among all cases
Executive Directors	20	40
Directors	25	50
Managers	2	4
Other	3	6
TOTAL	50	100

The survey instrument that was developed included forty questions addressing five key areas: communications within the community, with service providers, with local governance representatives, with provincial government representatives and federal government representatives. Questions concerned existing communications, previous successes, major challenges, communications needs, potential opportunities, target audiences and distribution networks were also asked.

The objective of the data collection was to determine the impact of Policy Directive 20-1 on communications and how agencies encourage the development of culturally appropriate services. The instrument probed the role of community members, parents and extended family, First Nations governments, Tribal Councils and of Elders in the development and delivery of FNCFS services.

This Chapter summarizes the findings of this survey.

Collaboration

Nationally, over 60 percent of all agencies reported active participation of community members. Currently newsletters appear to serve as one of the primary tools to share information with the community. On a national basis, the most common modes of communication were flyers and posters, meetings, newsletters and the radio.

More direct contact with community members was cited by 60 percent of the agencies in the form of community meetings and by 40 percent in the form of Band council meetings. The two forums offer an interactive means to share information and lend themselves more to the participation of community members in developing culturally appropriate services.

On a national basis, the most common ways for community members to participate in the development of FNCFS programs and services were reported as: direct contact with the agency, public meetings, committee and volunteer work. Overall, FNCFS agencies rated the collaboration as close to “good.” Over 50 percent of the agencies in most provinces rated the relationship with parents as “good.” In general, agencies indicated the participation of community members was best with respect to the participation of Elders. Extended family members were rated second followed by the participation of parents. The national mean scores, however, were quite close and suggest that the relationship with all can be considered reasonably good.

One agency reported that they had hired a worker to develop community networking. The goal of the project was open communications and cooperation between programs. This was realized

through wellness initiatives such as Child Days, Cultural Days, and AIDS Awareness Days. An AIDS initiative had been promoted by another agency to reach both adults and youth.

One agency in Manitoba, team building was stressed by combining CFS and other local resources into one program. A Child Development and Parenting Series, available in English, Cree and Dene, was broadcast through local television, radio and within schools. Another agency reported that they actively solicited professionals from the public and other organizations to find "talented people that could contribute to the agency. Other agencies described the use of workshops on topics such as foster parenting, child abuse and service provider training to get information out to the community. Efforts appear related to the agency going out to reach community members more than one of them coming to the agency for information or to participate in program development and delivery.

Promoting community involvement and an understanding of the programs was reported by 48 percent of the agencies as a challenge. Lack of resources and training was cited by 20 percent of all agencies. In British Columbia over 60 percent of the agencies reported a lack of resources and training as a limiting factor. In British Columbia FNCFS agencies serve more than one First Nation and have to employ such tools as newsletters, public notices, and Band, committee and community meetings as methods to communicate with the community membership.

FNCFS Agency Relations With First Nation Governments

Monthly or quarterly communications concerning formal reports, program development, and program delivery were identified by 58 percent of the FNCFS agencies. When asked about the participation of community leaders in the cultural development and delivery of services, the respondents showed regional variations. Nationally, 40 percent indicated community leaders participated informally, 16 percent participated in the context of boards and committees and 40 percent stated leaders did not participate at all.

FNCFS agencies appear to conduct formal communications with First Nations governments on a regular monthly basis; however the tendency is for less formal contacts.

FNCFS agencies rated their relationships with both First Nations governments and Tribal Councils as good but gave preference to the former. Tribal Council relations were rated a little less than good with 38 percent of the agencies indicating the question was not applicable.

Though 62 percent of the agencies indicated they shared information within the context of meetings, they indicated the participation of community leaders in the development and delivery of services was less formal.

FNCFS Agency Relations With Other Service Providers On Reserve

A key indicator of FNCFS agency cooperation and collaboration was the rating the respondents offered regarding the participation of other service providers with respect to the development and delivery of services. Across the country the overall mean rating was an even 2 or “good.”

TABLE 5.1

Regular Communication With Other Service Providers											
<i>Comparative Analysis of FNCFS Agency Relations with Other Service Providers on the Reserves</i>											
Survey Question 1, Section 2	Total	NF	NS	NB	QC	ON	MB	SK	AB	BC	
	#	%	%	%	%	%	%	%	%	%	
Community Health Services	30	0.0	100.0	90.0	55.6	66.7	28.6	60.0	100.0	50.0	
Police Services	16	0.0	100.0	40.0	33.3	0.0	28.6	40.0	0.0	25.0	
Schools	14	0.0	100.0	20.0	33.3	33.3	0.0	40.0	0.0	37.5	
Alcohol & Drug Assistance Agencies	13	0.0	0.0	60.0	0.0	33.3	28.6	30.0	0.0	12.5	
Social Service Agencies	12	0.0	100.0	10.0	0.0	0.0	0.0	50.0	100.0	50.0	
Provincial Child/ Family Services	9	100.0	0.0	10.0	33.3	33.3	0.0	0.0	0.0	37.5	
Mental Health Agencies	8	0.0	0.0	40.0	0.0	33.3	0.0	20.0	0.0	12.5	
Other First Nations CFS Agencies	3	0.0	0.0	20.0	11.1	0.0	0.0	0.0	0.0	0.0	

FNCFS agencies were asked if they communicate with other service providers and if they did, what was the service. The data in Table 5.1 summarizes the range of responses and what percentage of the services agencies in any given region identified. Health services predominated with 60 percent of all the agencies indicating some form of communication. Police services followed with 32 percent of all agencies indicating regular contact. Schools, alcohol and drug agencies, and social agencies were each identified by 28 percent, 26 percent, and 24 percent of all FNCFS agencies respectively.

When asked how the agency generally communicated with other service providers, the predominate form reported was personal contact. This was fairly consistent across the country.

Seventy-six percent of all agencies identified direct personal contacts and meetings as a mode of communication. Fifty-four percent of all agencies identified the telephone and fax. Written correspondence was identified by 30 percent. Workshops and e-mails were not emphasized at all. Though telephones and faxes remain important tools, email remains under utilized across the country. This suggests that computers may not be used by these agencies or are not recognized as useful tools for communication.

The theme of common understanding about the agency's programs and promoting involvement continues to be identified as a challenge facing FNCFS agencies. This is true with respect to community members, community leadership and in terms of the relationships with other service providers.

FNCFS agencies pointed to the need for better systems of sharing information and more frequent communication among service providers. Communication and collaboration were generally not formalized among FNCFS agencies and did not show a consistent pattern across the country. Community health services were the most widely identified type of agency that FNCFS agencies had regular contact with. Police services followed second. Communications with other service providers tend to be direct and personal either face-to-face or by phone or fax. Though some formal communication protocols exist they are not widespread.

A consistent challenge is the need for cooperation and understanding as were the problems associated with time and distance. The agencies did not report that financial and resource constraints were factors limiting community and leadership participation or cooperation; however, agencies do tend to favour low-budget communication initiatives.

Inter-organizational Protocols

The previous section detailed the relationships that exist with communities, First Nations governments and Tribal Councils, and other local service providers. There was not a consistent form of communication used by all. Informal protocols were more common with respect to Elders and Tribal Councils. The data indicated that efforts were being made to communicate with Elders, community leaders, and other community members but the mode and success was variable across the country. Agencies varied in their mode of communication and in how they encouraged community participation.

In the context of community, Band or Council meetings and committees, FNCFS agencies in a number of provinces reveal broad-based participation in these public forums. Community meetings (60%) was the most widely cited forum followed by Band Council and committee meetings (40% of all cases), public meetings, and workshops involving program and service development (30% of all cases). Other public forums included committee involvement in program and service development (26 %) and to a lesser extent forums involving service

delivery such as committee involvement (19%), public meetings (16% and participation on boards and committees (16%).

In the context of more personal face-to-face contacts, informal consultations with community leaders was cited by 40 percent of all agencies.

The data suggests agencies have adopted a broad-based range of communication protocols to reach community members. Direct contact in public forums and within more personal face-to-face contexts were the most common or widespread strategy.

Protocols Established By FNCFS Agencies With Other Service Providers

TABLE 5.2

Communication Protocols and Contacts With Other Service Providers										
Comparative Analysis of Protocols Established by FNCFS Agencies with Other Service Providers										
Survey Questions 1, 2 & 3, Section 2	Total	NF	NS	NB	QC	ON	MB	SK	AB	BC
	#	%	%	%	%	%	%	%	%	%
Direct Personal Contacts & Meetings with Other Service Providers	38	100.0	100.0	90.0	66.7	66.7	57.1	80.0	100.0	75.0
Regular Communication with Community Health Services	30	0.0	100.0	90.0	55.6	66.7	28.6	60.0	100.0	50.0
Telephone & Fax Communications with Other Service Providers	27	100.0	100.0	50.0	66.7	66.7	28.6	50.0	0.0	62.5
Regular Communication with Police Services	16	0.0	100.0	40.0	33.3	0.0	28.6	40.0	0.0	25.0
Formal Protocols, Existing or Developing, with Other Service Providers	16	100.0	100.0	20.0	22.2	66.7	0.0	20.0	100.0	62.5
Written Correspondence with Other Service Providers	15	100.0	0.0	0.0	22.2	66.7	28.6	60.0	0.0	25.0
Regular Communication with Schools	14	0.0	100.0	20.0	33.3	33.3	0.0	40.0	0.0	37.5
Regular Communication with Alcohol & Drug Assistance Agencies	13	0.0	0.0	60.0	0.0	33.3	28.6	30.0	0.0	12.5
Regular Communication with Social Service Agencies	12	0.0	100.0	10.0	0.0	0.0	0.0	50.0	100.0	50.0
Regular Communication with Provincial Child & Family Services	9	100.0	0.0	10.0	33.3	33.3	0.0	0.0	0.0	37.5
Regular Communication with Mental Health Agencies	8	0.0	0.0	40.0	0.0	33.3	0.0	20.0	0.0	12.5
Formal Regular Meetings & Case Conferences with Other Service Providers	7	0.0	0.0	10.0	11.1	0.0	28.6	20.0	0.0	12.5
Workshops with Other Service Providers	3	0.0	100.0	0.0	0.0	0.0	14.3	0.0	0.0	12.5

Regular Communication with Other First Nations CFS Agencies	3	0.0	0.0	20.0	11.1	0.0	0.0	0.0	0.0	0.0
Formal Memorandum of Understanding with Other Service Providers	2	0.0	0.0	20.0	0.0	0.0	0.0	10.0	0.0	0.0
Formal Joint Initiatives with Other Service Providers	2	0.0	0.0	10.0	11.1	0.0	0.0	0.0	0.0	0.0
Email with Other Service Providers	2	0.0	0.0	10.0	11.1	0.0	0.0	0.0	0.0	0.0

Direct personal contact and meetings with service providers was identified by 76 percent of the agencies, or a majority in every province. This indicates lines of communication exist even if not in a formalized manner.

Communications tend to rest on more informal protocols and FNCFS agencies do not always use all the communication tools available to them nor do they necessarily communicate with all service providers within their locale. Perhaps greater emphasis on more formal relationships would address some of these problems. When asked about challenges to communication the lack of understanding about issues and initiatives was commonly cited as was the need for greater participation from other organizations.

Protocols Established By FNCFS Agencies With First Nations Governments

TABLE 5.3

Communication Protocols with First Nations Governments										
<i>Comparative Analysis of Protocols Established by FNCFS Agencies with First Nations Governments</i>										
Survey Question 2 & 3, Section 3	Total	NF	NS	NB	QC	ON	MB	SK	AB	BC
	#	%	%	%	%	%	%	%	%	%
Scheduled Meetings with FN Gov'ts	31	100.0	100.0	60.0	55.6	33.3	85.7	80.0	100.0	25.0
Written Reports & Correspondence with FN Gov'ts	16	100.0	100.0	40.0	11.1	66.7	28.6	20.0	0.0	37.5
Board & Committee Participation with Community Leaders	8	0.0	100.0	10.0	33.3	0.0	28.6	10.0	0.0	0.0
Communication with FN Gov'ts on an Ongoing or As-Needed Basis	7	0.0	0.0	30.0	0.0	33.3	14.3	0.0	0.0	25.0
Telephone Communication with FN Gov'ts	2	0.0	0.0	10.0	0.0	0.0	0.0	0.0	0.0	12.5

Table 5.3 indicates a number of strategies and mechanisms for communicating with First Nations governments but no clear patterns emerge. Scheduled meetings were cited by sixty-two percent of the agencies followed by written reports and correspondence among thirty-two percent of the cases.

Protocols obviously exist between FNCFS agencies and First Nations governments. Scheduled meetings and written reports and correspondence were common. Agencies nonetheless recognize that challenges exist: fifty-two percent of the agencies identified problems with developing cooperation and understanding with First Nations governments about agency issues

The research indicated forty percent of all FNCFS agencies reported that community leaders do not participate in the development and delivery of services. Assuming community meetings are in some ways related to the role of the Tribal Council, the majority (60%) indicated information was shared within this forum. More specifically, forty percent indicated information was shared at Band and committee meetings. Agencies either indicated the role of the Councils did not apply to their activities or that community leaders did not participate in the development and delivery of services. Nonetheless, the majority of agencies indicated they shared information within community meetings and through the participation of community leaders.

Overall, fifty percent of the agencies reported regular contact suggesting protocols have been established. This was not common however to all regions and agencies. Fifty percent of all agencies reported regular contact with provincial governments. Twenty-eight percent of the agencies reported communications were rare or that there were no communications. Eighteen percent indicated meetings and contacts were on an as-needed basis. Their reasons for communicating with provincial governments were to discuss policy and legislation issues, funding issues, and/or case management issues. Fifty percent of all agencies reported policy and legislative issues as being a key topic of provincial protocols. Program and service protocols and formal agreements were also identified.

With respect to relationships and communications with the federal government (DIAND) the most commonly addressed topics were either funding issues or program and management issues. This differs from the topics commonly communicated with the provincial government, which showed greater emphasis on policy and legislative issues.

Sixty-six percent of all agencies identified funding as the topic most commonly addressed with the federal government.

When queried about challenges faced when communicating with the federal government no clear trends were identified. A lack of understanding was most commonly identified. The most commonly mentioned problem was a basic lack of funding for child and family services. Some agencies noted that this problem made communication initiatives more difficult.

Overall, the agency comments suggest Policy Directive 20-1 has a negative impact on communications. The policy is viewed as rigid and unilateral with little room for FNCFS input in the interpretation, or allocation of funds. FNCFS agencies noted that funding inevitably affected communications. One agency stated Policy Directive 20-1 was outdated. Another noted that the Directive appeared more effective when applied to larger reserves.

In general, the Directive was not perceived as a positive arrangement for service agencies. FNCFS agencies reported they wanted more input into the legislative relationship with the federal government and certainly feel that more collaboration is needed in child and family service issues. The data on communications and policy development at the community level confirms this. Although there was no clear or strong tendencies among agencies across the country, there was a sense that more flexible and informal methods were preferred.

Use of formal communication protocols

Only thirty two percent of the agencies indicated having formal protocols in place with other service providers. These protocols were very regional and not widespread. Direct personal contacts and meetings were identified by 76 percent of the agencies indicating that communications exist even if not in a formalized manner. The relationship with other service providers was rated as reasonably good. Agencies did not always communicate with all service providers that were available in their area.

Protocols exist between FNCFS agencies and First Nations governments. Scheduled meetings and written reports and correspondence were common. Formal protocols with Tribal Councils were not readily identified but contacts fall within the broader scope of community relationships.

Fifty percent of all agencies reported regular contact with provincial governments. Twenty-eight percent of the agencies reported communications were rare or that there were no communications at all. Eighteen percent indicated meetings and contacts were on an as-needed basis. Communications concerned policy and legislation issues, funding issues, and/or case management issues. The most commonly cited protocol concerned programs and services but the responses were highly regionalised

Joint Ventures

The third component to the analysis involved a comparative analysis of the joint ventures between FN agencies and other service providers in the community.

TABLE 5.4

Formal Communications and Joint Ventures with Other Service Providers										
Comparative Analysis of Joint Ventures with FN Agencies and Other Service Providers										
Survey Question 4, Section 2 and Question 3, Section 2	Total	NF	NS	NB	QC	ON	MB	SK	AB	BC
	#	%	%	%	%	%	%	%	%	%
Protocols (Existing or in Development)	16	100.0	100.0	20.0	22.2	66.7	0.0	20.0	100.0	62.5
Joint Workshops & Forums	8	0.0	0.0	20.0	11.1	33.3	14.3	20.0	0.0	12.5
Regular Meetings & Case Conferences	7	0.0	0.0	10.0	11.1	0.0	28.6	20.0	0.0	12.5
Community Resource Group	3	0.0	0.0	10.0	0.0	0.0	14.3	0.0	0.0	12.5
Developing Protocols	3	0.0	0.0	10.0	0.0	33.3	0.0	0.0	0.0	12.5
Regular Communication with Other FNCFS Agencies	3	0.0	0.0	20.0	11.1	0.0	0.0	0.0	0.0	0.0
Sharing Resources & Training	2	0.0	0.0	10.0	0.0	0.0	0.0	0.0	0.0	25.0
Joint Initiatives	2	0.0	0.0	10.0	11.1	0.0	0.0	0.0	0.0	0.0
Memorandum of Understanding	2	0.0	0.0	20.0	0.0	0.0	0.0	10.0	0.0	0.0

The data summarized in Table 5.4 displays the low response rate to the question about joint ventures with other service providers. At best 32 percent of all agencies indicated protocols either existed or were in the development stage. Sixteen percent identified joint workshops and forums and 14 percent identified regular meetings and case conferences.

Program development and delivery were the most commonly cited joint activity. Forty-eight percent of all agencies cited program development and delivery. Committee representation was identified in only 6 percent of the cases. Significantly, 40 percent indicated that no joint ventures were in place with First Nations governments.

Agencies did not report a high participation of Elders in committee and advisory groups (28% of all agencies), within informal gatherings (22% of all agencies), nor within the context of programs and workshops (14% of all agencies).

According to the data the participation of Elders was not widely noted, however, the agencies tended to rate such participation as good. Informal gatherings and consultations were the

preferred context. It was understood that both Elders and community leaders would bring their traditional knowledge and particular community concerns to any forum that addressed program and service development. A key means to promote the development of culturally sensitive programs was to get community members involved in the program development process.

The need for better communication, understanding, and participation by community members was identified as one of the challenges facing FNCFS agencies. There was a need to develop cooperation and understanding of agency issues among First Nations governments according to the respondents.

SUMMARY

FNCFS agencies appear to conduct formal communications with First Nations governments on a monthly basis; however the tendency is for less formal contacts. Though sixty two percent of the agencies indicated they shared information within the context of meetings, they indicated the participation of community leaders in the development and delivery of services was less formal.

Communications on a monthly or quarterly basis with First Nations governments involved formal reports and to a lesser extent the communication of policy, program development, and delivery issues. Community health services was the most widely identified type of agency that FNCFS agencies had regular contact with. Police services followed second. A consistent challenge was the need for cooperation and understanding as were the problems associated with time and distance.

The data suggests communities have adopted a broad-based range of communication strategies. Direct contact in public forums and within more personal face-to-face contexts were common. Protocols exist between FNCFS agencies and First Nations governments. Scheduled meetings and written reports and correspondences were common. Agencies nonetheless recognize that challenges exist: fifty-two percent of the agencies identified problems with developing cooperation and understanding with First Nations governments about agency issues.

Forty percent of all FNCFS agencies stated that community leaders do not participate in the development and delivery of services.

With respect to relationships and communications with the federal government the most commonly addressed topics were either funding issues or program and management issues.

A key means to promote the development of culturally sensitive programs is to get community members involved in the program development process. There is a need to develop cooperation and understanding of agency issues among First Nations governments.

CHAPTER SIX

THE FUNDING OF FIRST NATIONS CHILD AND FAMILY SERVICES IN CANADA

Introduction

Program Directive 20-1 primarily determines funding for FNCFS agency activity. The Directive has two basic funding methods. One component is a formula that is heavily influenced by the 0-18 on-reserve population of the communities served by FNCFS agencies. This number is used to calculate the administration and operations budget. The second component provides for the reimbursement of actual maintenance expenditures claimed by agencies. The Directive provides for three stages of funding as agencies progress through pre-planning, planning, and start-up phases of development. Once an agency has completed all stages of development, they commence operations and receive funding phased-in over a four-year period.

Federal Treasury Board and DIAND using an on reserve 0-18 population of 1000 children as the norm developed the Directive 20-1 operations formula. The formula was adjusted downward for agencies serving smaller populations. No adjustments were made for agencies serving larger populations. The formula was also adjusted by applying a factor for remoteness using a departmental remoteness policy developed for Band Support programs. The formula provided additional funds for each First Nation belonging to the FNCFS agency. And finally, the formula provided for evaluations in the third and sixth year of operations for new agencies only and not those prior to the directive.

While the funding for the FNCFS agencies is generated by a national federal policy, the agencies are required to seek and receive legislative authority from provincial governments responsible for child welfare services. Each province has its own legislation. While there is a common purpose in the legislation to protect children, the processes, methods by which children are protected, and the delivery agents, vary considerably from one jurisdiction to other.

Since the introduction of Directive 20-1 most provincial child welfare jurisdictions have been under public scrutiny, usually due to the death of a child. As a consequence, most jurisdictions have changed the methods by which children are protected. The reform of child protection services has occurred to some extent in each jurisdiction. It is appropriate that the federally funded system also be reviewed.

Background

In the summer of 1989, DIAND received Cabinet approval to expand First Nation Child and Family Services on reserve as resources became available. This approval followed several years in which a moratorium had been in place restricting such growth. The approval to expand was given with a number of conditions.

DIAND circulated a discussion document, dated October 1989, which outlined several basic principles endorsed by the Federal Cabinet in their consideration of the long-term plan for Indian child welfare in July of 1989. The basic decision made by that Cabinet:

“...was that the federal government will continue to fund and support the expansion of Indian child and family services on reserve as resources become available, in co-operation with Indian people and the provincial governments. This funding and support will be in accordance with provincial legislation and at a level comparable to the services provided off reserve in similar circumstances. While the range of services includes most of the prevention and protection services covered by the various provincial Acts, it specifically excludes day care (child care), services for young offenders and maintenance in facilities where a child is placed for mental health treatment, since these are covered by other federal programs. Cabinet also approved the basic objectives of a new management framework which would not only make life easier for Indian child welfare agencies by providing them with stable and predictable funding, and more flexibility in their budgets, but would also improve agency management and accountability.”

The discussion paper was intended to gather responses to the Department’s proposals to achieve the objectives from existing ICFS organizations and provinces prior to the Department writing a management directive. The objectives were listed as follows:

1. *“To encourage and support the provision of a full range of services and an integrated service approach for Indian children on reserve.*
2. *To provide ICFS organizations with a choice about delivery of services and control over the full range of services provided to their children.*
3. *To support the establishment of ICFS organizations that serve a large enough population that they can operate efficiently. A target of a minimum of 1,000 children has been set as a guideline*
4. *To support the development of Indian service standards for child and family services.*

5. *To promote the development of new Indian managed child and family service organizations in a planned and coordinated manner, as rapidly as resources and agency planning permit.*
6. *To establish nationally consistent agreements between ICFS organizations and federal and provincial governments which clearly identify respective roles, responsibilities and areas of accountability.*
7. *To manage the funding of ICFS organizations on reserve in a manner that provides flexibility in the operating budget, and stable and predictable funding.*
8. *To adjust ICFS funding to reflect different levels of needs for services, based on socio-economic factors, if appropriate.*
9. *To ensure that no ICFS organization's budget is decreased under the new funding arrangements, and that there is a clearly established method of adjusting such budgets.*
10. *To achieve ICFS organizations of an efficient scale, with a minimum disruption of the operations of existing services. Existing ICFS organizations which do not meet the guidelines for a target population of a minimum 1,000 children will be reviewed, in order to determine a possible amalgamation plan.*
11. *To ensure the establishment of a reliable data collection, analysis and reporting procedure.*
12. *It is important for all ICFS organizations to have access to independent evaluations, in order for them to be able to confirm or improve their practices.*
13. *To ensure that a tripartite mechanism is put in place to facilitate the development of Indian service standards and new ICFS organizations, as well as to deal with any operational issues in a timely fashion.*
14. *Other Administrative Matters: Aside from the specific matters dealt with in the proceeding pages, Cabinet has also directed that certain established administrative requirements be met, including: Submission of annual audits; Submission of agency annual activity reports; Submission of provincial certification; other federal regulations applicable to funding*

will continue to apply. These requirements do not depart from existing practices and are included in current agreements.”

Program Directive 20-1 became effective April 1, 1991.

The department established a working group on Child and Family Services in 1993 *“to review the roles of headquarters and regions, the child maintenance question, possible socio-economic indicators for funding formulae, and data collection methodology.”* The working group was composed of both headquarters and regional staff. First Nation agencies were provided an opportunity to express their opinions on the issues selected for review.

The Departmental Audit and Evaluation Branch of DIAND published an evaluation of the First Nations Child and Family Services Program in November 1995. The evaluation reviewed agency activity up to March 31, 1994. The evaluation team made the following recommendations.

1. *“It is recommended that the roles and responsibilities of DIAND and its First Nation and provincial partners be clarified in all future agreements, and that current agreements be updated or clarified on renewal.*
2. *It is recommended that reporting requirements in agreements between DIAND and FNCFS agencies be realigned and reinforced to ensure accordance with the specifications of the Program Directive.*
3. *It is recommended that DIAND encourage the Provinces and First Nations to co-ordinate their efforts to deliver effective training programs to FNCFS staff in all communities.*
4. *It is recommended that DIAND revisit the nature and structure of funding for on-reserve First Nation Child and Family Service, with a focus on clarifying the definition of operational and maintenance funding, and to explore the development of block funding arrangements as an alternative to funding operations and maintenance separately.”*

The Program Directive was revised marginally effective April 1, 1995 to reflect price increases in the operational formula. There appears to be no evidence that the recommendation of the evaluation to more clearly define operations and maintenance was ever implemented.

After several years of experience of implementing the program directive, agencies became increasingly critical about various financial and policy aspects of Program Directive 20-1.

DIAND agreed to review the policy in partnership with First Nations. By the fall of 1999, the terms of reference to conduct a National Policy Review into four distinct elements of the Directive. The four elements to be researched by selected contractors were: 1) Legislation and Standards; 2) Agency Governance; 3) Funding Issues; and 4) Communications. This Chapter is a summary of the funding research that was undertaken as a part of this review.

The Research Process

The process for collection of data on funding was through a survey instrumentation methodology. Survey instruments were designed to collect as much information as possible from as many agencies as possible via a mail out. The surveys were targeted to three main stakeholder groups in the Directive. They included FNCFS agencies, DIAND regions and provinces. A glossary of Child Welfare Terminology was developed to assist the respondents in completing the survey questions and a chart for the range of services was also included.

Surveys were distributed to ninety- five FNCFS agencies, seven DIAND regions, and nine provincial departments/ministries responsible for child and family services. The resulting responses were: 30 (31.6%) FNCFS agencies including one from Ontario; all six regional funding agencies under Directive 20-1 (excluding Ontario); and 5 (55.6%) provinces. DIAND headquarters, and the Federal-Provincial Working Group on Child and Family Services Information provided additional statistical data. Background documents were also provided by the AFN along with data that were downloaded from the Internet.

First Nations agencies in Ontario are funded by a unique federal-provincial agreement signed in 1965. As a result Ontario agencies did not participate in the data collection targeted in this phase of the National Policy Review. They are funded based on an agreement through the Canada Assistance Plan Act, Part II, which provides cost-sharing arrangements to address the special socio-economic circumstances of select geographic areas. Under the terms of the agreement, Ontario funds social services on reserve with a charge back to DIAND for the major share of the costs of Social Assistance and child and family services. Because of this agreement First Nation Child and Family Services Agencies, except for Ojibway Tribal Family Services (OTFS) are not funded directly by DIAND or on the basis of program Directive 20-1. OTFS is a single Band agency funded by DIAND for the delivery of non-mandated prevention services.

The Province of Ontario has also recently completed a comprehensive review of five First Nation CFS agencies. That review was conducted from October 1997 to late fall 1998. As well, the Ontario Ministry of Community and Social Services developed a Guide to Child Welfare Funding Framework which has some relevance to the funding issues of program Directive 20-1. Due to the limited timeframe and budget for the data gathering for the National

Policy Review, it was determined that the agencies in Ontario would be included on the mailing list for information purposes but would not be included in the development of the sample group because they were not funded in accordance with 20-1.

The agencies that responded to the questionnaire were coded as being pre and post Directive 20-1. It was also noted which of those volunteered their audited financial statement for last year. The frequency distribution of their answers were as follows:

First years of operation

Pre Directive 20-1	13
Post Directive 20-1	17

Audited Financial Statement for fiscal year 1998/99

Full statement	6
Partial statement	5
No statement	19

This chapter summarizes the data that was collected through this methodology.

What was intended to be included under operations

FNCFS Agencies are expected through their delegation of authority from the provinces, the expectations of their communities and by DIAND, to provide a comparable range of services on reserve with the funding they receive through Directive 20-1. The formula, however, provides the same level of funding to agencies regardless of how broad, intense or costly, the range of services is. Table 6.1 summarizes the breakdown of funding for operations based on DIAND data.

**Table 6.1
Child and Family Services Costing – Bottom Up Approach
November 1989 Source DIAND**

Items	Fixed	Per Band	Per Child 1,000 or 1,250
Board of Directors*		7,200	
Director	50,000		
Director's Travel	10,000		
Secretary/Receptionist	20,000		
Financial Support	25,000		
Evaluation	10,000		
Audit	5,000		
Legal	5,000		

Local Committees		2,000		
Elders Committee*		2,400		
Resource Training	10,000			
On-going Development	20,000			
Service Purchase			100	100.0
Family Support- protection (\$168,000)			168	134.4
Travel (\$30,000) *			30	24.0
Child Care Staff (\$78,000)			78	62.4
Travel \$15,000)*			15	12.0
Resource Workers (\$28,000)			28	22.4
Travel (\$5,000) *			5	4.0
Prevention Workers (\$46,000)			46	36.8
Travel (\$10,000) *			10	8.0
Supervision (\$152,000)			152	121.6
Travel (\$40,000) *			40	32.0
Support Staff (\$60,000)			60	48.0
Emergency Services (\$30,000)			30	24.0
Benefits and Administration \$172,000)			172	137.6
On-going Training \$26,000)			26	20.8
Total	155,000	11,600	960	788.0

NOTE: * denotes cost sensitive item.

Maintenance - what is included

The reimbursement method of funding maintenance was intended by DIAND as a means of protecting agencies from the consequences of unexpected increases in maintenance costs. Maintenance is not defined in Directive 20-1. The evaluation conducted by the department in 1995 concluded that the definition of maintenance should be clarified. There have been no national changes made to the definition since that recommendation was made.

Some of the typical services that agencies reported DIAND and the provinces reimburse as maintenance costs include foster care, group care, institutional care, other care and in need of protection but not in-care. Services that FNCFS agencies reported were rejected for payment under maintenance by DIAND were: parent aide, legal fees/court appearance, counseling/therapy assessments, travel, special needs, regular maintenance, services for families (respite), foster parent training, services to the disabled, repatriation, youth services, etc.

Population thresholds

DIAND's 1989 Discussion Document describes organizational scale as the following:
"It is difficult for an ICFS organization to provide full services in a cost-efficient manner if the population to be served is too small, because of the high administration overhead costs. At the same time, a small ICFS organization can face considerable difficulties in

operating effectively, since the chance of service workers being related to or acquainted with the families they deal with is much higher if the population is small. This can make it particularly difficult when it comes to child apprehensions and placements. And finally, the budget available for the expansion of child and family services on reserve is limited, and it is therefore essential to create efficient ICFS organizations.

The guideline supported by DIAND and the central agencies (e.g. Treasury Board) is that, except in limited cases, a minimum of 1,000 on reserve children (0-18 years) should be the target population of any new ICFS organization. Because of the high cost of having smaller service organizations and the limited funds available, the flexibility in this option is largely limited to its application, and the kinds of exceptions that will be allowed, but all exceptions will be studied on a case-by-case basis.

- 1. programs and it Isolation and remoteness: the distance between bands that would otherwise work in cooperation is so great that efficiency would not be achieved by following the guideline.*
- 2. Cultural contrast: extreme cultural differences would not lead to effective working relationships.*
- 3. Existing groupings: some bands are already cooperating together in the administration and delivery of other would be essential that the same grouping be acknowledged in order to create an efficient ICFS organization.*

In those cases where the 1,000 guideline can not be followed, the funding would be adjusted accordingly.” Pages 8,9.

The Directive includes the same exceptions in section 9.1 (a) (1), (2), and (3).

Staff Training and The Current Operational Formula

The bottom-up approach to developing the formula for operations included \$26,000.00 for on-going training to be paid out of the per child calculations. Program Directive 20-1, section 7.1 (c) referring to the expectations of the Start-up phase states that “the initial training of staff” is included in the start-up funds.

Application of the formula

Based on the data collected it appears that the operations funding formula is applied consistently in all regions except for Ontario where child and family services on reserve are funded by a different financial arrangement.

Program directive 20-1 provides phase in funding by contributing 75% of the operations formula funding in the first year of operations, 85% in the second year, 95% in the third and 100% in the fourth year. The assumption behind the phasing-in of funding by DIAND is that agencies at the outset of operations would focus on community education and prevention activities at least for the first couple of years of operation. Subsequent to that it was expected they would commence with the delivery of protection services and the remaining range of services.

FNCFS agencies, regions and provinces, all reported that the phasing-in of operational funding did not reflect reality. In reality, agencies are expected to deliver the full range of services as soon as the agency begins operations. Consequently, the reduced funding in the early years of operations for agencies seriously limits their capacity to deliver the services expected of them. There was consensus among agencies, regions, and provinces that the concept of phasing-in should be considered for termination.

About one-third of FNCFS agencies respondents reported that they do not provide adoption services. The only other significant difference in the range of services provided by agencies compared to the provinces was that agencies generally do not operate group or institutional care facilities.

Comparison of Contribution Funding and Block Funding.

Many department and agency representatives have expressed the merits of block funding but are quick to add a number of caveats that are not currently applied to the agreements and therefore conclude that block funding would be preferred method of funding for some agencies if those caveats could be addressed. The major advantage of block funding for DIAND is the increased predictability of multi-year budget forecasts proportionate to the number of agencies funded on a block basis.

The major advantage of block funding for the FNCFS agencies is the increased ability to establish their own program and administrative priorities. There are several disadvantages of block funding from an FNCFS agency perspective. Agreements lack specific criteria by which the funding can be adjusted during the term of the agreement, and similarly they lack criteria that can be used to determine the starting budget base for a subsequent multi-year term. Currently there are several regional pilot projects under way. Further research should be undertaken to assess the merits of these pilot projects.

What about other funding methodologies

Provinces reported they use a variety of funding methods such as grants, contract for services, and fee-for-services. Ontario and Alberta recently introduced new formula based funding that could be options for possible national funding methodologies:

Ontario

The province is implementing a new funding regime. The number of protection cases forms the base of the formula. The more protection cases an agency has the more staff and budget the agency receives under the formula. The formula uses timed benchmarks for various case activities. Staff salaries are benchmarked to a salary scale for different types of positions that are then multiplied by the number of FTEs for that type of position.

Maintenance costs of the budget are defined by the type of care provided, the number of cases in each category of care, and multiplied by pre-determined per diems

Agency staff training and recruitment budget is set at 1% of total direct service salaries. Travel is set at \$5,035.76 per direct service position, plus \$30,000.00 for each fly-in community served by the agency. Administration, client services, and program support budgets are established for each agency based on 1997 expenditures. There is no indication in the description of the new funding model, how the FNCFS agencies will be treated in terms of their case practices and service priorities.

Alberta

Alberta recently introduced a new funding model built on the size of the population under age 18 served by a regional authority. The formula is distributive in nature in that it distributes available money rather than generating how much is needed for operations. The base population count is weighted for low-income families, single-parent families and aboriginal families. "The formula is: A region's adjusted population = 1 x (number of children) plus 3 x (number of low-income children) plus 3 x (number of single-parent children) plus 5 x (number of Aboriginal children). The weights are based on extensive Canadian and international research. If a child is in more than one of the population groups, the formula assigns them added weight because research confirms that they face additional needs."

"The base funding for a region is adjusted: 1) to allow for a high needs fund for the Authorities, 2) to compensate for cost-of-doing-business factors (if a region qualifies for this adjustment), and 3) to reflect the amount of federal funding provided for services on First Nations reserves."

The new funding model addresses the additional costs of providing child welfare services related to distance and low population density as follows:

“To compensate for transportation costs associated with distance from major service and supply centres, an Authority’s funding will be adjusted for populations living more than 300 kilometres from Edmonton or Calgary.

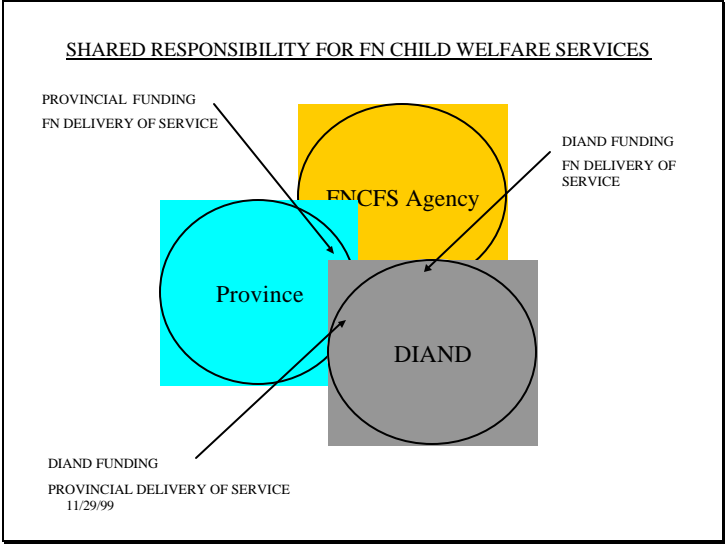
To compensate for costs associated with low-population density, and inability to benefit from economies of scale, an Authority’s funding will be adjusted for populations living from 50 to 80 kilometres from towns of 5,000.

An Authority will receive additional compensation for populations living more than 80 kilometres from towns of 5,000.”

A Shared Responsibility for Child Welfare

Program directive 20-1 is based on the premise that the provinces have legislative authority for child and family services. The Directive requires that First Nation Child and Family Service (FNCFS) agencies enter into agreements with the provinces to arrange for the authority to deliver a range of comparable child and family services on reserve. Consequently, there is a complex, three party, relationship between FNCFS agencies, the provinces and DIAND’s Directive 20-1 all of whom are responsible for the funding and delivery of child and family services in Canada. The following chart illustrates that relationship.

Chart 6A
Shared Responsibility for First Nation Child Welfare Services in Canada

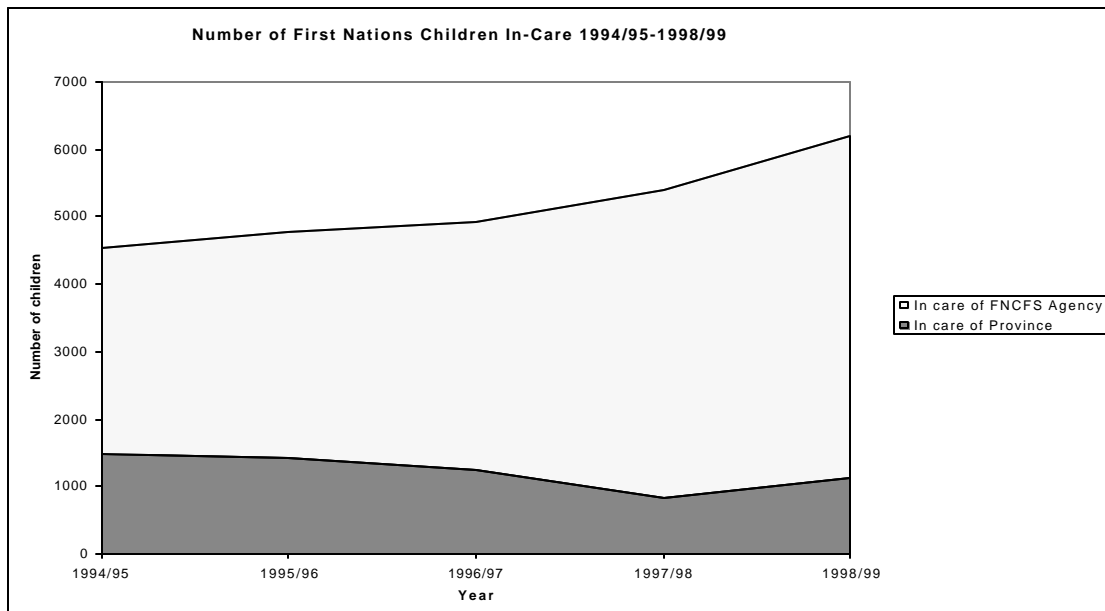


Directive 20-1 is a national funding mechanism that provides a fixed level of funding for operational costs based primarily on the previous years count of the 0-18 on-reserve registered

population. Maintenance costs are reimbursed monthly based on claims made by the agencies to DIAND for the actual costs of keeping children in foster homes, group homes and institutional facilities.

The growth in maintenance expenditures is the result of an increasing number of children-in-care. Since 1994/95 the rate of overall growth has been increasing rapidly, pushing the average annual growth over the 5 years to 9.2%. Since 1996/97 the average annual growth of children in care has increased to 12.7%. This increasing rate of growth may be linked to the number of new agencies becoming operational during the last three years. As well, there does not appear to be offsetting declines in provincial children in care cases funded by DIAND.

Chart 6B
First Nations Children-in-care 1994/95-1998/99
 (with the exception of Ontario)

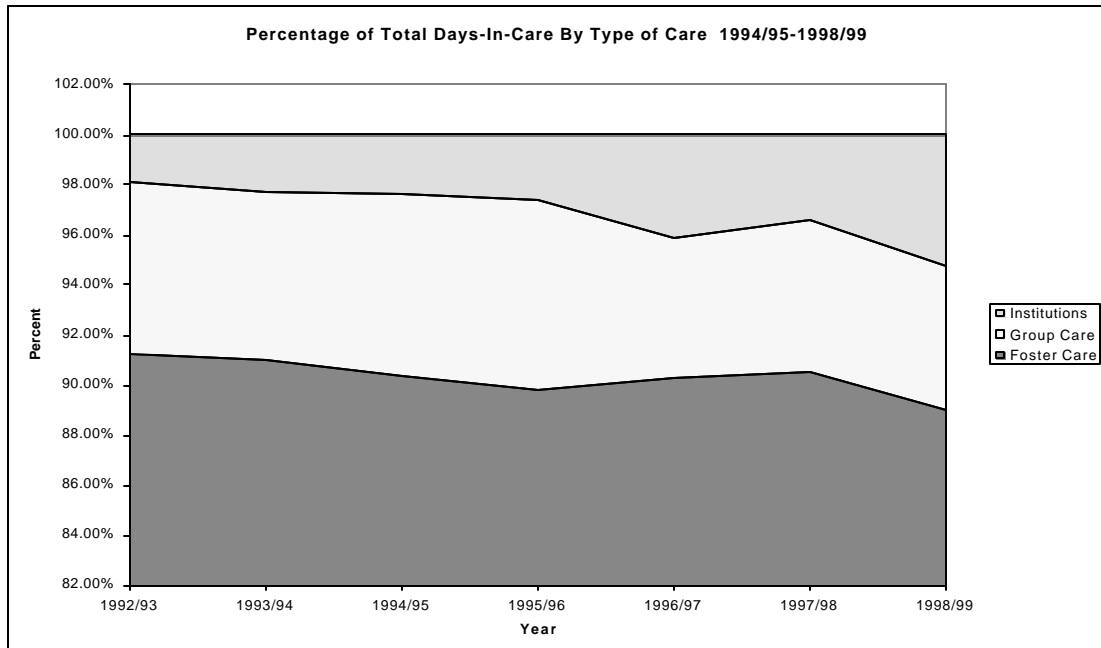


The average annual growth in total maintenance expenditures made by DIAND for both agencies and provinces has been 7% since 1994/95. This 7% growth in maintenance expenditures is made up of a 20.0% increase in agency maintenance expenditures and a decline of 9.4% payments to provinces for maintenance.

By 1998/99 maintenance expenditures were 99.9% of operations funding for FNCFS. As the majority of First Nations communities are now being served by an FNCFS agency or have an agency in a development phase, operations funding is not expected to continue to grow significantly and will level off in the near future. Because of this levelling off, total maintenance funding will begin to exceed operations funding in 1999/2000 and continue to grow in proportion of operations in future years.

It is not imprudent therefore to assume that a continuing steep growth in annual spending will see total maintenance expenditures doubling well before the end of the decade if no changes are made to the policy.

Chart 6C
Percentage of Total Days in Care by Type Of Care 1994/95-1998/99
 (With the Exception of Ontario)



Operations costs of FNCFS agencies include staff salaries and benefits, travel, administration, financial and accounting support, prevention services, protection services, recruitment and

training of community resources, board and Elder expenses, research, planning, program and policy development, legal services, and staff training and development. There is no adjustment in the formula for cost sensitive items, increases in volume of children in care or new programs introduced by the provinces.

The funding formula provides some recognition for remoteness but it was consistently criticized by agencies as not being realistic for child welfare purposes. The remoteness formula was developed by DIAND for Band support funding. It measures the distance from the First Nation to the nearest service centre. FNCFS agencies are required to transport children and their family members often to treatment resources that are only available in provincial capitals or major cities

There are two simple adjustments that could be made to adjust the formula. The first would be to consider adjusting the amount provided to each organization upward at least for the smaller agencies. A second method would be to introduce a method of weighting the per capita amounts for agencies serving smaller populations.

The most contentious issue for FNCFS agencies is the definition and the method of funding maintenance costs. One solution would be to define maintenance and its corresponding funding method, which could be directly linked to provincial legislation, policies and practice standards.

Operations Formula

The national policy, as written, allows for limited capacity to adjust the formula to local circumstances. However, the policy when implemented deviates considerably from region to region. This deviation occurs to allow for circumstances that were established prior to the implementation of the directive, to align the directive to match provincial legislation, policy and practices, and to fill definitional vacuums. This phenomenon is not necessarily formally approved by DIAND. It is also not equitably or consistently applied. Furthermore it is not necessarily consistent with the intent of the policy nor does it always support sound social work practice.

The operations formula was originally structured to provide funds for: a fixed amount per agency for core administration, remoteness, community participation, prevention, as well as protection and adoption services. The formula is primarily based on the 0-18 on reserve population. The population base is the only factor that is automatically adjusted each year to reflect changes in the on reserve population as recorded by Lands Revenue and Trusts as of December the previous year.

There are no routine price adjustments incorporated in the operations formula. There appears to have been no price adjustments to the formula since the 1994/95 fiscal year.

Adjustment for Remoteness

Program Directive 20-1 provides an adjustment to the operating budget of each agency based on the averaging of the remoteness of each member Band of the agency. The factor is composed of: “ $\$9,235.23 \times \text{average remoteness factor} + \$8,865.90 \text{ per member Band} \times \text{average remoteness} + \$73.65 \text{ per child} \times \text{average remoteness factor}$ ”.

The remoteness factor used in the operations formula for FNCFS agencies is the same remoteness factor as is used for most Band activities. The remoteness formula attempts to compensate agencies for travel based on their relative distance to a service centre.

The Band Support remoteness factor defines a service centre as:

“A community where the following services are available:

- a) suppliers, material and equipment (i.e. construction, office, etc.)
- b) a pool of skilled and semi-skilled labour
- c) at least one financial institution (i.e. bank, trust company, credit union);

and where the following services would typically be available:

- a) Provincial Services (i.e. Health Services, Community and Social Services, Environment Services)
- b) Federal Services (i.e. Canada Post, Employment Centre).”

The policy goes on to say that; “ A Service Centre is defined as “the nearest location to which a Band must refer to gain access to government services, banks and suppliers.” There are four distinct Zones. Zone 1 is when a Band is located within 50 km from the nearest services centre with year-round road access. Zone 2 is where the Band is located between 50 km. and 350 km. from the nearest service centre with year-round road access. Zone 3 is defined as where the Band is located over 350 km. from the nearest service centre. Zone 4 is where the Band has no year-round road access to the nearest service centre. Each Zone has a four-point scale of numeric values that further classifies Bands.

FNCFS agencies indicated that they all thought that an adjustment for remoteness was necessary. However, the method for calculating the additional travel costs of greater isolation was thought to be not well suited to child welfare services. The definition of a service centre was not reflective of the fact that FNCFS agencies have to travel to large provincial cities to access support services for their children receiving care. Agencies serving communities in northern communities have long distances to travel to access, for example, a psychiatrist, psychologist, speech or language therapist, etc. for special needs children who may be mentally and/or physically disabled. This also includes access to specialized residential resources. In addition costs for family members, caregivers, and staff to travel was another problem.

Provinces use different funding models than Directive 20-1. Generally DIAND and Provincial departments/ministries are funded based on a block methodology from Parliament and Provincial Legislations. Annual budgets are developed and approved by these bodies and then departments are expected to live within the limits of the resources they are provided. They do have varying degrees of ability to move money from one “envelope” to another for example but not to use operations funds to support maintenance expenditures. The scale of most departments is much larger than FNCFS agencies. Federal and provincial departments also have an established system of getting adjustments to budgets mid-year if necessary to cover rising or unexpected costs. Provinces that delegate service delivery responsibility to community child and family service agencies have developed historical funding bases and increase levels over time by balancing budgetary capacity with increased demands for service.

DIAND has been limited to 2% budgetary increases for the department while expenditures for FNCFS agencies have been rising annually at an average rate of 6.2%.

Provincial levels of funding

Differing legislation, funding, and management and program delivery regimes for each province further complicates the inherent variability in the basic language used by agencies, regions and provincial officials. This creates a lack of consistency in provincial information.

Funding data for specific programs delivered by line departments often do not include proportional costs for items such as capital, vehicle operating costs, accommodations costs (both office and program), information systems development and maintenance, legal representation, human resources, finance and payroll, communications, central policy, research and program support and inter-governmental relations. In many cases special operating agencies such as public service commissions, other departments such as justice departments, and crown corporations such as property management organizations, provide these types of supports to line departments of social services. All the proportional costs of these activities must be included in provincial expenditures on child welfare services, in order to make comparisons with FNCFS agencies since these costs appear to be defined as operations costs within the scope of 20-1 funding for FNCFS agencies.

Any comparison of operating expenses must also consider the scale of operations. Provincial governments possess a large infrastructure that is capable of underwriting many of the costs of the child welfare system indirectly. FNCFS agencies do not possess this infrastructure. Agency data reported to DIAND for fiscal year 1998/99 indicates agencies have on average 6.8% of their on-reserve child population in care. The most notable difference between FNCFS agencies and their provincial counterparts is the higher percentage of First Nation children in the care of FNCFS agencies.

A broad based approach is to compare the cost of each child in care can be derived by dividing provincial and DIAND total expenditures by the number of children in care as of March 31, 1999. The following table offers that comparison.

Table 6.2
Annual Cost of Child in Care – DIAND and Provinces
As of March 31, 1999

JURISDICTION	CHILDREN IN CARE MARCH 31, 1999	TOTAL EXPENDITURES	ANNUAL COST PER CHILD IN CARE
Newfoundland	612	\$17,132.8	\$27,995
Nova Scotia	1906	\$98,939.1	\$51,909
Ontario	12490	\$858,200.0	\$68,711
Manitoba	3428	\$109,630.6	\$31,981
Saskatchewan	3030	\$96,468.3	\$31,838
Alberta	6629	\$291,427.0	\$43,962
British Columbia	9813	\$533,147.0	\$54,331
DIAND	6895	\$238,563.8	\$34,600
Average			\$44,390

Data Source: Federal/Provincial Working Group, DIAND HQ

DIAND expenditures per child are the fourth lowest of the provinces listed and \$9,970 or 22% lower than the average of the provinces listed.

The national average that includes DIAND average annual growth rate is 12.0%. DIAND's average growth rate is 6.2. The national, including DIAND, average growth rate in the number of children in care over the past five years is 8.2%. DIAND's annual growth rate for the same period was 9.6%.

In summary, it is virtually impossible to make an accurate comparison of the level of funding due to the: very different systems of service delivery; very different scales of economy; vastly different social and economic conditions; differing historical and cultural value bases; and the absence of reliable data.

The average growth rate of expenditures by DIAND is lower than the average of the selected provinces reporting that data and DIAND combined, while the rate of children coming into care in the DIAND funded system is growing at a faster rate than the average of the selected provinces and DIAND combined.

The average per capita per child in care expenditure of the DIAND funded system is 22% lower than the average of the selected provinces.

And finally, studies suggest that the need for child welfare services on reserve is 8 to 10 times than off reserve.

Block Funding

A clear understanding of how the block is defined is required in terms of: how the base budgetary levels are established; what conditions give rise to adjusting the base during the five year agreement; what is the surplus retention policy; how are the budgetary levels established when it comes time to renew the agreement; how are the rate increases, and new program federal and provincial initiatives calculated as adjustments to the base. A definition of exceptional circumstance and dispute resolution mechanisms would also have to be defined if agencies wish to consider block funding for mandated child and family service program responsibility.

The advantages of block funding to agencies is the increased flexibility to set priorities for service delivery. The advantage to the department is increased predictability of cash flow over the life of the agreements.

The disadvantage to agencies is the fixed level of funding based on historical levels that may not adequately reflect future demand for service.

There are 14 pilot funding projects in five different regions. Further research and review of these pilots may provide some further insight into the advantages and disadvantages of each method of funding.

Maintenance Funding and CFA's

There appears to be consistency across the country in the application of the formula for operations and the reporting requirements of the CFAs, Directive 20-1, and the First Nations National Reporting Guide. There is considerable variance in the definition of maintenance from region to region.

The least consistency shows up in the use of a tripartite forum. The Directive states that "each region will initiate a regional tripartite panel or committee, composed of representatives of DIAND, FNCFS organizations and the province, to review program objectives, the development of Indian standards, and to be a vehicle for ongoing discussions on issues of regional concern." There appears to be many issues of policy, program, and practices that are resolved by these forums in the locations that have active tripartite forums. Nova Scotia, for example, appears to have a positive forum.

Economies of Scale

The fixed amount per organisation serving a 0-18 on reserve population of at least 801 is precisely \$143,158.84 (s. 19.1 (a)). There is no adjustment upward to accommodate agencies serving large populations. There is an adjustment downward by 50% for agencies serving on-reserve populations between 501 and 800. The formula is reduced by another 50% for agencies serving on-reserve 0-18 populations between 251 and 500. Agencies serving on-reserve populations less than 250 are not eligible for this core administration funding.

The per-organization amount, according to the DIAND document Child and Family Services Costing – Bottom Up Approach, was intended to cover the costs of the Director's salary, benefits and travel, secretarial and financial support, evaluation, audit, legal, resource training and on-going development. The per-Band amount was to be used for the costs of a Board of Directors, and costs for local and Elders committees. The per-child component was intended to cover: service purchase, family protection and support, child care staff, resource workers, prevention workers, supervision, support staff, emergency services, on-going training, and staff travel, benefits, and administration.

The formula does not provide a realistic amount of per organization funding for agencies serving small on reserve populations. Agencies serving an on reserve 0-18 population of less than 801, and particularly those that are serving even smaller populations the formula did not provide realistic administration support.

An alternative approach to improve the responsiveness to the smaller agencies would be to develop a weighting factor for the per child calculation. Directive 20-1 now provides the same per child rate regardless of how large the population being served is. Suppose the per-child rate for the first 250 children was greater than the second 250, which was greater than the next 250, etc. In this manner smaller agencies would receive a greater proportional amount in operations funding than larger ones.

Range of Services

Range of services is defined by each province. That results in ranges of services varying in size and shape across the country. The operations formula treats all agencies the same regardless of the range of services expected to be delivered by them. It appears then that the operations formula is assumed to be adequate to cover the costs of any provincially defined range of services regardless of the breadth and depth of each service and regardless of the range in unit cost of service delivery. Generally, the issue of range of services requires further research.

Size and Remoteness

The impact of the operations formula on agency ability to deliver a range of services is compounded by agency size and remoteness. The smaller the agency the more difficult it is to have the staff size, or level of expertise to provide a full range of services. The fewer the number of staff an agency has, the less the per-staff capacity is to deliver a comparable range of services. For small remote agencies the provision of a comparable range of services is considerably more difficult and costly than that of an outside community. It is also more difficult to attract staff with a broad range of service experience to work in a remote community.

Community Capacity

Social and economic conditions on reserve have not improved for decades as was described in chapter two resulting in First Nation child welfare expenditures which continue to grow correspondingly. Directive 20-1 does not clearly address how FNCFS agencies are supposed to cope with poor social conditions in communities, which most significantly contribute to the high demand for services.

The questions of optimum population base to maximize community capacity is required to balance service delivery and program effectiveness with cost efficiency. Funding needs to be adjusted to match the range and level of service to be delivered in First Nation communities so that they truly meet priority needs. A process is required to assess costs for services so that they might result in an adjustment to funding.

The fact that the operations formula in 20-1 is not adjusted in response to the differences in the range of services between jurisdictions or adjusted to the level of authority delegated to agencies to deliver a range of services, suggests that the impact will not be consistent for agencies, at least at a provincial level.

The operations formula is not responsive to the size and remoteness of agencies nor their capacity to deliver a comparable range of services. The fixed amount per organization in the formula should be revised to accommodate agencies serving smaller on-reserve populations by using a method of weighting.

Children in care

The point of financial responsibility for the children transferred from one jurisdiction to another is generally determined by the criteria “place of normal residence” at the point of apprehension as being on or off reserve. On reserve apprehensions are federal/agency responsibility and apprehensions off reserve generally are considered to be provincial responsibility. There are, however, the occasional case transfers that are complex, or unclear and do not get readily resolved. These types of cases are handled on a case-by-case basis. Agencies have suggested

that some form of tribunal would be helpful in resolving financial responsibility in some of the more complex case transfers.

Management Information Systems for FNCFS Activity

“Indian agencies need information to manage their activities, and to determine service and training priorities. In addition they need to be able to account to their boards of directors for their management; The provinces need information to be able to determine if the child welfare mandate is being fulfilled; The federal government needs the information to account to Parliament for its expenditures. And finally, all parties need information for planning and review purposes.”

To date, no national system has been developed. Each DIAND region defaults to the information requirements of DIAND headquarters and attempts to accommodate data used in each province. As a result there is considerable variation between DIAND regions as to the quality and quantity of information available. Within regions there also appears to be considerable variation between agencies in information gathering capacity.

Some agencies have developed their own stand-alone information systems tailored to meet their needs. Others are using provincial child welfare information systems, either as a parallel system or as fully integrated offices within the provincial government operated network.

Many agencies expressed frustration with regional DIAND reporting requirements that do not necessarily fit with their own information system capabilities. Incompatibility of data often requires agencies to “massage” their information in order to fulfill their reporting obligations.

Similar “massaging” also appears to exist between DIAND regions and HQ. Because regions have adapted some of their reporting requirements to accommodate agency reporting concerns discussed above and to be compatible with local provincial practices, regions appear to have some difficulties in forcing regional, agency data into national reports.

This can and does lead to inconsistency and inaccuracy of data. In some instances this data variance can have significant effects. Without a concerted effort within some type of tripartite process to develop a coherent national information gathering protocol, it will remain impossible to analyze caseload trends and forecast expenditures.

SUMMARY

It is most notable that this review found that the child welfare service system in Canada, including DIAND, the provinces, and agencies was virtually impossible to compare. Provinces have different legislation, different ranges of and emphasis on discreet services, and different

field practices and standards. The DIAND system in contrast funds agencies based on one formula for operations which is applied across the country with modest flexibility to allow for differences in provincial legislation, agency and community circumstances, or levels of delegated authority.

FNCFS agencies expressed concern that the DIAND formula for operations did not treat those serving small populations and communities adequately. As well they expressed concern that the remoteness factor in the formula was not realistic for child welfare services. A new funding model recently introduced by the Province of Alberta offered an alternate approach to addressing the matter of distance between FNCFS agencies and major cities where most specialized services for children in care are available.

All parties viewed the phasing-in approach of the operations formula as unrealistic. Providing 75% of the formula in the first year of operation, 85% in the second, 95% in the third and 100% in the fourth year of operations was problematic given the expectations on new agencies to provide a full range of services once they were operational.

Maintenance accounts for approximately 50% of FNCFS program costs. The definition of maintenance is grossly variable across the country. Furthermore, it appears that the variability of the definition of maintenance is the source of much criticism of the Directive. There is also general consensus that the formula does not treat agencies serving small populations fairly.

In determining how the inter-provincial transfers of children in care were funded this was primarily dealt with on a case-by-case approach to resolve financial responsibility issues. The most common criterion to determine financial responsibility was the normal residency (on or off reserve) at the time of apprehension.

Prevention services are in great need in First Nation communities. The disturbing trend of increased numbers of children coming into care with more complex and costly needs is likely to continue. Further research must be undertaken to record and replicate best practices of FNCFS agencies and to develop effective prevention models, which will reduce the incidence of children being at risk.

CHAPTER SEVEN ANALYSIS OF THE DATA

The following is the culmination of information gathered through The First Nations Child & Family Services National Policy Review. It addresses four major themes. These include:

- **Governance and First Nations Child and Family Services**
- **Legislation, Standards and First Nations Child and Family Services**
- **Communications and First Nations Child and Family Services**
- **Funding and First Nations Child and Family Services**

Within these four major topics common themes emerged. These themes are listed as the preface to our analysis of the data:

Legislation and standards vary from region to region resulting in varying degrees of delegation and legislated responsibilities.

Regional DIAND interpretations of directive **20-1 varies from region to region.**

Definitions of **prevention and protection services have not been clearly defined in the legislation** across the country.

Reimbursement for maintenance varies across the country.

Agency operations and case management practices are the responsibility of agency staff under the umbrella of a Board of Directors. **Political leaders maintain an arms length distance** from involvement in daily operations and case management.

Socio-economic conditions of First Nations communities makes it very **difficult to compare** with other child welfare agencies in terms of comparable services.

The remoteness factor in the funding formula is **not realistic for remote and small communities.**

GOVERNANCE AND FIRST NATIONS CHILD AND FAMILY SERVICES

The Policy Review found that most governance problems were centered around the issue of **Statutory Responsibility**. FNCFS Agencies have certain statutory duties and responsibilities to fulfill. In some provincial legislation these duties are clearly defined and in others they are general and broad statements to perform certain service and provide certain things. The following are the major issues centered on statutory responsibility:

What Activities are Funded and not Funded:

FNCFS agencies are required to assume a variety of duties under provincial legislation. The critical issue for some agencies is that DIAND makes the determination of what will and will not be an activity to be funded at real costs and what activities will or will not form part of the overall operation costs of the agency. FNCFS agencies are concerned that DIAND makes this determination without proper consideration for the statutory responsibilities that the FNCFS agencies assume.

The action required to correct this imbalance will be covered more fully in the analysis of the review of funding. However, certain themes are important to statutory responsibility:

There is a need to **adapt policy to local conditions**. This can be included in a national framework with regional adaptations. This can be accomplished by working with regional committees – First Nation Directors, DIAND and the AFN to identify issues that are unique to each region.

DIAND funding officers need a **clear national perspective** that is clearly communicated to the regional level. Each region needs to be given a mandate to review the issues and meet nationally to form a new national perspective.

Functions and Duties are Unclear:

The duties of the different agencies providing services is unclear across the regions. For example, in Manitoba and Saskatchewan the DIAND Region acknowledges that their requirements are inconsistent, especially in the **area of prevention**. Other agencies have a statutory responsibility to provide prevention and support services in order to avoid placing a child in care while these two regions assume responsibility only after the child is in care. In any event, all DIAND Regions consistently treat these activities as operational expenses that are factored into the FNCFS Agencies regular activities. This practice penalizes those agencies that believe more funding should be used for prevention and support services. These agencies run the risk of not being able to provide other required services:

The action required should focus around finding clear definitions and duties for services, especially prevention. There needs to be a **reinstatement of prevention programming** and funding for these programs.

Prevention and other funding issues will be covered in the analysis of funding. However, prevention is one example of how the functions and duties of the FNCFS agencies are unclear and have a dramatic effect on statutory responsibility.

Governing Body:

From the data gathered it would appear the Governing Body is in need of further clarification regarding statutory responsibility. In all cases where the First Nation Chief and Council is the governing body, there is an arms length relationship between the Chief and Council and the FNCFS agency in relation to case management activities. In some cases the Chief and Council are involved in some administrative matters involving work plans and financial planning, however, there is a clear indication that the Chief and Council are not involved in day-to-day administration of the FNCFS agencies. In other cases, there is First Nation policy directing the **Chief and Council to not be involved in the administrative and case management functions of the FNCFS Agencies**. Certain action needs to be taken to clarify the statutory responsibility of the governing body:

There is a need for clear definition of activities of the Governing Body. The Chief and Council are the local officials and need to be recognized as the local authority. This will create accountability back to the community. Funding agreements should be signed acknowledging the authority of the Chief and Council to mandate to the Agency. However, **Chief and Council must be arms length from the day-to-day administration. DIAND also has to be at arms length.**

Board of Directors:

The data indicated where the Board of Directors is the governing body of the FNCFS agency, the final decision-maker for administrative and case management matters is the Executive Director of the FNCFS agency. There is also a clear intention among FNCFS agencies to keep the Board's role limited to long term strategic planning, development of policies and procedures, and providing broad guidance and direction. In all cases the Board has no involvement in the Administration or case management of the FNCFS agency.

In all FNCFS agency situations, there is in effect of an arms length relationship established between the decision maker for the agencies on Administrative and case management matters and the political body of the First Nations. With this in mind the following actions should be considered:

Board of Directors should set out the function and duties and they need to clarify roles and responsibilities within the FNCFS Agency. For example, they need to **clarify the relationship between program, Agency and Chief and Council.**

FNCFS directives should include the following items- Should encourage **not discourage tribal grouping**, and **support governance mechanisms** of local agencies and First Nations.

A **code of conduct** needs to be established for Chief and Council and the Board of Directors regarding conflict of interest.

Establishment of a Legal Entity:

Directive 20-1 does not require First Nations to establish a separate legal entity for its Child and Family Service organization. Some provincial legislation requires FNCFS agencies to incorporate under the Act and to take on a separate status from the First Nation. This requires the following action:

In some regions, agencies are required to incorporate under the Child and Family Services Act as a **separate legal entity may be required**. This is regionally driven and should have various options with a framework to support this principle

Role of Elders in FNCFS Agencies:

From the agencies surveyed it appears that there was a minimal involvement of Elders in agency activities. Some have requirements that Elders must be represented in local communities, others have Elders as advisors to Boards and staff. There needs to be a **strengthening of the role of Elders in FNCFS agency governance**.

Reporting:

In some cases the reporting procedure required the individual delegated staff member of the FNCFS agency to report as often as requested by the Director (provincial representative) and to accept the Director's mandates. The agency staff person is also required to provide, on a monthly basis or periodically, a list of the children receiving services from the FNCFS agency.

In contrast, other FNCFS agencies and the provincial government mutually provide information as to the type and volume of services, identifying information on the children maintained in care and other ancillary information as required by DIAND so that funding can be provided. This creates **inconsistency in reporting requirements to the provinces**. And, even though reporting to DIAND follows the National Reporting Guide, there are **no standard mechanisms for First Nations agencies to report internally**:

Standardized reporting needs to be tied into Management Information Systems activities.

An overall **systematic mechanism is needed** for reporting.

Qualifications of Staff:

Most agencies are expected to hire qualified staff to carry out child protection services and in many cases this is extremely difficult. The number of employees hired directly corresponds to the number of First Nations served and geographical locations of First Nations served by the agency. The majority of employees are caseworkers, social workers, and family service workers who carry the caseloads of the agencies. Agencies with larger populations report larger numbers of support staff and management. Agencies with smaller populations report small numbers of staff resulting in dual responsibilities of staff. Action required in upgrading the qualifications of staff are as follows:

First Nations Child and Family Services governing bodies should determine the level of qualifications for staff they wish to hire. This should be a First Nations responsibility.

Staff need professional qualifications and **funding should be provided for** training, maintaining and recruiting staff.

There is a need to **clarify the difference** between provincial and First Nations qualifications for hiring staff.

There is a need to look at **benefits packages, salaries and First Nations licensing of social workers.**

Evaluations:

Some provincial legislation creates circumstances for the FNCFS Agencies that are inconsistent with DIAND's funding policy regarding evaluation requirements. DIAND only provides funding to Agencies for 3 year and 6 year evaluations, however, provincial legislation requires on-going evaluations. This requires a need for a **critical review of evaluation practices, case reviews and other management oriented reviews.**

LEGISLATION & STANDARDS AND FIRST NATIONS CHILD AND FAMILY SERVICES

Legislation Similarities:

The provisions of provincial territorial child and family services legislation must include provisions for voluntary agreements, court procedures, review and appeal, services to children and families, cultural considerations and other key provisions:

Flexibility needs to be built in to allow First Nations to function and be responsive to emerging trends.

New funding mechanisms are also needed. The current formula restricts flexibility. For example, there are problems with restorative justice. DIAND needs to be responsive so children are not removed from their homes if other alternatives exist.

Restorative justice model needs to be investigated and utilized. It does involve other parties and departments therefore linkages are needed.

A variety of options are needed in the policy via funding and flexibility. There needs to be options to in-care. A variety of ways to fund programs other than maintenance and operations need to be found.

Fully Delegated Service:

The Acts of all provinces/territory except Newfoundland and Labrador, Quebec and Yukon provide for the creation of fully delegated service child and family service organizations. Quebec has indicated that its Act will be amended in June 2000, to provide for legislation for the delegation of full statutory responsibilities to FNCFS agencies:

No Concise Definitions:

Provinces/territory do not offer concise definitions of ‘children in need of protection,’ but the legislation lists conditions that are deemed to place a child in need of protection. There is an overall consistency in the kinds of situations described. No province/territory makes a clear distinction between prevention and protection services in their Acts or standards. While broad distinctions may be drawn between the focus and methods of each, the services are not mutually exclusive and they should be regarded as a continuum of activities that blend into and overlap with one another. Where these services are extended to children in care and their families, DIAND should consider funding them as maintenance services, rather than as operational funding.

20-1 Consistency with Provincial Legislation:

Directive 20-1 reflects the spirit and intent of Nova Scotia, New Brunswick, Alberta and British Columbia legislation. The legislation of Newfoundland and Labrador, Prince Edward Island and Quebec is inconsistent with provisions of the directive. Some aspects of the Yukon legislation are inconsistent with the content of Directive 20-1. The Province of Quebec has indicated that it will enact an amendment to the Youth Protection Act by June, 2000 that would enable the delegation of statutory responsibilities and powers to First nation agencies in a manner that would be consistent with the intent of the directive.

The **directive is too narrow** and does not reflect the spirit and intent and no change mechanism is included in the directive.

There are **sections of 20-1 that should be eliminated**

20-1 principles need to reflect self-governance and to work with First Nation leadership to support that end.

First Nation Standards Are Not Included In Provincial Standards :

First Nation service standards have been incorporated into provincial standards only in British Columbia. There has been no changes in provincial standards as a result of provincial reviews that are incompatible with Directive 20-1 or that have had significant impact on Newfoundland and Labrador, Nova Scotia, Quebec, Ontario, Manitoba, Alberta or British Columbia agencies. In New Brunswick and Saskatchewan, changes have recently occurred which place additional burdens on agencies with inadequate funding. In regions where FNCFS full-service agencies have been established, there is either complete or substantial compliance with Directive's requirements:

There needs to be an **ongoing capacity process** that can reflect the ongoing evolution of policy.

The way First Nations do business is different from the province. There needs to be the ability to develop standards and they need to be **tied into the long-term vision of jurisdiction.**

Constant resourcing is needed for First Nations standards development.

Compliance infers that First Nation compliance is voluntary. There needs to be an assertion as to the viability of compliance for First Nations. Possible **First Nation run compliance review process** may be in order.

A clear definition between financial audits and case management assessment is needed

A national body to develop a compliance review process or framework is needed.

Institutional Care Placements:

Institutional care placements are made directly by FNCFS agencies in Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Alberta and British Columbia. In other provinces they are either provided directly or integrated with provincial institutional care services. Identified problems include long distances between home communities and facilities, out-of-province placements, shortage of bed spaces, restricted choice of facilities, occasional language difficulties, maintaining family/community ties and reintegration of children:

There needs to be a **clear understanding of institutional care**.

Capacity building is an issue and training and retraining people needs to be a major component.

There needs to be cross over with Medical Services so First Nations can access money from this organization. Institutional care is reimbursed in some regions and not in others.

Tripartite and Bilateral Agreements:

Tripartite and complementary bilateral agreements consistently comply with the requirements of Directive 20-1 that agencies follow provincial or First Nation service standards. Possible exceptions are agencies which have established their own service standards or others who conduct their own program under a band bylaw and a case-management protocol with the province:

The issue is **compliance versus creativity** in programming. How are self-governing agencies treated and as agencies how have they evolved in sharing of resources and power through tripartite and bilateral agreements?

Dispute Mechanisms:

There are formal mechanisms in place to resolve differences in interpretation of legislation and standards in Nova Scotia agreements, most Alberta agreements and the British Columbia Delegation Enabling Agreements. Informal arrangements for resolution of differences exist in Newfoundland and Labrador, New Brunswick, Manitoba, and Saskatchewan. In Quebec and Ontario the province has exclusive responsibility for interpreting legislation and standards:

A regional table process is needed to discuss this issue and come up with an action plan.

Labour Codes, Certification and Qualification of Staff:

Directive 20-1 does not set out any specifications or guidelines concerning labour codes, professional certification or educational standards for FNCFS agencies. First Nations standards and practices vary considerably from one province to another:

A comprehensive **technical and support staff** is needed in addition to administrative staff.

A First Nations controlled **regulation entity** is needed for oversight of First Nation professionals to license, certify and discipline our own professionals. The provinces need to recognize there is a **cultural benefit** of allowing people to work a different way despite qualifications requirements.

COMMUNICATIONS AND FIRST NATIONS CHILD AND FAMILY SERVICES

Communication Strategies:

In virtually every area of communication and program delivery, FNCFS agencies have developed different approaches to dealing with their communities, fellow service providers and governments. Any future communication strategies will need to consider those regional differences. There is a need for the following.

DIAND needs to **respect the diversity** of FNCFS agencies while documenting overall best practice models for sharing.

There is a need to **develop a national framework related to** functions for First Nation communications.

Community Involvement:

Community involvement and outreach is a key ingredient of communications for FNCFS agencies. Almost two-thirds of the agencies surveyed had community members active in the development of their programs. Elders figured prominently in that involvement:

There needs to be a **continuation of community involvement** and understanding in the whole process. This requires knowledge of how to communicate with community members.

Education and awareness of programs impacts on agency staff cost factors. This needs to be communicated.

There needs to be a **formal recognition** of Elder service and counsel to FNCFS agencies. Resources (human and financial) are required to address these activities.

Contact Within the Community:

There are two main means of communication within the communities; written notices and direct contact through meetings, forums etc. Little use is made of media or electronic communication. This is possibly due to unavailability of resources:

There needs to be an **effective communication plan** identified and funded. This can be used as a guide for First Nation and regional use.

There needs to be the **production of annual reports** and they need to be communicated to the community.

Communication needs to relate to **Management Information Systems activities as there are several overlapping activities.**

There needs to be a **hosting of a general meeting** for 2-way communication on an annual basis.

Lack of Resources:

The main challenge for agencies within communities, and this applies to First Nations governments as well, appears to be attempts at cooperation and understanding. A lack of resources is also a problem but agencies need to reach their grassroots community clients and have their programs understood:

There needs to be **collaboration between groups**. Linkages are important and should be improved.

A tripartite process needs to be developed and **formal agreements entered into** with other departments, organizations and agencies.

20-1 Policy Directive:

Policy Directive 20-1 is not well viewed by FNCFS agencies. There is a basic lack of funding for child and family services. Most FNCFS agencies find this funding problem makes communications initiatives more difficult. Agencies do feel, however, that they do not have a real voice in how the directive is applied:

A new policy needs to emphasize communication and needs to make it an important part of reporting to communities and partners. With this in mind reporting and networking are needed in a collaborative way.

FUNDING AND FIRST NATIONS CHILD AND FAMILY SERVICES

Use of Terminology:

The program directive 20-1 provides a national framework that relies on provincial legislation. The policy also supports development of a “full range” of First Nation child welfare services to a level comparable with provinces. However, provinces do not use common legislation, program descriptions, expenditure categories nor do they define or collect case data in a comparable manner. Therefore, to apply a national directive to provincial legislation-based activities requires all three parties (Agencies, regions,

Provinces) to adapt the policy to fit local conditions. Consequently, the terms used in the national policy are interpreted variously at the field level across the country. Action needs to be taken in the following areas:

There is a **need for a national frame work** with regional adaptations so local conditions are not compromised.

Funding officers need training to understand FNCFS agencies dynamics play a clear national policy perspective that is clearly communicated at the regional level.

There is a problem with regional disparities that needs work from **regional committees** – First Nation Directors, DIAND, AFN, to identify what are the needs and possible solutions for each region.

Interpretation of National Policy:

Some terms used in Directive 20-1 are not defined explicitly. Even after the ten years that 20-1 has been in place, the fundamental question of what is in the operations formula and what is the definition of maintenance persists. Answers to these questions have been provided by department officials but have not always been consistent at a national level over time or to the mutual satisfaction of all parties at the regional level. When there has been a need to clarify or refine a definition of a term that is not sufficiently explicit, one or more parties have created their own definitions. This practice has resulted in the development of a patchwork of wide diversity in definitions from region to region.

As with any policy, there are those who appear to use policy definitions as rules and a basis to control expenditures. Others view policies as guidelines and a basis to fulfill the goals and intent of the policy for designed, controlled and managed services. The disparity in definitions has become an issue for those parties who think that they are not well served by the definition and look to a national policy for equity and consistency. There can be consequences in case practice that is less than desirable from the perspective of “best interest of the child” if there is no fundamental comparability in the definition of terms. Interpretation of national policy should be augmented in the following ways:

There are **gaps in the operations formula** and clear definitions need to be spelled out.

A provincial process needs to be implemented for the **definition of maintenance**. This should include the provinces in the definition of maintenance.

There needs to be a **clarification of key terms** that are interpreted and applied nationally.

Comparable Range of Services:

The intent of Program Directive 20-1 was to provide funding to FNCFS agencies at levels that would allow FNCFS agencies the ability to deliver a range of services comparable to that extended by provinces “in similar circumstances.” The directive is not clear on what basis services were comparable or what are similar circumstances. The history and socio-economic conditions on reserve are considered by numerous studies to be extraordinary using any social, health or economic indicator. It is difficult to produce similar circumstances off reserve.

Similarly, the policy supports the development of First Nation designed, controlled and managed services. The closer this goal is to reality, the less comparable services will ultimately become. The goal of comparability, particularly without a definition that can be measured at least annually, may not be practical. The difficulty rests with the incomparable form of data currently being controlled by the entire Child Welfare system. In response to this the following action must take place:

There is a need to **do things differently** at the First Nation level because of unique needs, however, services must be at par with conventional programs.

There has to be a **framework that allows for changes** and consolidating integration of services. Within the framework a continuum of services must exist from region to region.

There is a need to reflect Section 15 of the Charter re: **spirit and intent of equity** and Section 35 in the long-term vision of the program.

Target Population:

The subject of target population for FNCFS agencies was an unanticipated funding issue. The operations formula is based on the 0-18 aged registered on-reserve population as of December of the previous fiscal year. The program directive does not explicitly state what the target population is for the agency. One must assume the intent of the directive is to serve the entire reserve registered population at a minimum. However, there are non-registered children and adults living on reserve who may need child and family services. The proportion of non-registered population varies by community. Therefore agencies serving large non-registered on-reserve populations are inequitably treated since the formula does not take the total target population into account.

We would observe that adding a definition of the target population to be served by the FNCFS agencies would add clarification to the policy. Agencies told us that they are only funded for their own First Nation members living on their particular reserve and are not funded for members of other First Nations living on their reserve yet they are expected to deliver services to all First Nations people in their communities. These areas will require action to address these issues:

This area needs further study especially in **defining target population**.

There is a need to recognize CFS statutory obligation for services especially regarding workload, case load especially **for non-registered individuals**.

The province, First Nations and DIAND **need to determine population** then sort out who will finance what areas.

Phase-In Funding:

There is a general consensus that phased-in funding is not realistic and should be **considered for termination**:

Planning and start up operations should be **100% the first year** with solid planning to supplement the funding.

The **problem is in the formula**. It does not recognize circumstances or ties to work load.

Phased in funding should be an **optional component**.

Remoteness Factor:

There is a consensus that the current remoteness factor based on Band Support formula is not relevant for First Nation child and family services where travel involves taking children or families to major provincial cities for services. It is observed that the remoteness factor could be made more realistic by using the Alberta 'cost-of-doing-business adjustment' for distances of agencies from major cities:

There is a need to consider **alternate ways of funding**, including the Alberta model.

Clinical supervision in some regions needs to be factored in for remote communities.

This factor needs to be **re-addressed in the formula**.

Technology for remote communities needs to be set up and combined with other service providers.

There is a need to work with communities on **capacity building**.

Caseload Size:

There is no adjustment in the formula for caseload size, because the operations budget is fixed and the maintenance is open-ended. As the caseload rises, agencies have to shift resources to hire more protection staff and withdraw from prevention activity:

A **segregated budget** is needed for prevention services.

A **caseload adjustment** must be provided in agency operations budget.

The definition of maintenance needs to be broadened to provide an incentive to agencies to reduce caseloads.

A model similar to the new Ontario model that bases **resources on the number of protection cases**, not just the children requiring out of home placements needs to be applied.

The **average cost per caseload needs to be studied** on a national scale. This emphasizes a need for national standards.

There is a need to determine the First Nation standard for **workload measurement** versus the provincial standard.

There is a need to look at **different models** of staffing allocation and weighing of cases.

Adjustment for New Provincial Programs and Services:

There is also no adjustment made to agency operations budget when the provinces introduce new programs and services. Agencies are expected to have sufficient budgets to absorb all changes. However, agencies stated that the funding provided by the formula does not allow them to get ahead of the crisis of scarce resources and high demands for service. The problem is compounded by high staff turnover brought about by the stress of the work. Action on new adjustment factors can be seen in the following:

Need to review programs annually to assess impacts on First Nations. This **continued self-assessment** by the agencies will help in adjustment needs before they occur.

Capacity development and resources are an issue when provincial programs change because without capacity development and resources the ability to respond is limited.

There needs to be **First Nation representation** when provinces plan adjustments in new provincial programs and services.

An **effective work load measurement** is needed. More research work is required in this area.

Adjustment for Price:

The 1989 Bottom-up approach to the operations funding identified inflationary costs elements. It appears that there have been no price increases to those cost elements since 1994/95:

There needs to be an **adjustment index that reflects the costs of living**. The operations formula needs to keep pace with cost of living.

Adjustments should be factored into the formula for **travel and staff salaries**.

The Role and Responsibilities of Provinces:

The relationships and roles of provinces with agencies appear to be genuinely supportive at the senior levels. All provinces have entered into agreements with agencies to deliver child welfare services on reserve. There are ranges of delegation of authority split between mandated services such as protection and non-mandated services such as prevention services.

However, the provinces do not consistently apply a case management fee or similar compensation to agencies for delivering services to First Nation children. Agencies, individually, are required to negotiate these fees with provinces with varying degrees of success. DIAND pays such a fee to the provinces of Saskatchewan and British Columbia. This is an outstanding issue that should be addressed. Here are a number of options to increase involvement by First nations:

The relationship between provinces and DIAND needs to ensure **adequate First Nation input** before issue or program changes occur. There needs to be a clear process established to guarantee meaningful First Nation participation at the table. This can be accomplished by establishing FNCFS/DIAND/FN regional tables at the provincial level to determine engagement of the province.

There has to be **some mechanism for adults in need of protection**.

First Nations should have access to the same training as provinces. First Nations should have the option to participate if they desire. More training that is culturally appropriate is desirable. This should be paid for by the provinces/territories with the exception of travel.

Tripartite relationship is important. In some regions it is legislated. This needs to be investigated.

Special Needs Children:

The national data on the care days by type of placement, plotted to show trends over the five year period 1994/95 to 1998/99, indicates that the use of the higher cost options of group and institutional care are increasing over time. Many of the agencies are seeing the demand for high support, high cost services, dramatically increasing due to FAE, FAS and other medically defined conditions and behaviors. There is every indication that the trend to higher cost services is likely to continue. Action can be taken to help special needs children in the following ways:

20-1 does not have the flexibility or provides provisions for funding these high costs needs. This promotes a high number of high cost kids because services cannot be provided. This has to change

An authentic safety mechanism needs to be looked at to address the potential of extra costs for services.

There is a need to highlight the gap in resources that are badly needed to provide special needs services in areas such as FAS, Spina Bifida, drug abuse prevention, mentally and emotionally disturbed, etc.

Management Information System for FNCFS Activity:

To date no national MIS system has been developed for FNCFS activity. Each DIAND region defaults to the information requirements of DIAND headquarters and attempts to accommodate data used in each province. As a result there is considerable variation between DIAND regions as to the quality and quantity of information available. Within regions there also appears to be considerable variation between agencies in information gathering capacity.

Some agencies have developed their own stand-alone information systems tailored to meet their needs. Others are using provincial child welfare information systems, either as a parallel system or as fully integrated offices within the provincial government operated network.

Many agencies expressed frustration with regional DIAND reporting requirements that do not fit with their own information system capabilities. Incompatibility of data requires agencies to “massage” their information in order to fulfill their reporting obligations. This can and does lead to inconsistency and inaccuracy of data:

Money is needed to develop a strategic plan for a **coherent national information gathering protocol and process.**

A **case management information system** is needed to manage caseload and the program in general. A common base for information management is valuable to front line workers especially if it is computerized.

The First Nations Statistics and Governance Initiative at DIAND in collaboration with First Nations needs to **identify FNCFS data needs**. First Nations need to design, manage and run their own data system. FNFCS fits into this initiative.

Money is needed for hardware, software and technical expertise to develop models for data collection. Compatibility with other agencies is also needed in terms of hardware.

Prevention Services:

Prevention services are in great need on reserve. The disturbing trend of an increased number of children coming into care with more complex and costly needs is likely to continue. Further research should be undertaken to record and replicate best practices of FNCFS agencies and to develop effective prevention models promising to reduce the incidence of children being at risk. We are also left with the question as to the merits of creating a separate funding line for prevention services. The intent would be to protect prevention programming from being ravaged by demanding protection cases:

The ability to **re-allocate maintenance funds** is needed to be used for prevention. This would help to reinstate and establish prevention programming.

There needs to be an **analysis of the historical case average** over 10-year period to establish prevention programs.

There needs to be **research around prevention services**. There are a number of pilot programs underway. This will promote innovative activities.

Alternative programs need to be developed for children at risk. These programs need a multiyear authority and there needs to be criteria for measurement of success.

Protective services identifiable to a specific child deemed to be in need of protection should be **reimbursed under maintenance**.

Integration of First Nations Community Health and Social Services:

Human services in First Nation communities are not well integrated consequently, FNCFS agencies spend excessive energy seeking funds and accessing services for the children and families they are serving. Often agencies end up providing or purchasing

services that normally fall into some other organization's area of responsibility. The pilot project in New Brunswick on integration may offer some insights to what approach is effective in making better use of existing community services:

Integrated case practice needs to be promote among health, Elders, educators and others. Flexibility is needed to trade economies of scale for integration of services.

Information about services to **encourage sharing is needed**. There is a need to support best practice models so eventually they would support new program development.

An exemption to 20-1 is needed to **extend the pilot projects** in New Brunswick on integration of services.

Community Capacity:

FNCFS agencies inherited very challenging socio-economic circumstances for establishing effective means of supporting families and protecting children. The incidence of family dysfunction in reserve communities is very high and suggests that community approaches to healing and the development of positive behaviors must be supported if these agencies are to achieve any measure of success. Action needs to be taken in the following ways:

The challenge to community capacity is funding. Everyone agrees this is needed yet there is no money allocated for it.

The **new policy must not be restrictive** to any First nation negotiations in assuming jurisdiction over child welfare.

Capital Funds for Resource Development:

The Directive 20-1 does not include any reference to capital funds to support the development of on reserve children in care options or office space:

There is no element in the directive **for capital or infrastructure development** especially for remote communities. Money goes to children to support their families.

Dialogue needs to take place with various departments within DIAND to **pool resources** for institutional development.

Dialogue with provinces needs to take place on the development of an **envelope of funds** to be used for capital development.

There is a need for **youth assessment facilities** for holistic service delivery.

Non-billable Children in Care:

There are case billing disputes that arise between participating parties. Sometimes the tripartite forums are used to resolve such issues. In other cases the matter is resolved bilaterally. However, there are instances when no resolution of the issue is achieved. By default, agencies are often obligated to cover the costs until the matter is resolved. Agencies suggest that a formal recognition and forum of redress for this type of dispute might be beneficial. Action could be taken in these ways:

A **formal recognition and forum** is needed for this type of dispute. DIAND should examine federal/provincial arrangements in place to ensure First Nations and other provincial agencies are reimbursed.

There needs to be a **formal mechanism** between the parties so no agency has to absorb the cost.

Evaluations:

The Directive provides \$30,6000.00 to agencies to conduct evaluations in their third and sixth year of operations. Evaluation **funding should be made available to all agencies** to facilitate the development of best practices in child welfare service delivery:

Strategy planning should be incorporated to build on areas of strength.

Agencies must be given money for **self-evaluation every three years**.

Criteria for evaluation needs to be established under a national framework.

Standards:

The Directive 20-1 provided one time budget of \$1.5 million, expended over fiscal years 1990/91 and 1991/92 for the development of Indian standards for child welfare services on reserve. Additional funds should be provided to all regions to review standards, particularly in light of the changes that have occurred in the provinces since 20-1 was first introduced.:

Funding for ongoing development is needed for amendments to standards.

Funding needs to be made available **to upgrade standards every 3 years**.

There is a need **to correlate First Nation standards with provincial standards**.

CHAPTER EIGHT
FIRST NATIONS CHILD AND FAMILY SERVICES
NATIONAL POLICY REVIEW
RECOMMENDATIONS

Overview

The finding of the National Policy Review resulted in 17 final recommendations related to the four themes of the study: governance, legislation and standards, communications and funding. They are as follows:

- 1a. The joint Steering Committee of the National Policy Review recognizes that Directive 20-1 is based on a philosophy of delegated authority. The new policy or Directive must be supportive of the goal of First Nations to assume full jurisdiction over child welfare. The principles and goals of the new policy must enable self-governance and support First Nation leadership to that end, consistent with the policy of the Government of Canada as articulated in *Gathering Strength*.
- 1b. The new policy or directive must support the governance mechanisms of First Nations and local agencies. Primary accountability back to community and First Nations leadership must be recognized and supported by the policy.
2. The joint Steering Committee recognizes a need for a national process to support First Nation agencies and practitioners in delivery of services through various measures, including best practices.
3. A national framework is required that will be sensitive to the variations that exist regionally in relation to legislation and standards. Tripartite tables consisting of representatives from First Nations, DIAND and the province/territory are required to identify issues and solutions that fit the needs of each province/territory. Some of the issues that will need to be addressed by these regional tables consist of (but are not limited to) the following:
 - a) definitions of maintenance
 - b) identification of essential statutory services and mechanisms for funding these services
 - c) definitions of target populations (as well as the roles of federal / provincial / territorial governments related to provision of services)
 - d) adjustment factors for new provincial programs and services - processes for FNCFS agencies to adjust and accommodate the impacts of changes in programs and services
 - e) definition of special needs child
 - f) dispute mechanisms to address non-billable children in care
 - g) definition of range of services

h) definition of financial audit and compliance comparability/reciprocity between provincial and First Nation accreditation, training and qualifications requirements of staff (e.g. licensing criteria)

4. DIAND, Health Canada, the provinces / territories and First Nation agencies must give priority to clarifying jurisdiction and resourcing issues related to responsibility for programming and funding for children with complex needs, such as handicapped children and children with emotional and/or medical needs. Services provided to these children must incorporate the importance of cultural heritage and identity.

5. A national framework is needed that includes fundamental principles of supporting FNCFS agencies, that is sensitive to provincial/territorial variances, and has mechanisms to ensure communication, accountability and dispute resolution mechanisms. This will include evaluation of the roles and capacity of all parties.

6. The funding formula in Directive 20-1 is not flexible and is outdated. The methodology for funding operations must be investigated. The new methodology should consider factors such as work load/case analysis, national demographics and the impact on large and small agencies, and economy of scale. Some of the other issues the new formula must address but not be limited to are:

- a) Gaps in the operations formula. A clear definition is required.
- b) Adjustment for remoteness
- c) Establishment of national standards
- d) Establishment of an average cost per caseload
- e) Establishment of caseload / workload measurement models
- f) Ways of funding a full service model of FNCFS
- g) The issue of liability
- h) Exploration of start up developmental costs
- i) Develop and maintain information systems and technological capacity.

7. The Joint Steering Committee found that the funding formula does not provide adequate resources to allow FNCFS agencies to do legislated/targeted prevention, alternative programs, and least disruptive/intrusive measures for children at risk. It is recommended that DIAND seek funding to support such programming as part of agency funding.

8. DIAND must pursue the necessary authorities to enable FNCFS agencies to enter into multi-year agreements and/or block funding as an option to contribution funding, in order to further enhance the ability of First Nations to deliver programs that are geared to maintaining children within their families, communities and reuniting those children-in-care with their families. This requires the development of a methodology for establishing funding levels for block funding arrangements that encompass:

- a) a methodology and authority for new and second generation agreements
- b) multi-year authorities for these programs with a criteria for measurement of success. [DIAND may need to go to Cabinet to get authority for these.]

9. An “exceptional circumstances” funding methodology is required to respond to First Nation communities in crisis where large numbers of children are at risk. Best practices shall inform the development of this methodology.

10. A management information system must be developed and funded for First Nations in order to ensure the establishment of consistent, reliable data collection, analysis and reporting procedures amongst all parties (First Nations, regions, provinces/territories and headquarters).

11. Funding is required to assist First Nations CFS Agencies in the development of their computerization ability in terms of capacity, hardware and software.

12. Funding is required for all agencies for ongoing evaluation based on a national framework with guidelines to be developed.

13. DIAND and First Nations need to identify capital requirements for FNCFS agencies with a goal to develop a creative approach to finance First Nation child and family facilities that will enhance holistic service delivery at the community level.

14. Funding is required for on-going standards development that will allow FNCFS agencies to address change over time.

15. Priority consideration should be given to reinstating annual cost of living adjustments as soon as possible. Consideration should also be given to address the fact that there has not been an increase in cost of living since 1995-96.

16. Phased in funding is a problem in the formula and should be based on the level of delegation from the province.

17. An immediate tripartite review (Canada, Ontario and Ontario First Nations) be undertaken in Ontario due to the implications of the 1965 Indian Welfare Agreement, current changes to the funding formula, and the Ontario Child Welfare Reform.

Conclusion

A new policy to replace current Directive 20-1 (chapter 5) must be developed in a joint process that includes all stakeholders and ensures funding support for that process according to the following action plan.

CHAPTER NINE
FIRST NATIONS CHILD AND FAMILY SERVICES
NATIONAL POLICY REVIEW
NEXT STEPS

Interim Guiding Principles

- 1. That the best interests and well being of First Nations children, families and communities will be the paramount consideration guiding the implementation process.*
- 2. That First Nations CFS programs should be based on First Nations values, customs, traditions, culture, and governance.*
- 3. That the implementation be conducted jointly by AFN, FN, CFS Directors, Health Canada and DIAND.*
- 4. That DIAND will place a moratorium on decreases in the amount of funding or number of funding arrangements for First Nations child and Family Services Agencies.*
- 5. That the funding be guided by the commitment of First Nations and the Government of Canada to ensure parity between First Nations child and family services and provincial/territorial child and family services.*

Consultation and Ratification of National Policy Review

Action	Timelines	Responsibilities
Delivery of draft final report to Minister of Indian and Northern Affairs and the Assembly of First Nations National Chief.	June 30, 2000	DIAND and Assembly of First Nations
Distribution of the draft final report including addendum to FNCFS Agencies, First Nations, Health Canada, HRDC and DIAND regions. Post on AFN web page.	July 15, 2000	DIAND and Assembly of First Nations
Presentation to the DIAND Senior Policy Committee	July/August, 2000	Co-chairs of Joint Steering Committee
Presentation to the National Chief and Minister	August 2000	DIAND and AFN
Presentation of the AFN confederacy meeting	September 2000	
Presentation to Provincial Directors of Child Welfare	October 1-4, 2000	All parties
National First Nation ICFS Conference in Saskatoon, SK	October 10-12, 2000	All parties
Distribution of the Report to all Provinces and Territories	July 15, 2000	DIAND
Develop a presentation package for the National Chief and Minister	August 1, 2000	AFN/DIAND
Select a delegation to do a presentation to the AFN Confederacy meeting and DIAND	August 15, 2000	
Compile feedback resulting from circulation of the report	August 15, 2000	AFN
Ratification of the Report	August 15, 2000	AFN
DIAND approval process	Fall Confederacy Meeting	Sr. Policy Committee

Implementation Phase:

Maintaining the Partnership

Recommendation	Timeline	Responsibility
Establish an interim national committee composed of AFN, FNCFS to oversee the ratification of the National Policy Review and develop a work plan including the identification of necessary resources that leads to the development of a new funding policy.	June 30, 2000 - naming delegates	PMT
Develop a plan of action for those recommendations assigned a short-term implementation date.	July 14, 2000	PMT/Interim National Committee
Completion of a detailed work plan including: <ul style="list-style-type: none">• Terms of Reference for the National table;• Terms of Reference for Provincial tables; deliverables, timeframes and required resources	September 2000	PMT/Interim National Committee

Research and Data Collection:

Issue	Timeframe	Responsibility
Identifying areas for additional research arising from the National Policy Review and develop a plan to conduct further research		PMT/Interim National Committee
Incorporate into the detailed work plan	September 2000 (prior to confederacy)	

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