



APPENDIX 2

How Did We Get Here?¹

*Your child protection laws have devastated our cultures and our family life. This must come to an end.*¹
Liberating Our Children, Liberating Our Nations, 1993

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*Injustices cannot be undone, nor can past actions be altered. However, with the creation of the ministry, there is a commitment to undertake a significant change in attitude and approach to working with the Aboriginal people of British Columbia to provide services for children and families.*¹ Liberating Our Children, Liberating Our Nations, 1993

.....

*The Ministry for Children and Families acknowledges the significant disruption in the lives of Aboriginal children, families, and communities attributed to past provincial child welfare practices. This acknowledgement signals a desire to engage in a reconciliation with Aboriginal communities to ensure the impact of past practices no longer hinders the healthy development of Aboriginal children and families.*¹ MCFD Aboriginal Strategic Plan, 1999

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Whereas the watershed commitment made by the Province of British Columbia in 2002 in support of the Tsawwassen Accord must be reaffirmed given the urgency of the humanitarian crisis in the child welfare system. UBCIC Resolution 2023-57-October 2023; FNS Resolution 1023.14-October 2023; BCAFN Resolution 18/2023-September 2023

¹ As part of the Systemic Review of the Child Welfare System in British Columbia, a research paper was commissioned by the Representative to document the history of child welfare in British Columbia, over the past 100 years, with particular focus on the past 30 years since a legislative review was undertaken that led to the *Child, Family and Community Services Act*. This paper built on historical information that was presented in *Volume 2 of Mathew's Legacy*, authored by Judge Thomas Gove (1995), and the *BC Children and Youth Review*, authored by Honourable Ted Hughes (2006). Despite the comprehensiveness of these reports, and despite Honourable Hughes' illumination of the issues and impacts for Indigenous people, neither report was centred in Indigenous ways of knowing and being. With over 68% of children in care reported by MCFD in 2023 being Indigenous, it is critical that the history of child welfare in British Columbia is shared through Indigenous world views. This appendix aims to do this and draws extensively on the findings presented in the 2024 research paper, *History of Child Welfare in British Columbia – Major Reports, Commitments and Leadership* authored by Bart Knudsgaard, with associate researchers Elaine Knudsgaard and Riley Knudsgaard. It illuminates the persistent acts of resistance and resilience and enduring vision of Indigenous leaders, communities and Nations to resume care for their children.

INTRODUCTION

In order to look forward, it is important to look back to reflect on the path travelled.² This historical overview of the child welfare system in British Columbia is part of the looking back to understand where we have been, what commitments have been made, what has not worked, and most importantly to harvest the ideas, recommendations, and commitments that can transform the child welfare system to support better outcomes for children.

"It is not the absence of good ideas – It is the failure to implement these good ideas."⁶

As we take a journey to understand where we have been, we need to bring not only our heads but also our hearts and our being to this examination. We must bring our best thinking, feeling, and spirit to fully understand how the child welfare system and imposition of colonial law has impacted Indigenous children, families, and Nations.

This appendix first provides an overview of the past thirty years of child welfare in B.C. including key reports, agreements and legislation. This will give the reader a sense of the many different attempts that have already been made to 'transform' the child and family service system for both for all children and more specifically for Indigenous children. The six distinct 'eras' of child welfare in B.C. over the past 100 years are then described, noting

² Harald Bart Knudsgaard, "How One Becomes What One Is: Transformative Journeys to Allyship" (Thesis, 2019), <https://dspace.library.uvic.ca/handle/1828/11480>

³ Union of B.C. Indian Chiefs, "Union of B.C. Indian Chiefs 55th Annual General Assembly October 4th to 5th, 2023 Cariboo Memorial Recreation Complex, Williams Lake (Secwepemc

what the predominant perspectives, priorities and actions were at the time. One can see the throughline of colonial approaches and the diminishment of Indigenous ways of knowing and being throughout. The narrative is expanded by incorporating stories of Indigenous resilience and resistance. In most eras, Indigenous Nations and Communities have resisted the imposition of colonial laws while offering pathways to address what many would consider a humanitarian crisis in how the child welfare system interacts with Indigenous people.³

Over the past 50 years, the terminology used to address Indigenous people has changed. The language used within this report will align with the language used in any referenced reports or historical events. This includes Aboriginal, First Nation, Indian, Indigenous, Inuit, Metis, Non-Status First Nation, Indigenous Nations, etc. It is recognized that this terminology is colonial in origin and that when not referring to a particular report or event with the terminology in use at the time, this report uses distinction-based terminology

Indigenous best practices have always existed in supporting Indigenous children and families. Given the imposition of the state, some of these have been put to sleep. Today, with reclamation and re-assertion of jurisdiction, these practices are waking up.

Territory) Resolution No.2023-56 RE: Support for Indigenous Child and Family Services Directors Our Children Our Way Society"; "First Nations Summit Resolutions from Jennifer Chuckry to Indigenous Child and Family Service Directors Our Children Our Way," November 2023; "BC Assembly of First Nations BCAFN Annual General Meeting Resolution List."

KEY REPORTS AND AGREEMENTS FOR CHILD AND FAMILY SERVICES 1992-2024

Since the Province of British Columbia began delivering child and family services in B.C., there have been dozens of reviews and reports issued regarding the effectiveness of these services at a provincial and national level. Many of the recommendations identified in these reviews and reports have been reiterated in report after report. Responding to recommendations regarding Indigenous child and family well-being, Indigenous leaders and communities have consistently called for specific actions to be taken.

Many of the reports and agreements concerned the broader child welfare system but the following reports were informed through Indigenous perspectives and led by Indigenous people:

- *Liberating our Children, Liberating Our Nations*⁴, authored by Lavina White and Eva Jacobs (1991), provides a historical account of the impositions of the colonial child welfare system on Indigenous people through Indigenous narratives.
- *Wen: De Coming to the Light of Day*⁵, authored by First Nations Child and Family Caring Society, details the historical experiences of First Nation

children coming into contact with the child welfare system.

- *The Road to Aboriginal Authorities Over Child and Family Services – Considerations for Effective Transitions*, authored by Kelly McDonald (2008), expands on Liberating our Children Liberating Our Nations narrative.
- *Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions*, authored by Grand Chief Ed John (2015), weaves the historical impacts of the child welfare system on Indigenous People into his report.

All these reports provided recommendations to support better outcomes for Indigenous children. Patterns and themes emerge across these reports.

Over the past three decades, the Province has made commitments, entered into agreements with Indigenous leaderships, and developed joint action plans. These commitments and agreements have been disrupted by political changes and differing strategic priorities. Additionally, there have been reviews and reports that have made recommendations which resulted in the Province deviating from its commitments and agreements. During this time, Indigenous leaders have called for changes through declarations and accords given the impact of the child welfare system on their children, their families, and their communities.

In reviewing over 20 years of MCFD Service Plans, Annual Reports, and Strategic Plans for this report, one can identify that the ministry's strategies, goals, objectives, and actions follow

⁴ White and Jacobs, *Liberating Our Children, Liberating Our Nations*.

⁵ Cindy Blackstock et al., *Wen:De: We Are Coming to the Light of Day*, electronic resource (Ottawa,

Ont: First Nations Child and Family Caring Society of Canada, 2005), <http://cwrp.ca/sites/default/files/publications/en/WendeReport.pdf>.

a pattern. There is a continual focus on reform, often in response to a tragic death and consequent review or report. These patterns include but may not be limited to:

- Shifting back and forth from the recognition of Indigenous jurisdiction for child and family well-being to the reneging of such recognition;
- Shifting back and forth from provincial centralized governance to regional decentralized governance; and
- Shifting back and forth from a belief that communities and regional authorities are best positioned to determine practice approaches to a provincial standardized practice approach.

However, despite the earnest efforts of many, the most prevalent child safety issues, identified in *Denouncing the Continued Overrepresentation of First Nations Children in Canadian Child Welfare Findings from the First Nations/ Canadian Incidence Study of Reported Child Abuse and Neglect (2019)*, receive the least attention in the ministry's Service Plans and Annual Reports. This study indicated that 71 per cent of maltreatment investigations for First Nations Children were related to neglect and intimate partner violence.⁶ MCFD Service Plans place little emphasis on this reality. This demonstrates the crucial need for evidence-based service planning.

⁶ FNCIS, "Denouncing the Continued Overrepresentation of First Nations Children in Canadian Child Welfare: Findings from the First Nations/Canadian Incidence Study of Reported

The Eras of Child and Family Services in British Columbia

Indigenous child and family well-being - the early days of colonial child welfare law

Indigenous people have been caring for and nurturing their children since long before colonization. Indigenous children and families thrived. There were systems of knowing and being that guided the care and nurturing of children. These systems have been disrupted by B.C.'s and Canada's colonial laws, interventions, and impositions.

"Since the time of Settler contact, Indigenous people in British Columbia have endured the devastating effects of colonization. Colonial policies—designed to assimilate Indigenous peoples and extinguish their communities, cultures, and ways of life—have specifically targeted Indigenous children and the family structures they are nested within. The resulting breakdown in traditional family and community structures has and continues to cause irreparable harm."¹¹

With the onset of colonial child welfare law, the amendments to the federal Indian Act, and the commencement of funding transfers for child welfare from Canada to B.C., there has been an increasing presence of child welfare authorities in the lives of Indigenous people. This increased presence resulted in a

Child Abuse and Neglect," 2019, [https://cwrp.ca/sites/default/files/publications/FNCIS-2019 - Denouncing the Continued Overrepresentation of First Nations Children in Canadian Child Welfare - Final_1 \(2\).pdf](https://cwrp.ca/sites/default/files/publications/FNCIS-2019 - Denouncing the Continued Overrepresentation of First Nations Children in Canadian Child Welfare - Final_1 (2).pdf).

gross over-representation of Indigenous children and families involved in the child welfare system.⁷

The Birth of the Colonial Child Welfare System in British Columbia

The evolution of child and family well-being in colonial era B.C. can be seen through at least eight distinct eras. Each of these eras is marked by radical shifts in social welfare policy and competing political ideologies from conservative and economic neo-liberal agendas of the right to social democrat and community empowerment agendas of the left. *People, Politics and the Child Welfare in British Columbia* suggests:

“the state’s responsibility for child welfare has been the subject of sharp philosophical differences, political twists and turns, numerous legislative amendments, bureaucratic tinkering, and a continuing ambivalence about its role in relation to a mixed voluntary and government-funded community-based social services sector focused on preventing family breakdown.”⁸

The Indian Act, first proclaimed in 1876, gave the federal government control over most aspects of Indigenous people’s lives. The creation of residential schools, which

⁷FNCIS, “Denouncing the Continued Overrepresentation of First Nations Children in Canadian Child Welfare: Findings from the First Nations/Canadian Incidence Study of Reported Child Abuse and Neglect.”

⁸ “The History of Indigenous Child Welfare in BC.”

⁹ First Nations Chiefs and Leaders in BC, “Indigenous Child at the Centre Action Plan,” *First Nations in BC Knowledge Network*, 2010, <http://firstnationsbc.ca/resource/indigenous-child-centre-action-plan>.

operated in B.C. from 1861 to 1984,⁸ were meant “to eliminate any vestige of Aboriginality replacing it with a Euro-western culture, knowledge, and spirituality.”⁹

ERA 1 - The First Child Welfare Laws – 1901 to 1952

The history of child welfare policy in B.C. begins near the turn of the 20th century. The first statute establishing state authority was the *Infants Act*, 1901. In 1919 the appointment of B.C.’s first Superintendent of Neglected Children was established, which began to build awareness of child abuse and neglect in society. In 1939, the *Protection of Children Act* replaced the *Infants Act* pertaining to child well-being in B.C. This Act established a Superintendent of Child Welfare, whose mandate included the establishment of children’s aid societies and the power to apprehend children in need of protection. This legislation remained in place until 1981.¹⁰

Residential schools operated throughout this era and were seen by contemporaries as the “primary mechanism of First Nations child welfare in Canada.”¹¹

Indigenous Resilience and Resistance

Beginning in the 1930s, the Department of Indian Affairs (DIA) provided small grants to fund homemakers’ clubs on reserves across Canada. These were clubs where women would gather to sew, knit, and share skills and

¹⁰ Province of British Columbia, “Chapter 303 Protection of Children Act,” in *Protection of Children*, 1960, 3749–70, <https://www.bclaws.gov.bc.ca/civix/document/id/hstats/hstats/433960211>.

¹¹ Anna Kozlowski et al., “First Nations Child Welfare in British Columbia (2011) | Canadian Child Welfare Research Portal,” accessed February 15, 2024, <https://cwrp.ca/information-sheet/first-nations-child-welfare-british-columbia-2011>.

knowledge related to childrearing, cooking, and other domestic tasks. Conditions on many reserves were so poor that homes and facilities were inadequate to carry out even basic domestic tasks. Many homemakers' clubs hosted clothing drives, craft sales and markets to raise money for their clubs or communities.

"Over the years, as Indian women noticed the struggles faced by their communities and the particular challenges and discrimination experienced by Indian women, members became more politically motivated. IHA members began to put pressure on the DIA to provide the support and infrastructure that their communities so desperately needed."¹⁸

Resistance was limited, given the Indian Act restrictions which forbade Indigenous people from political activity, prohibited gatherings of a spiritual or cultural nature, and banned the use of Indigenous languages.¹² Through the DIA, Indigenous women endorsed Indigenous Homemakers Associations and started to form political movements. In 1951, with major amendments to the Indian Act, some of these restrictions were lifted. However, Canada continued to hold significant powers over Indigenous peoples.

ERA 2 - Provincial Child Welfare Law Imposed on Indigenous People - 1951 to 1972

Sections 91 and 92 of the *Constitution Act of Canada* address the distribution of legislative powers within what we know as Canada. In 1951 the Indian Act was amended with the

¹² "21 Things You May Not Know about the Indian Act | CBC News," accessed February 15, 2024, <https://www.cbc.ca/news/indigenous/21-things->

inclusion of Section 88, which stipulates that in the absence of federal law, provincial law will apply. The addition of Section 88 set off a cascading series of events that had catastrophic impacts on Indigenous children, families and communities.

"In the early days of Canada's existence, provincial child welfare laws had little impact on Aboriginal life. Federal law dominated and, under the authority of the Indian Act, our children were systematically rounded up and shipped to residential schools. During the 1960s, public awareness of the brutal nature of this process forced the federal government to abandon the residential school system. Meanwhile, provincial family and children services legislation had been extended to apply to Aboriginal people. In 1951 only 29 children of Aboriginal ancestry (less than 1% of the children in care) were in the care of the province. By 1964 this had increased to 1466 status Indian children alone, making up 34.2% of all of the children in care. The numbers of our children in the care of the Superintendent constitutes a gross violation of the United Nations Convention on the Rights of the Child and has negatively affected every facet of Aboriginal family life."²⁰

This increase of Indigenous children being apprehended by the provincial government was exacerbated with the closures of residential schools across B.C. and Canada. The trauma inflicted by the colonial government set off a wave of intergenerational impacts, which has resulted in detrimental outcomes for Indigenous

[you-may-not-know-about-the-indian-act-1.3533613](https://www.cbc.ca/news/indigenous/you-may-not-know-about-the-indian-act-1.3533613).

children, their families, and their communities. Additionally, Indian Hospitals and Indian Day Schools have inflicted harm upon Indigenous children and their families.

In 1952 the Social Credit Party broke away from the ruling Conservative Party in B.C. After over a decade of coalition governments, the Social Credit Party formed a majority government in 1953 and remained the ruling party in B.C. until 1972. This era was marked with policies which prioritized economic development over social welfare programs.¹³

The federal Canadian Assistance Plan in 1966 introduced cost-sharing of child welfare services, which resulted in a significant expansion of B.C.'s child welfare system.

"As a consequence, the proportion of First Nations children in care began to increase dramatically across the country."²²

In the early 1970s concerns with the *Protection of Children Act* were becoming increasingly apparent "in relation to its moralistic tone, inattention to due process, and lack of recognition of First Nations"¹⁴

Indigenous Resilience and Resistance

As B.C.'s child welfare presence continued to increase in the lives of Indigenous children, families, and communities, so did Indigenous resistance to this involvement. There were Indian Homemaker Associations throughout

First Nations in B.C. for decades. Although initially set up through federal government grants for First Nation women to share domestic knowledge, it became apparent to Sts'ailes Chief and respected Indigenous leader Rose Charlie¹⁵ that the collective of these associations could advocate to the provincial and federal government regarding the well-being of First Nation children.

Over 144 of the Indian Homemaker Associations came together in 1969 to form a Provincial Indian Homemaker Association. As the leader of this provincial association, Rose Charlie led the passing of a resolution calling on the federal government to recognize Indigenous jurisdiction regarding children and families.¹⁶ ¹⁷One month after the formation of the Indian Homemaker Association in 1969, the government of Canada issued the *Statement of the Government of Canada on Indian Policy* known as Canada's White Paper "proposing full assimilation of Indigenous people into Canadian Society through actions such as removal of status and treaty rights."

¹³"Social Credit," accessed February 10, 2024, <https://www.thecanadianencyclopedia.ca/en/article/social-credit>.

¹⁴ Brian Wharf and Marilyn Callahan, "Public Policy Is a Voluntary Affair," *BC Studies: The British Columbian Quarterly*, no. 55 (1982): 79–93, <https://doi.org/10.14288/bcs.v0i55.1134>.

¹⁵ "Rose Charlie," accessed February 16, 2024, <https://women-gender->

equality.canada.ca/en/commemorations-celebrations/women-impact/human-rights/rose-charlie.html.

¹⁶ "Rose Charlie and the IHA - British Columbia - An Untold History," accessed February 10, 2024, <https://bcantoldhistory.knowledge.ca/1960/rose-charlie-and-the-ih-a>.

¹⁷ "The History of Indigenous Child Welfare in BC."

In order to respond to the White Paper, Rose Charlie led the organization of an all chiefs gathering that resulted in over 144 chiefs coming together, leading to the birth of the Union of BC Indian Chiefs. Rose Charlie led a 100 Mile Moccasin Walk to raise funds for this meeting.¹⁸



Rose Charlie²⁴

Throughout the 1960s and 70s, there was a large-scale removal of Indigenous children from their families and communities. This “sparked grassroots political activism throughout the province” and calls for the resumption of Indigenous jurisdiction over child welfare.^{19 20}

ERA 3 - Decentralization of Child and Family Services – 1972 to 1975

A New Democratic Party government was elected in 1972. With the Province’s enactment of the Community Resources Act, decentralization of social services governance

and delivery to Community Resources Boards throughout B.C. began.

The Province also initiated reform of the 40-year-old *Protection of Children Act* through the work of the Royal Commission on Family and Children's Law beginning in 1973. The Province appointed Judge Thomas Berger as chair of this commission, which studied and made recommendations on almost every aspect of children’s law through the release of a series of reports. The recommendations of the report had a major effect on child welfare policy in Canada and elsewhere. Judge Berger, who died in 2021, was described by First Nations Leadership Council as “a man of great principle, compassion, and courage. He fought for Indigenous rights and title in a way that most non-Indigenous Canadians didn’t support at the time.”²¹

During this era, the Province reformed the welfare system, established the Labour Relations Board, expanded the public sector, established a public auto-insurance program, brought in the agricultural land reserve approach, and introduced Question Period and full Hansard transcripts of legislative proceeding.

¹⁸ “The White Paper - British Columbia - An Untold History,” accessed February 10, 2024, <https://bcantoldhistory.knowledge.ca/1960/the-white-paper>.

¹⁹ Union of B.C. Indian Chiefs, “Calling Forth Our Future: Options for the Exercise of Indigenous

Peoples’ Authority in Child Welfare Prepared by the Union of B.C. Indian Chiefs,” 2010, 92.

²⁰ “The History of Indigenous Child Welfare in BC.”

²¹ First Nations Leadership Council, “News Release: FNLC Remembers Thomas Berger and Honours His Legacy as a Prominent Indigenous Title and Rights Advocate,” May 3, 2021.

Indigenous Resilience and Resistance

The Indian Homemakers Association understood child welfare issues as “integral to Indigenous sovereignty” and worked to keep and bring children back to their home communities.²² The Indian Homemaker Association also advocated to change the child welfare legislation and policies which had led to the Sixties Scoop.

“The BCIHA also worked to change the legislation and policies that produced the Sixties Scoop: they challenged the province’s jurisdiction over Indigenous child welfare and authority to apprehend Indigenous children and pressed the federal government to “recognize Indigenous Peoples jurisdiction in the area of child welfare.”³⁶

ERA 4 - Return to Centralized Control of Child and Family Services Era – 1975 to 1981

With the election of a Social Credit government in 1975, the Province took immediate steps to dismantle Community Resources Boards in order to return social services governance to the central bureaucracy. The Social Credit-led government deemed the work of the Royal Commission on Family and Children’s Law as a partisan political process and consequently implemented little to no recommendations from it. In 1981, the *Family and Child Services Act* was enacted to address the antiquated

²² Sarah Ann Nickel, “‘United We Stand, Divided We Perish’: Negotiating Pan-Tribal Unity in the Union of BC Indian Chiefs” (Simon Fraser University, 2015), <https://summit.sfu.ca/item/16747>.

provision of the *Protection of Children Act*. However, the major legislative changes recommended by the Royal Commission on Family and Children’s Law unfulfilled.²³

Indigenous Resilience and Resistance

First Nations were becoming increasingly alarmed regarding the impact of the provincial child welfare system on their children, families, and communities. Between 1951 and 1979, two of every three Splitsin First Nation children were apprehended by provincial authorities.²⁴ The Splitsin First Nation passed a by-law recognizing its jurisdiction over child welfare and established the Spallumcheen Child Welfare Program. Canada initially rejected the by-law. The Splitsin amended its law and resubmitted it, and this by-law was inadvertently not disallowed by the minister within the required 40-day period, resulting in this by-law coming into force under the Indian Act.²⁵ The B.C. government refused to recognize this by-law.

In 1980 Splitsin First Nation citizens travelled to Vancouver to the home of the Minister of Social Services to protest the high numbers of children being removed and the province’s refusal to recognize the Splitsin law. Also known as the Indian Caravan, many First Nations throughout British Columbia stood alongside Splitsin First Nation and lobbied on it’s behalf. This act of political protest from the First Nations in B.C. commenced in Prince George and ended in Vancouver at the home of the provincial minister who was responsible for child welfare. Chief Wayne Christian met with the minister and established the agreement where the Province recognized Splitsin jurisdiction over

²³ Andrew Armitage, “Lost Vision: Children and the Ministry for Children and Families,” *BC Studies: The British Columbian Quarterly*, no. 118 (1998): 1, <https://doi.org/10.14288/bcs.v0i118.1800>.

²⁴ “The History of Indigenous Child Welfare in BC.”

²⁵ “The History of Indigenous Child Welfare in BC.”

it's children on and off reserve in B.C.²⁶ The government of Canada resisted any other First Nations from drafting their own child welfare laws. This birthed the concept of Delegated Aboriginal Agencies under provincial law.^{27/28}

ERA 5 –Restraint– 1983 to 1991

Broader economic, political, legislative and social issues have a significant impact on child welfare and well-being. This was particularly evident in this era.

During a time of significant economic hardship across the Western world in the early 1980's, B.C. was hit particularly hard due to the collapse of resource sector revenues. Unemployment climbed and B.C. levels exceeded those of most other Canadian jurisdictions. The B.C. Federation of Labour set up unemployment action centres serving as food banks, offering counselling and coordinating activism.

Citing the Province's inability to afford public services and programs in the midst of a worldwide recession, this era's Provincial government stated that it was time for a "new economic reality." In 1983, under the banner of "restraint," 26 bills were introduced in the Legislative Assembly in a single day.²⁹ Within this mix, labour laws were repealed in an effort to curb the power of unions, wage control legislation was implemented, and Bill 3, the *Public-Sector Restraint Act*, established that all public-sector employers in the province, including the government, had the power to fire employees without cause. This was described as a wholesale attack on

human rights. Sixteen hundred provincial government employees received layoff notices in the fall.

Funding to social services supporting children, families, survivors of family violence, immigrants and refugees, people with disabilities, people living in poverty and many other equity-seeking groups was significantly reduced or eliminated.

Resistance mounted and in July 1983 a coalition of labour and advocacy groups in B.C. united under the banner of Operation Solidarity and a series of strikes and actions followed throughout the fall of 1983. The province was on the verge of a general strike when the government made concessions to its legislation but at the cost of the British Columbia Government Employees Union being seen as selling out human rights in relation to the social programs that were to be cut. This did not sit well with labour movements or community advocacy groups. Funding was not restored to social services and many of the threads in the social safety net were broken.

In 1989 the United Nations Convention on the Rights of the Child was ratified by the UN General Assembly, although Canada would not ratify it until 1991. During this era there was a growing social awareness of child abuse and neglect and the rights of the child.

²⁶ "We Can Stop That Flow of Children Going into Care' | The Tyee," accessed February 19, 2024, <https://thetyee.ca/News/2018/06/06/Stop-Children-Going-Into-Care/>.

²⁷ John A. MacDonald, "The Spallumcheen Indian Band By-Law and Its Potential Impact on Native Indian Child Welfare Policy in British Columbia," *Canadian Journal of Family Law* 4. 75 (1985 1983).

²⁸ "The History of Indigenous Child Welfare in BC."

²⁹ 1983: The Year BC Citizens and Workers Fought Back, The Tyee, accessed February 10, 2024, <https://thetyee.ca/Opinion/2018/07/06/Year-BC-Citizens-Workers-Fought-Back/>.

Indigenous Resilience and Resistance

In 1985 the Nuu-chah-nulth Tribal Council, under the leadership of Debra Foxcroft, signed an agreement through which B.C. delegated the authority for the delivery of child welfare services to the Nuu-chah-nulth Tribal Council thereby establishing the first Delegated Aboriginal Child Welfare Agency in B.C.³⁰ Shortly afterward, the federal government placed a moratorium on the creation of new delegated agencies, citing that a federal government policy was required to be developed pertaining to the designation of First Nations and First Nation agencies to deliver child welfare services.



Image above: Debra Foxcroft³¹

³⁰ “History | Nuu-chah-nulth Tribal Council,” accessed February 10, 2024, <https://nuuchahnulth.org/history>.

³¹ “Image of Debra Foxcroft,” 1983. Accessed July 12, 2024 <https://www2.gov.bc.ca/gov/content/governments/>

The moratorium was lifted in 1991 when Canada implemented a national First Nations child and family services policy, locking First Nations child welfare agencies into a national funding formula (Directive 20-1) and requiring them to adhere to provincial standards for child welfare practice³². Under the delegation model, Indigenous communities created child and family services agencies to replace provincial agencies, aiming to prevent the removal of children from their communities and to provide culturally appropriate services to their children and families.

ERA 6 – Pendulum Swings After Tragedy - 1991 to 1996

Shortly after the New Democratic Party's return to power in 1991, there was yet another swing of the political pendulum with the new provincial government's intention to return governance of social services to local communities. The Province expressed its commitment to reform the child welfare system and practices, particularly in relation to Indigenous children and families.³³ The Province established two panels of knowledgeable, experienced community participants to travel across the province, seeking proposals for strengthening and improving the child welfare enterprise.

One of the panels was solely focused on Aboriginal child welfare. Recommendations were solicited from hundreds of citizens across the province, including First Nations constituencies. Feedback recommended the ministry's services be community-based,

[celebrating-british-columbia/honours-and-awards/order-of-bc/members/f-h](https://www2.gov.bc.ca/gov/content/governments/celebrating-british-columbia/honours-and-awards/order-of-bc/members/f-h)

³² Jeffrey J. Schiffer, “Feathers, Beads and False Dichotomies: Indigenizing Urban Aboriginal Child Welfare in Canada” (Columbia University, 2014), <https://doi.org/10.7916/D8251GQZ>.

³³ “The History of Indigenous Child Welfare in BC.”

decentralized, and placed under citizen control. Community development was identified as the tool by which these objectives would be achieved. There were recommendations pertaining to recognition of First Nation law, the transition to Aboriginal governed and delivered services, and healing through funding, prevention services, and knowledge sharing.³⁴

“Recommendation 6 – Government must recognize the right of each Aboriginal Nation to extend its responsibility for family and child services and decision making to all members of that Nation, whether they are registered as Indians or not, and whether or not they reside on or off land reserved for Indians, in accordance with the aspirations of Aboriginal people who comprise each Nation.”⁵⁴

Lavina White and Eva Jacobs, who led the Indigenous community panel noted:

“Everywhere we travelled there was a recognition of the damage done to our families and communities by the residential school system and the apprehension and removal of children from their communities. Everywhere we went we heard of culturally inappropriate responses to the problems caused by these tragedies, and nowhere did we find Aboriginal communities with sufficient resources to address these problems.”

Based on input from extensive community consultations, White and Jacobs developed over 100 recommendations with an emphasis

³⁴ White and Jacobs, *Liberating Our Children, Liberating Our Nations*, xii.

on the resumption of Indigenous jurisdiction over children and families.

While the government’s intention was to reform child welfare legislation and practice,

“The answers to these problems cannot lie in the further extension of bureaucratic regulation of Aboriginal life. That answer can only be framed in the inherent right of our people to govern ourselves.”

White and Jacobs argued in their report that

“Changes to family and child protection legislation must be seen only as an interim measure that will be fully resolved through the recognition of the paramountcy of Aboriginal family law.”³⁶

Furthermore, White and Jacob called on B.C. to act on their recommendations.

“We submit this report to you with the confidence and the expectation that your government will support our Nations and our communities as they undertake their responsibility in rebuilding the strengths that served our ancestors so well.”⁴¹

The parallel report to *Liberating Our Children* *Liberating Our Nations* was *Making Changes – A Place to Start*. The report from the Making Changes panel included recommendations regarding addressing poverty and the

provision of holistic, integrated and community based supports.

In response to *Liberating Our Children Liberating Our Nations* and the companion report *Making Changes – A Place to Start*, the Minister of Social Services announced that the ministry would undergo “a fundamental shift in values, **from a child-centred to a family-centred system.**”³⁵ This shift was to include an emphasis on preventative services so that families would be supported to stay safely together or to be swiftly reunited when it became necessary to temporarily remove children. Government made a commitment to develop and introduce new legislation that would reflect this fundamental shift in values and priorities.

In 1993 an MOU was entered into between the Province and the Union of British Columbia Indian Chiefs recognizing the inherent right of Indigenous communities to assume responsibility for their children and families. The Province committed to relinquishing authority over Indigenous child and family services as Indigenous communities resumed jurisdiction. A Joint Policy Council was convened between First Nations leaders and the Province to encourage the federal government to uphold its fiduciary obligations to Indigenous Peoples with respect to child welfare.³⁶ The Canadian government responded that the matter of child and family services was a provincial responsibility, and Canada would only fund Indigenous communities if they had a delegation agreement with the Province. Given this position, provincial policy shifted back to a delegation model.

³⁵ “The History of Indigenous Child Welfare in BC.”

³⁶ Walkem, A. & Bruce, H. (2002). *Calling Forth Our Future: Options for the Exercise of Indigenous Peoples’ Authority in Child Welfare*. Union of BC Indian Chiefs.

In 1995, the government appointed the provinces first Child, Youth and Family Advocate - a move that had been called for through public consultations since the early 1990s.

Following the horrific death of a young child in 1992, an independent inquiry into the circumstances of this child’s death was initiated. Justice Thomas Gove led the inquiry, and a final report was released in 1995. Over 100 recommendations were made with an overarching belief that care and protection of the child was to remain paramount, while emphasizing the need for preventive programs and services that were community-based, community-governed, and readily accessible. The report received widespread public and media attention throughout the province, highlighting public desire for community-based support services to prevent family breakdown and government intervention.³⁷ ³⁸ Judge Gove also recommended that child welfare services be governed, managed and delivered through 20 Regional Child Welfare Boards: child welfare services would be delivered in accordance with province-wide standards.³⁹

Shortly thereafter, the new *Child, Family and Community Service Act (CFCS Act)* was tabled in the Legislature. It articulated several principles to guide the delivery of child and family services, including:

- A family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;
- If, with available support services, a family can provide a safe and

³⁷ Foster and Wharf, “Forward.”

³⁸ “The History of Indigenous Child Welfare in BC.”

³⁹ Report of the Gove Inquiry into Child Protection. Recommendation 102 to 105.

nurturing environment for a child, support services should be provided;

- The cultural identity of aboriginal children should be preserved;
- Aboriginal people should be involved in the planning and delivery of services to aboriginal families and their children; and
- The community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventive and support services to families and children.³⁹

In 1996 the *CFCS Act* was proclaimed into law. Despite the promise of the new legislation and the recommendations from Judge Gove regarding the importance of community-based prevention supports and services, the provincial child welfare system steadily deprioritized community-based family support programs and emphasized government workers' administrative expertise, reorganization, and investigation.⁴⁰ Although not the intention of the Gove inquiry, the result was a shift in practice towards child removal as social workers, fearful of the consequences of making an error, were afraid to leave children in situations where there was any risk of harm. Consequently, there was a significant increase in children being removed and placed in care. The number of Indigenous children in care was driven upwards at a rate significantly higher than non-Indigenous children.

Indigenous Resilience and Resistance

With the Implementation of Operational Directive 20-1, Canada's First Nation Child and Family Services program, many First Nations began establishing Delegated Aboriginal Agencies. By 1995 there were eight agencies in B.C. As these agencies began to provide

child and family services, it became apparent to leadership within these agencies that there was a need for education and training that was developed from an Indigenous perspective. Warner Adams, Deb Foxcroft, Deanne George, Steve Kosey, Elsie Paul, Maurice Squires, Gloria Wilson, and others came together to create the Caring for First Nations Children's Society and began providing training and supporting First Nations regarding their aspirations pertaining to children and families.⁴¹

ERA 7 – A New Ministry – A New Approach – Reactive Responses and Risk Assessment Focus – 1996 to 2001

Cynthia Morton was appointed by the Province as the Transition Commissioner for Child and Youth Services To study the recommendations of Judge Gove and develop an implementation plan. In 1996, she issued the report *British Columbia's Child Youth and Family Serving System Recommendations for Change* to implement the recommendations of Judge Gove. In her report, she indicated it was not possible to implement Judge Gove's and her recommendations without dismantling the existing ministry and building of a new ministry that integrated child and family serving functions of government. Cynthia Morton's recommendations included:

³⁹ "The History of Indigenous Child Welfare in BC."

⁴⁰ Armitage, "Lost Vision."

⁴¹ "Gathering Our History – Indigenous Perspectives Society," accessed February 15, 2024, <https://ipsociety.ca/gathering-our-history/>.

“Immediately dismantle the Ministry of Social Services by separating its child, youth and family serving functions from its income assistance responsibilities. A new Ministry for Children, Youth and Families should integrate the child, youth and family serving programs of the Ministries of Social Services, Health, Attorney General, Education and Women's Equality.”⁴¹

She also recommended that a “new province-wide early intervention and prevention strategy”⁴² be implemented, and that the Province,

“Immediately implement a system to include communities in decision making which affects them”⁴³

In her report, Cynthia Morton recommended that a new Children's Commission be established to review child deaths and oversee activities of the new ministry. She also advised the Premier that she did not support the recommendation made by Judge Gove for regional authorities to be established.⁴³

As a result of these recommendations, a former deputy minister was brought back to lead the creation of this new ministry and a new Provincial Director of Child Welfare was hired and given autonomy to “clean things

⁴² Morton, *British Columbia's Child, Youth and Family Serving System Recommendations for Change: Report to Premier Glen Clark*.

⁴³ Morton.

⁴⁴ Personal communication between Doug Hughes, Alan Markwart, and Bart Knudsgaard

⁴⁵ Personal communication between Doug Hughes, Alan Markwart, and Bart Knudsgaard

⁴⁶ Need date source and fact check

up”⁴⁴ and standardize the approach to child welfare work. Compliance with policy became a priority and auditing of case work was actively underway. The rationale was to ensure compliance and to quickly learn what was going wrong when situations went sideways.⁴⁵ The thinking at the time was that the new ministry would be less prone to catastrophe and critique if it could be said staff were following the policy and evidence.

Social work practice was now being driven by a comprehensive risk assessment process and a structured decision-making model. The focus of the ministry was on training out the use of the Comprehensive Risk Assessment and accompanying Risk Reduction Service Plan. Coupled with this new approach the use of Parental Capacity Assessments became prevalent throughout child welfare practice.⁴⁶

With the increased focus on risk assessment, and the fear of making a mistake as a result of the Gove Inquiry, there was a significant increase in child removals. The risk assessment approach gave little consideration to cultural safety or the impacts of government colonization. Despite the focus on standardization and risk assessment, there continued to be high profile politicized situations which brought the work of the ministry into question, ultimately resulting in the departure of this Director of Child Welfare.

In 1998 the Ombudsman issued the report *Getting There*⁴⁷ which examined the progress

⁴⁷ British Columbia. Office of the Ombudsman and British Columbia. Legislative Assembly Gove Inquiry into Child Protection (B.C.), eds., *Getting There: A Review of the Implementation of the Report of the Gove Inquiry into Child Protection*, Public Report / British Columbia. Office of the Ombudsman ; No. 36 ISSN 0712-0508 (Victoria: The Ombudsman, 1998).

made in the implementation of Judge Gove's recommendations. This report identified that Aboriginal children accounted for five percent of B.C.'s children, but that those children made up over 30 percent of children in care.⁴⁸ By 2001, over 42 percent of children in care were Aboriginal.

Cynthia Morton was subsequently appointed as the first Children's Commissioner, tasked with the responsibility of reviewing every child death in the province as well as reviewing the plan of care for every child in care. The child and youth advocate continued her work to provide advocacy to children and families that we're facing difficulties in their dealings with the ministry.

Indigenous Resilience and Resistance

First Nations across B.C. were developing their own delegated child welfare agencies even as the Province increased risk assessment-based practices. The government of Canada's Operational Directive 20-1 enabled First Nations to seek and receive funding from Canada for the delivery of child welfare services on reserve. Canada's position was that the Province was responsible for funding services off reserve. There was no funding methodology in place for Nations to deliver services off reserve. Consequently, a two-tier approach to child welfare services was born in B.C.⁴⁹ Despite this reality, Nations pushed forward to develop their delegated agencies.

First Nations were becoming increasingly alarmed by the number of children being removed from their families and

communities. Many First Nations were considering, either as a Nation or through the creation of an agency, taking on responsibility for the delivery of child welfare services. In 1996 representatives of First Nations, Canada, and B.C. met to discuss how quality assurance activities will occur in relation to the child welfare services provided by First Nations or agencies created by First Nations. It was realized that without clear standards of practice, there cannot be quality assurance activities.

A committee was struck and in 1999 the Aboriginal Operational and Practice Standards and Indicators (AOPSI) came into force to guide agency operations and practice. These standards were created in such a way to support cultural approaches in the delivery of services.⁵⁰ AOPSI articulated the minimum expectations for delegated agencies and were written to meet or exceed BC's legislative requirements. These standards were approved by the directors of BC's Delegated Aboriginal Agencies and by the Provincial Director of Child Welfare.

As Indigenous Nations were creating Delegated Aboriginal Agencies, it became apparent to Agency Directors that they could benefit from mutual support in their journeys to serve their children and families.⁵¹ This resulted in the formation of the *First Nations Directors Forum for Agency Directors* and the *Partnership Forum for Agency Directors, British Columbia, and Canada*.

The *CFCS Act* omitted any mention of Métis identity despite the Métis being recognized under Section 35 of the Canadian

⁴⁸ British Columbia. Office of the Ombudsman and British Columbia. Legislative Assembly Gove Inquiry into Child Protection (B.C.), eds., *Getting There: A Review of the Implementation of the Report of the Gove Inquiry into Child Protection*, Public Report / British Columbia. Office of the

Ombudsman ; No. 36 ISSN 0712-0508 (Victoria: The Ombudsman, 1998), 23.

⁴⁹ Road to Aboriginal Authority Kelly MacDonald
⁵⁰ AOPSI, "Aboriginal Operational and Practice Standards: October 1999," 1999.

⁵¹ Conversations with Maurice Squires and Deb Foxcroft, 2024.

Constitution. In 1999 Métis leaders in B.C. established the Métis Commission for Children and Families to support Métis children to maintain connections with family, culture, and community rather than disappearing into the child welfare system. The Métis Commission became the designated representative for Métis children in B.C.⁵²

In 1999, the ministry took a bold step to develop the *Strategic Plan for Aboriginal Services* with the stated intention to improve its relationships with Aboriginal governments and communities⁵³. Strategic goals and priorities were established to improve relationship with Aboriginal communities, to support capacity building in Aboriginal communities, to improve service delivery to Aboriginal people, and to coordinate efforts at all levels of government to support Aboriginal services. It was recognized that the relationship between Canada and B.C. was critical in supporting better outcomes for Aboriginal children and their families. This strategic plan is the only standalone plan

exclusively focussed on Aboriginal services established by the Province.

In 2000, the Federal First Nations Child and Family Services issued the *Joint National Policy Review Final Report*⁵⁴ which identified the need to replace the federal government's Operational Directive 20-1. The report argued that Operational Directive 20-1 did not reflect the jurisdictional aspirations of Nations, and that its funding methodology was outdated and inflexible. When the federal First Nations Child and Family Services program was implemented in 1991, First Nations "expressed concern that the structure and amount of funding in Directive 20-1 were problematic."⁵⁵ In 2000, a joint review by the Assembly of First Nations and Canada concluded that the funding formula under Directive 20-1 made it impossible for agencies to provide preventative services, and that First Nations children were being taken into care as a result.⁵⁶ Canada failed to implement the recommendations from the joint review. As a result, the Canadian Human Rights Tribunal application was filed.

Directive 20-1 and the Fight for Equitable Funding in First Nations Child Welfare Services

- **Directive 20-1:** This federal funding formula, introduced in the early 1990s, was supposed to support child welfare services for First Nations communities. However, it was deeply flawed, resulting in chronic underfunding and inequities compared to non-Indigenous child welfare services. Cindy Blackstock has been a leading voice in exposing these discrepancies and advocating for a more equitable funding approach.
- **Canadian Human Rights Tribunal (CHRT):** In 2007, Cindy Blackstock, along with the Assembly of First Nations (AFN), filed a complaint with the CHRT alleging that the Canadian government's underfunding of First Nations child welfare services amounted to discrimination. After a prolonged legal battle, the CHRT ruled in 2016 that the Canadian government had indeed discriminated against First Nations children. This landmark decision mandated the government to immediately rectify the funding inequities and implement long-term solutions to ensure fair treatment and services for First Nations children.

⁵² "The Metis Commission for Children & Family Services BC Is Seeking Board Members/Commissioners - BC Métis Federation," accessed March 1, 2024,

<https://bcmetis.com/news/the-metis-commission-for-children-family-services-bc-is-seeking-board-members-commissioners/>.

⁵³ "Strategic Plan for Aboriginal Services."

⁵⁴ Dr. Rose-Alma J. McDonald and Dr. Peter Ladd, *First Nations Child and Family Services Joint National Policy Review Final Report June 2000*

(Assembly of First Nations/Department of Indian and Northern Affairs Development, 2000), https://publications.gc.ca/collections/collection_2018/aanc-inac/R5-727-2000-eng.pdf.

⁵⁵ "Pre-Tribunal Timeline: History of First Nations Child & Family Services Funding | First Nations Child & Family Caring Society," accessed March 1, 2024, <https://fncaringsociety.com/i-am-witness/pre-tribunal-timeline>.

⁵⁶ "The History of Indigenous Child Welfare in BC."

ERA 8 – GOOD INTENTIONS AMIDST BUDGET CUTS – A Series of Failed Efforts to Support Indigenous Directions - Mobilization of Indigenous Leadership - 2001 to 2016

In June 2001, the federal Liberal Party took power and a core services review was initiated that included Operational Directive 20-1.

Also in 2001, the newly elected Provincial Liberal government initiated a planning process for child welfare to be divided among five regional authorities – this despite Cynthia Morton’s earlier recommendation that this not be undertaken.

The 2002/2003 Ministry of Children and Family Development Annual Report presented a commitment to “stop the endless bureaucratic restructurings [of the Ministry] that has drained resources from child and family services”. Nonetheless, the ministry continued to plan for the move of services from government to external authorities, much like had been done with the move of disability services to Community Living British Columbia.⁵⁷

As a result of the core review process that was underway provincially, significant budget cuts were made within the ministry. The decrease in funding coincided with a shift to prioritizing family support, with a goal to reduce the number of children in care and the associated costs of care. The Ministry’s Annual Reports and Service Plans at this time specifically noted that the reduction in the number of

children in care would save funds. During this time, there was an increasing number of high-profile situations where children experienced significant harm and/or death.⁵⁸

The Core Services Review considered the roles of the Children’s Commission, the Child and Youth Advocate, the Coroner’s Service, the Ombudsman, and the Public Guardian and Trustee. The government agreed with the conclusion of the review that there were overlaps and duplication of services. The Coroner was designated to assume the child death review function from the Children’s Commission and a new Child and Youth Officer role would replace the Children’s Commissioner and the Child and Youth Advocate to become the external oversight for child welfare, reporting up to the Attorney General.

Despite intentions to focus more on prevention and early intervention for families, this focus was co-opted by fiscal constraints. A series of budget cuts resulted in the elimination or significant reduction of programs and services, including youth and residential services. The ministry was simultaneously transferring responsibility for quality assurance to the five regions and initiating reorganization in anticipation of regional governance. Major program shifts included enhanced options to keep children out of care, but these were rolled out with little or no planning, training or follow up. Concerns were raised at this time about the lack of services and public accountability in the ministry.⁵⁹

⁵⁷ MCFD, “2002/2003 Annual Service Plan Report” (Ministry of Children and Family Development, 2002), https://www.bcbudget.gov.bc.ca/Annual_Reports/2002_2003/cfd/cfd.pdf.

⁵⁸ Representative for Children and Youth, “Not Fully Invested A Follow-up Report on the

Representative’s Past Recommendations to Help Vulnerable Children in B.C.,” 2014, <https://rcybc.ca/wp-content/uploads/2019/05/rcy-recreport2014-revisedfinal.pdf>.

⁵⁹ Hughes Review, p. 7

There was openness during this era to try new ideas; however, the highly charged political environment resulting from high profile cases and political scandals took the focus away from improving child and family services. The challenges ultimately resulted in the minister's resignation.

The high-profile death of an Indigenous girl resulted in the deputy minister and Provincial Director of Child Welfare being removed and the appointment of Honourable Ted Hughes to conduct a systemic review of the child welfare system in 2006. The *B.C. Children and Youth Review – An Independent Review of B.C.'s Child Protection System* (the Hughes Review) culminated in 62 recommendations addressing the need for external oversight, keeping Aboriginal children safe and well, MCFD's approach to quality assurance and communication and coordination across ministries and authorities. Honourable Hughes charted a path forward that led to the formation of the Office of the Representative for Children and Youth and some modest budget increases. Ultimately, however, the changes that were implemented feel far sort of what Honourable Hughes hoped for.

A blue-ribbon panel of experts in child and family services was appointed by the Premier's office, under the direction of the Premier, to provide advice on fixing the child welfare system. This panel was made up of a variety of professionals, including a future deputy minister.⁶⁰

In 2008 the Premier endorsed Jordan's

⁶⁰ International Institute for Child Rights and Development (IICRD), "Annual Report 2004 - 2005" (Center for Global Studies University of Victoria, 2004), 14, <https://www.uvic.ca/research/centres/globalstudies/assets/docs/publications/Annual-Report-2004-2005.pdf>.

⁶¹ Ministry of Children and Family Development, "Factsheet: Jordans Principle A Child-First

Principle, a child-first approach that commits the provincial government to ensuring that jurisdictional funding disputes do not prevent or delay First Nations from accessing available health and social services.⁶¹ Despite this commitment, no policy was established to guide Ministry staff on how to implement Jordan's Principle.

The Premier's Office became very hands-on in the running of the Ministry and hand-picked a new deputy minister, who was seen as an expert in dismantling apartheid and appeared to be qualified to get the ministry back on track. There was a mixed relationship between Indigenous leaders and this new deputy minister. In 2008 the Premier's Office launched "*Strong, Safe and Supported*" to course correct the previous year's leadership in not being able to deliver what was an acceptable strategic direction for the Ministry. The Premier's office continued to insert itself in establishing the strategic direction of the ministry.⁶²

With the appointment of a new deputy minister the decision was made to disband the office of the Provincial Director of Child Welfare. The role was left vacant in an effort to support the Regionalization of MCFD. The authority and autonomy of MCFD regions were strengthened and the Provincial Office's role was reduced. Regional Directors became assistant deputy ministers.

The deputy minister and the former Representative for Children and Youth, held

Approach" (MCFD, 2009), <https://fncaringsociety.com/sites/default/files/Factsheet%20Jordan%27s%20Principle%20April%2008.pdf>.

⁶² MCFD, "Strong, Safe and Supported: A Commitment to BC's Children and Youth" (Ministry of Children and Family Development, 2008).

Indigenous Children in Care in British Columbia

THE YEAR COLBY WAS BORN - 2011

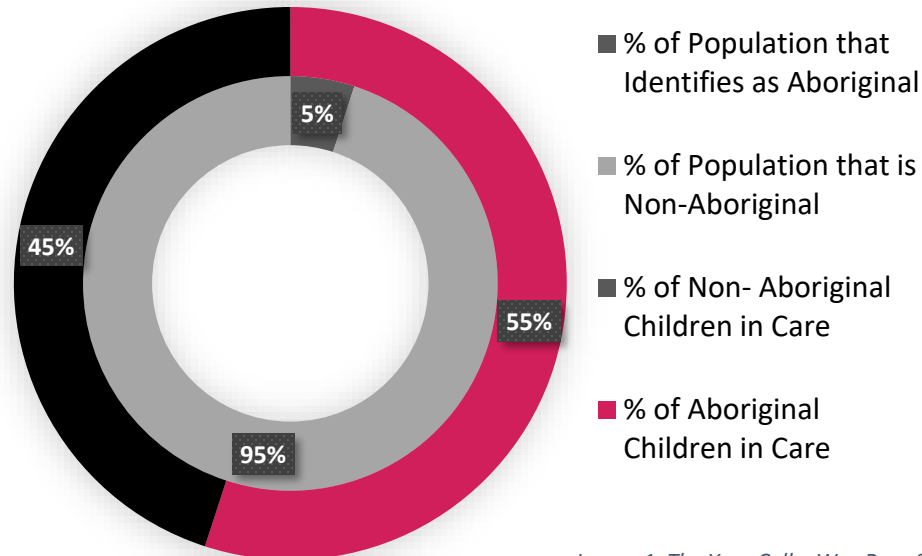


Image 1: The Year Colby Was Born 2011

opposing agendas. Opposing agendas created a relationship strain, resulting in lost opportunity for MCFD and the RCYBC to collaborate on a child focused agenda.⁶³

In 2011 this approach was abandoned with a new deputy minister charged with returning the Office of the Provincial Director of Child Welfare “to provide greater accountability across the province and improve child protection practice”.⁶⁴ This marked another shift from a regionalized approach to the delivery of services to a centrally driven oversight of child and family services.

⁶³Bart Knudsgaard and Doug Hughes, Personal Conversations with Doug Hughes, from Provincial Director of Child Welfare, n.d..

⁶⁴ Development, “New Provincial Director of Child Welfare Appointed | BC Gov News.”

⁶⁵ Ministry of Children and Family Development, “Aboriginal Policy and Practice Framework in British Columbia. a Pathway towards Restorative

Indigenous Resilience and Resistance

In 2002 it was understood by Indigenous communities that MCFD must reduce its budget to meet the Province’s fiscal objectives and, as part of the strategy to do so, efforts would be made to reduce the number of children in care.⁶⁵ It was recognized that there was an over-representation of Aboriginal people receiving protective services and an under-representation of Aboriginal people receiving support and prevention services.⁶⁶ The ministry system clearly illustrated that mainstream services do not work for

Policy and Practice That Supports and Honours Aboriginal Peoples’ Systems of Caring, Nurturing Children and Resiliency.,” 2015, <https://www2.gov.bc.ca/assets/gov/family-and-social-supports/indigenous-cfd/abframework.pdf>.

⁶⁶ Ministry of Children and Family Development.

Aboriginal people, that they are “devastatingly culturally destructive”.⁶⁷

A focus was given to culturally appropriate services and care for Indigenous children and families and on developing relationships with Indigenous Leaders. A June 2002 “Creating a Vision for the Future” gathering was held in Tsawwassen with Indigenous Leadership from nearly all Nations across B.C. and with senior ministry personnel. The conference was presented as follows:

“The Ministry of Children and Family Development (MCFD) is restructuring the way child and family services are being developed. Governance structures are being created in five regions around the province to oversee all child and family services. A separate Aboriginal governance structure is also being contemplated. This conference will be an opportunity for interim Aboriginal planning committees, First Nations, Metis and off-reserve Aboriginal agencies and organizations to come together to discuss common areas of concern, share plans and visions and influence MCFD decision making on governance implementation.”⁶⁸

During the gathering, the regionalization of services was advocated for with Indigenous leaders calling for Aboriginal specific service delivery systems.⁶⁸ This gathering resulted in the Tsawwassen Accord in which the Province

⁶⁷ “Aboriginal Policy and Practice Framework in British Columbia. a Pathway towards Restorative Policy and Practice That Supports and Honours Aboriginal Peoples’ Systems of Caring, Nurturing Children and Resiliency.,” p. 3, <https://www2.gov.bc.ca/assets/gov/family-and-social-supports/indigenous-cfd/abframework.pdf>.

⁶⁸ “Aboriginal Policy and Practice Framework in British Columbia. a Pathway towards Restorative Policy and Practice That Supports and Honours

declared its commitment to the transformation of child and family services to Indigenous children and families. Agreement was reached with MCFD, and a MOU was entered into with the four Aboriginal political bodies in which B.C. committed to the development of regional Aboriginal authorities - varying its plan for five blended Aboriginal/non-Aboriginal authorities. The intent was for Nations and communities, not the Province, to lead the planning process.⁶⁹

The MOU was to be renewed annually; however, this did not occur. Despite this, the planning for regionalization continued towards the creation of Aboriginal Authorities. The five resulting Aboriginal Authorities commenced planning for the transition of services. This planning was led by Aboriginal leaders, both political and those with experience in the delivery of child and family services. Principles that guided this work included:

- Focus on healing and wellness,
- Ensuring Aboriginal values and cultural competency,
- Supporting community responsibility,
- Capacity development,
- Nation building, and
- Equitable access to services.

Regional Aboriginal planning tables began developing service plans for child welfare services. In 2007, two interim Aboriginal Authorities were established.⁷⁰ When draft

Aboriginal Peoples’ Systems of Caring, Nurturing Children and Resiliency.”

⁶⁹Maggie Kovachs et al., “Witnessing Wild Woman: Resistance and Resilience in Aboriginal Child Welfare,” in *People, Politics, and Child Welfare in British Columbia* (Vancouver: UBC Press, 2007), 97–116.

⁷⁰Kelly A. MacDonald, “The Road to Aboriginal Authority over Child and Family Services,” *Canadian Centre for Policy Alternatives and the Centre for Native Policy and Research*, 2008, 44.

legislation was developed to support the move to regional authorities, it was clear to Indigenous leaders that the Province's approach was neither transparent nor inclusive, not including Indigenous leaderships in the development of this draft legislation. This legislation fell short in being able to commit the resources required for Indigenous Authorities to be successful. Introduction of legislation to advance regional authorities was abandoned by the Province in 2008. Indigenous leadership was not supportive of the proposed legislation, as it failed to acknowledge Indigenous communities' jurisdiction for child and family services and failed to provide increased autonomy to First Nations.⁷¹ This brought an end to both the legislation and the process of regionalization.

Despite this outcome, the five interim Aboriginal authorities undertook significant community engagement, gathering multiple recommendations for how best to deliver services to Aboriginal children and families. For example, in the Interior, the interim Aboriginal Peoples Family Accord developed a service plan which included service delivery principles and wellness goals determined through comprehensive assessment of the needs of Aboriginal people throughout the Interior.⁷² However, delegation under provincial law remained the only model available to support Nations to provide child and family services.

Through this time, more Delegated Aboriginal Agencies were established and existing Delegated Aboriginal Agencies continued expanding their scope of service to include Guardianship and Child Protection as well as

to provide services off-reserve. The Province's focus had shifted from recognition of Indigenous jurisdiction to one of supporting Indigenous communities developing delegated agencies.

As a result of First Nations leadership concerns, in 2008 the First Nations Leadership

Levels of Indigenous Delegation in British Columbia

In British Columbia, Indigenous Delegation refers to the levels of authority and responsibility that Indigenous Child and Family Service agencies hold in delivering child welfare services. There are four main levels of delegation, defined under the Child, Family and Community Service Act (CFCSA):

C-3 (VOLUNTARY SERVICES DELEGATION)

Indigenous agencies provide voluntary services and support to families to prevent the need for protective intervention. The focus is on early intervention, family preservation, and support services.

C-6 (CHILD PROTECTION DELEGATION)

Indigenous agencies can provide voluntary services and carry out child protection investigations. Agencies have the authority to intervene in situations where children are at risk and take necessary protective measures. Responsibilities include assessing the safety of children, developing safety plans, and providing ongoing support to families.

C-4 (FULL DELEGATION)

Indigenous agencies have full authority to provide the full range of child welfare services, including child protection, family support, and guardianship. Agencies operate independently, making decisions regarding the safety and well-being of children in their care.

Council (FNLC) convened the First Nations Chiefs' Indigenous Child at the Centre Forum

Policy and Practice That Supports and Honours Aboriginal Peoples' Systems of Caring, Nurturing Children and Resiliency."

⁷¹ "The History of Indigenous Child Welfare in BC."

⁷² "Aboriginal Policy and Practice Framework in British Columbia. a Pathway towards Restorative

for the first time. During the forum, the chiefs committed to “the exercise of our inherent rights and responsibility for the survival, dignity and well-being of our children” and produced a collectively developed action plan to guide First Nations in improving child and family services.⁷³ At the second forum later in 2008, the chiefs signed the declaration *One Heart, One Mind: Statement of Solidarity & Cooperation*, which established an *Interim Chiefs Child and Family Wellness Council* to:

- Revise the *Child at the Centre Action Plan* based on community input;
- Work toward implementation of the action plan; and
- Establish a permanent *First Nations Child and Family Wellness Council*.⁷⁴

In 2009, the FNLC and B.C. signed the *Recognition and Reconciliation Protocol on First Nations Children, Youth and Families*, through which BC committed “to supporting First Nations to exercise jurisdiction for First Nations children, youth and families” and to working collaboratively in a nation-to-nation process to implement the *Indigenous Child at the Centre Action Plan*.⁷⁵ The *First Nations Child and Family Wellness Council* was formally established in 2010, and BC began funding community-driven child and family initiatives

under the Indigenous Approaches program. However, in 2013, the B.C. Representative for Children and Youth released a report that was sharply critical of Indigenous child welfare policy in B.C. Although the report was developed without any input from service providers, and without any direct examination of programs or services, the Representative at the time, Mary Ellen Turpel Lafond, concluded that BC had spent over \$66 million “without a single child being actually served.”⁷⁶ B.C. accepted the report as presented⁷⁷ and then cut funding to the *First Nations Child and Family Wellness Council* and to community initiatives associated with the *Indigenous Child at the Centre Action Plan*.⁷⁸

It was recognized that, despite not proceeding with regional Aboriginal Authorities, there was an ever increasing need to address how services were delivered to Aboriginal children and families. Despite the efforts to ensure that the original Aboriginal Operational and Practice Standards (AOPSI) reflected the importance of family and community in Indigenous cultures, “they nonetheless did not embody practice founded on an Indigenous worldview and were not considered truly reflective of Indigenous beliefs, values, and cultural traditions.”⁷⁹ This led to a recognition

⁷³ “Historical Timeline,” UBCIC, accessed February 20, 2024, <https://www.ubcic.bc.ca/timeline>.

⁷⁴ “One Heart, One Mind: Statement of Solidarity & Cooperation,” 2008, <https://ihraamorg.files.wordpress.com/2016/12/one-heart-one-mind-declaration-july-2008.pdf>.

⁷⁵ The Province of British Columbia et al., “Recognition and Reconciliation Protocol on First Nations Children, Youth and Families,” n.d.

⁷⁶ “The History of Indigenous Child Welfare in BC.”

⁷⁷ Travis Holyk and Henry G. Harder, “Aboriginal Child Welfare in British Columbia and Unequal Power Relations: A Critical Discourse Analysis,”

Canadian Review of Social Policy, no. 74 (2016): 82–108.

⁷⁸ Union of B.C. Indian Chiefs, “Our Land Is Our Future: Resolutions of UBCIC Chiefs Council June 10th-11th, 2015 Nk’Mip Conference Centre, Osoyoos B.C.,” 2015, https://assets.nationbuilder.com/ubcic/pages/132/attachments/original/1551208731/2015June_ResolutionsPackageCombined.pdf?1551208731.

⁷⁹ Caring for First Nations Children Society and Nota Bene Consulting Group, “Starting From a Traditional Place: The AOSPI Practice Standards Redesign,” 2012.

that the standards guiding Delegated Aboriginal Agencies needed review and revision. In 2009 the directors of the Delegated Aboriginal Agencies, along with the Caring for First Nations Children Society, MCFD and Aboriginal Affairs and Northern Development Canada, launched the AOPSI redesign project. This process occurred from 2009 to 2012, culminating in *Starting from a Traditional Place: Aboriginal Operational and Practice Standards and Indicators*⁸⁰.

The project name signalled the intention to centre Indigenous principles and values in the development of a practice framework guided by community input.⁸¹ It was recognized by all that the existing service delivery services system was not meeting the needs of Indigenous children and their families. The continued over-representation of Indigenous children and families was seen by all as a critical issue to address.

Over the three years of the AOPSI redesign project over 600 Indigenous Elders, youth, parents, community members, and delegated agency staff participated in community consultation sessions.⁸² Agency directors contributed significant efforts to revise AOPSI; however, in 2012 the Provincial Director of Child Welfare decided against proceeding with the revised standards and required Designated Aboriginal Agencies providing protective child welfare services to incorporate a specific risk assessment model (Structured Decision Making) into their practice.

The ministry's decision to not to proceed with *Starting from a Traditional Place* did not sit well with Indigenous child and family services agencies. It is understood that the ministry's

rationale for this decision was the result of a legal option from the Attorney General.

The 2013 Representative for Children and Youth report *When Talk Trumped Service* that resulted in the ministry pushing forward with one set of standards that would guide child safety practices for both Ministry and Indigenous agency staff. This unilateral decision by the ministry dismissed the extensive work and Indigenous community engagement that was undertaken to develop *Starting from a Traditional Place*.

In July 2013, MCFD and DAAs began working on an Aboriginal practice framework to build on the AOPSI Redesign and design a framework to guide policy and practice within Delegated Aboriginal Agencies and across all six MCFD service lines. This work resulted in the Aboriginal Policy and Practice Framework:

"an overarching framework intended to improve outcomes for Aboriginal children, youth, families and communities through restorative policies and practices. It applies to policy and practice involving Aboriginal children, youth, and families on and off reserve regardless of if they are being served by a delegated Aboriginal agency or the Ministry of Children and Family Development. Restorative policies and practices are culturally safe and trauma-informed, supporting and honouring Aboriginal peoples' cultural systems of caring and resiliency."⁸³

The APPF was endorsed by the Directors Forum and MCFD in 2015. Indigenous child and family service agencies, although made up of staff delegated by the Provincial Director of Child Welfare, began developing practice frameworks, creating policies, and

⁸⁰ "Starting From a Traditional Place: Aboriginal Operational and Practice Standards and Indicators," 2012.

⁸¹ "The History of Indigenous Child Welfare in BC."

⁸² Caring for First Nations Children Society and Nota Bene Consulting Group.

establishing information management systems that supported their work.

In 2016 the First Nations Leadership Council developed an *Action Framework: Reconciliation, Self-Determination, and Self-Government for Indigenous Children, Families and Nations in BC*. This framework called for:

- the creation of an Indigenous child and family reconciliation charter,
- a tri-partite working group to reform child and family welfare for Indigenous Nations in BC,
- new legislation supporting the development of an Indigenous child welfare system, and
- the resumption of jurisdiction by Indigenous Nations and communities.

ERA 9 – A New Age – 2017 to 2024

The *Tripartite Working Group on First Nations Child and Family Well-Being* was established in 2017 as a result of the *Reconciliation Charter for First Nations Child and Family Well-Being* between First Nations Leadership Council, the Province of British Columbia, and Canada.⁸³ The Working Group's objective was to achieve the mutual goal of systemic reform to improve First Nations child and family well-being, which reflects the mutual commitments in the Reconciliation Charter.⁸⁴ Systemic reform and transformative change priorities included legislative reform, policy and program development, and an effective fiscal

⁸³ BC First Nations Tripartite and Children and Families Working Group, "Discussion Paper: Developing a New Funding Model and Approach for BC First Nations Children & Families," 2022, 22. BC First Nations Tripartite and Children and Families Working Group.

⁸⁴ Government of British Columbia et al., "Reconciliation Charter for First Nations Child and Family Well-Being in British Columbia," 2017, https://www.fnlcchildrenandfamilies.ca/wp-content/uploads/2021/08/02_Reconcil-Charter-April-7-2017-signed.pdf.

model to support First Nation child welfare in B.C.

In 2019, the federal government passed *An Act Respecting First Nations, Inuit and Métis children, youth, and families*, affirming the rights of Indigenous governments and organizations to exercise jurisdiction over their children and families. Upon proclamation in 2020, national principles and minimum standards took effect pertaining to the delivery of children and family services to Indigenous children and families, which all provinces must adhere to. In 2024, upon legal challenges that Canada had overstepped its constitutional authority with this legislation, the Supreme Court of Canada unanimously upheld the validity of this law, reinforcing the authority of Indigenous Nations to enact and enforce their own child and family jurisdiction.⁸⁵

In 2019, the *Declaration on the Rights of Indigenous Peoples Act* was proclaimed law in B.C., requiring B.C. to bring provincial laws into alignment with the United Nations Declaration on the Rights of Indigenous Peoples.⁸⁶ Within this Act there are provisions that speak to child and family well-being. An Action Plan has been developed to guide the implementation of this declaration act.⁸⁷ Since 2022, B.C. has been making legislative amendments to the *CFCS Act* to support the transfer of jurisdiction from the province to Nations throughout B.C. There are several

⁸⁵ Supreme Court of Canada, "Reference Re An Act Respecting First Nations, Inuit and Métis Children, Youth and Families, 2024 SCC 5."

⁸⁶ "Home - Declaration Act," May 23, 2023, <https://declaration.gov.bc.ca/>.

⁸⁷ "Declaration Act Action Plan - Province of British Columbia," accessed April 25, 2024, <https://www2.gov.bc.ca/gov/content/government/s/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples/implementation>.

Nations in B.C. currently negotiating the transition from the Province to their Nations. Despite this commitment to jurisdiction, neither the federal nor the provincial governments have operationalized how Nations will be supported to achieve equity for the funding of child and family well-being services.

Specific to child and family well-being, the following commitments have been established:

- Indigenous Peoples care for their own children and youth in their communities, and exercise jurisdiction over their own child and family services through systems and practices they determine for themselves, with family preservation prioritized and children and youth kept within their families and communities.
- Indigenous children in need of protection are cared for by their community, and where they cannot be cared for by their community, they are connected to their communities and cultures.
- Co-develop a British Columbia specific fiscal framework, in partnership with First Nations, Métis and Inuit, and in consultation with key Indigenous organizations, to support and move forward with jurisdiction over child and family services.
- In collaboration with B.C. First Nations and Métis Peoples, and Inuit, continue

implementing changes to substantially reduce the number of Indigenous children and youth in care through increased prevention and family support services at all stages of contact with the child welfare system.

⁸⁸

Beyond legislative changes that enable resumption of jurisdiction by Indigenous Nations, the above commitments have yet to be realized.

In 2022 the Representative for Children and Youth released the report *At a Crossroads: The roadmap from fiscal discrimination to equity in Indigenous child welfare*⁸⁹ calling for the end of discriminatory child welfare funding practices.

⁸⁸ British Columbia, “Declaration on the Rights of Indigenous Peoples Act Action Plan 2022-2027” (Government of British Columbia, n.d.), https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf. https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf

[relations-reconciliation/declaration_act_action_plan.pdf](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf)

⁸⁹ Representative for Children and Youth, “At a Crossroads: The Roadmap from Fiscal Discrimination to Equity in Indigenous Child Welfare” (RCYBC, 2022), https://rcybc.ca/wp-content/uploads/2022/03/RCY_At-a-Crossroads_Mar2022_FINAL.pdf.

Indigenous Children in Care in British Columbia

2021 - THE YEAR OF COLBY'S DEATH

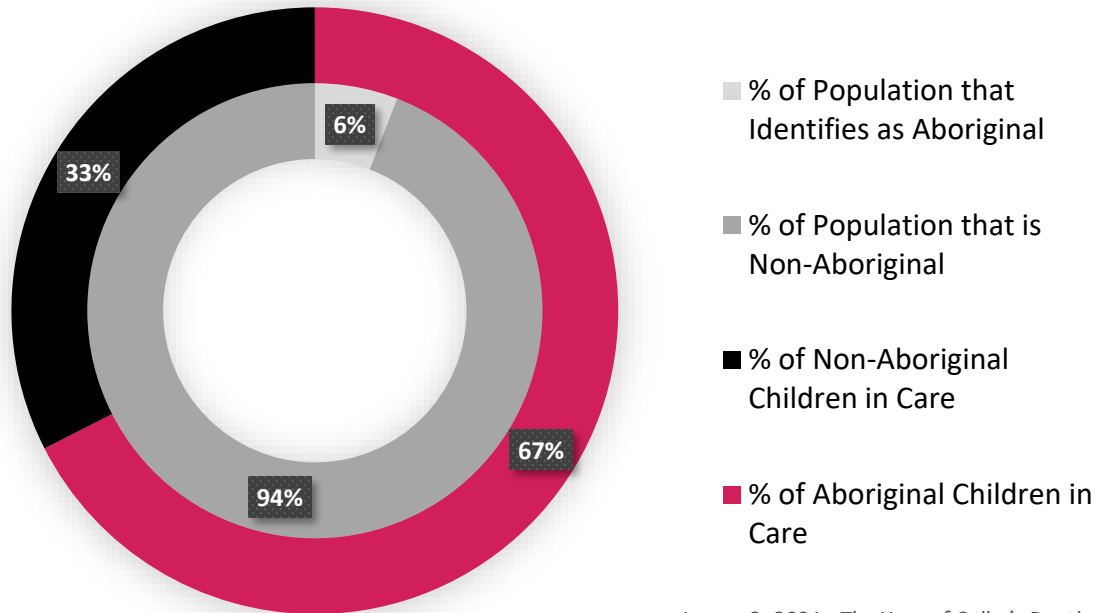


Image 2: 2021 - The Year of Colby's Death

To date, B.C. has not identified how it will end this fiscal discrimination.

The 2023/2024 Ministry of Children and Family Development Service Plan identifies a goal to "Recognize and uphold Indigenous jurisdiction over child and family services, consistent with the rights of the child [UN Declaration] and the Truth and Reconciliation Commission's Calls to Action". The ministry commits to "continue to work with Indigenous

Peoples and the federal government, where applicable, on systemic transformation, including implementing jurisdiction and/or increased decision-making authority over

child and family services" through amendments to provincial laws and the establishment of fiscal framework to support and enable to jurisdictional transition.⁹⁰

Indigenous Nations and their leadership along with Indigenous organizations have been advancing jurisdiction and promising practices in Indigenous child and family services in British Columbia through:

- Participation in the Advisory Committee on First Nations Child and Family Services reform; and
- Participating as intervenors in the Supreme Court of Canada hearing on the validity of *An Act Respecting First*

⁹⁰ MCFD, "2023/24-2025/26 Service Plan" (Ministry of Children and Family Development, 2023),

<https://www.bcbudget.gov.bc.ca/2023/sp/pdf/ministry/cfd.pdf>.

Nation, Inuit and Métis children, youth and families;

- Passing numerous resolutions calling on British Columbia to end its discriminatory funding of Indigenous Child and Family Services;
- Advancing a re-envisioning of the Aboriginal Operational and Practice Standards and Indicators that guide the operations and practice of Indigenous Child and Family Services Agencies;
- Establishment of the Our Children Our Way Society that supports Indigenous Child and Family Services Agencies and has expanded its membership to Indigenous Governing Bodies pursuing jurisdiction.

In addition to First Nation advancements of jurisdiction the Métis, through the Métis Nation British Columbia and Métis Commission for Children and Families have been advancing jurisdiction for Metis child and family well-being. In 2018 the Métis Nation British Columbia and Province of British Columbia (MCFD) entered into a MOU to reclaim Métis Authority over their children.⁹¹

In 2023, the British Columbia Assembly of First Nations, the Union of British Columbia Indian Chiefs, and the First Nations Summit all passed a resolution calling on the Province to re-affirm its commitment resulting from the 2002 Tsawwassen Accord.

“WHEREAS the watershed commitment made by the Province of British Columbia in 2002 in support of the Tsawwassen Accord must be reaffirmed given the urgency of the humanitarian crisis in the child welfare system”¹

WHAT CAN WE LEARN FROM HISTORY?

Over the past three decades, there have been tragic events involving deaths and injuries to children. Tragedies have occurred for children who are both in the care of the Provincial Director of Child Welfare and within families receiving supports from the Provincial Director of Child Welfare. This image represents a pattern of response by government when tragedy occurs.



⁹¹ Jon Hernandez, “B.C. Métis to ‘reclaim Authority’ over Their Children in Government Care,” *CBC News*, June 7, 2018,

<https://www.cbc.ca/news/canada/british-columbia/b-c-m%C3%A9tis-to-reclaim-authority-over-their-children-in-government-care-1.4696118>.

In 2015, British Columbia's first child advocate, who served in this role from 1995 to 2001, identified in a media interview titled *B.C. children's ministry not learning from its mistakes* that the "systemic problems within the Ministry of Children and Families identified 20 years ago have still not been fixed"⁹² She further states "Tom Gove had just released his report, and then I did six annual reports, and we all identified significant systemic issues and they haven't been sufficiently acted on 20 years later, and that makes me sad." In her assessment, three primary issues remain unaddressed: a lack of adequate mental health services, a lack of consistent foster home care for kids, and the demand on social workers, the system they work in, and a high staff turnover rate.

Over-Representation of Indigenous Children in the Child Welfare System

Since the 1966 Canadian Assistance Plan, through which Canada agreed to cost share with the Provinces the delivery of child and family services, the percentage of Indigenous children in care compared to non-Indigenous children in care continues to grow.

Although there has been an overall reduction in the number of children in care over the past decade, the reduction of Indigenous children has not kept pace with the reduction of non-Indigenous children in care. Over the past 50 years, there have been drastic increases and decreases of children in care with little to no indication of how these increases or decreases have impacted outcomes for children. High profile reports and political decisions have driven these increases and decreases rather than decisions

⁹²"B.C. Children's Ministry Not Learning from Its Mistakes Says Former Child Advocate | CBC News."

based on long-term outcome-based evidence. In 1991, 35 per cent of children in care were identified as Indigenous. In 2001 this increased to 42 per cent. In 2011 this increased to 55 per cent. In 2021 this increased to 67 per cent.⁹³ The in-care system is increasingly about the lives of Indigenous children. The focus of governance, operations, and practice in supporting Indigenous children must be driven by Indigenous ways of knowing and being.

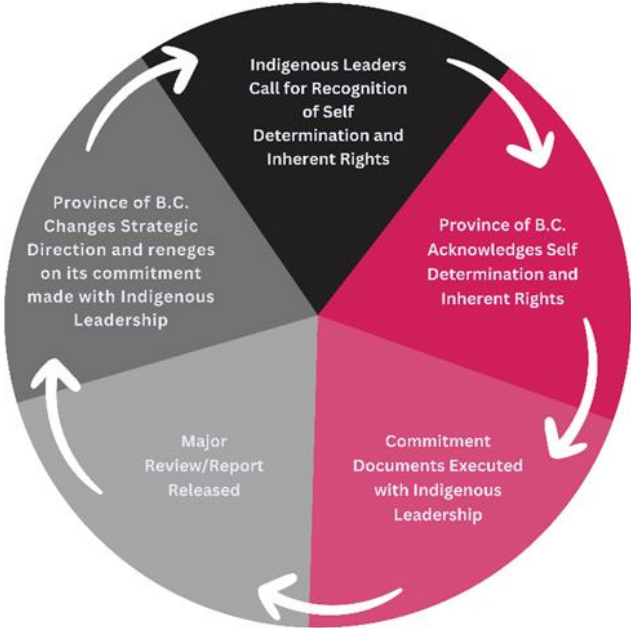
In the 2023 Annual Report for the Ministry of Child and Family Development the Minister states:

"While the overrepresentation of Indigenous children and youth in care is unacceptable and there is still much work to be done, the number of Indigenous children and youth in care has decreased to the lowest number in over 20 years and the number of children and youth in care continues to decrease to the lowest it has been in thirty years."⁹¹

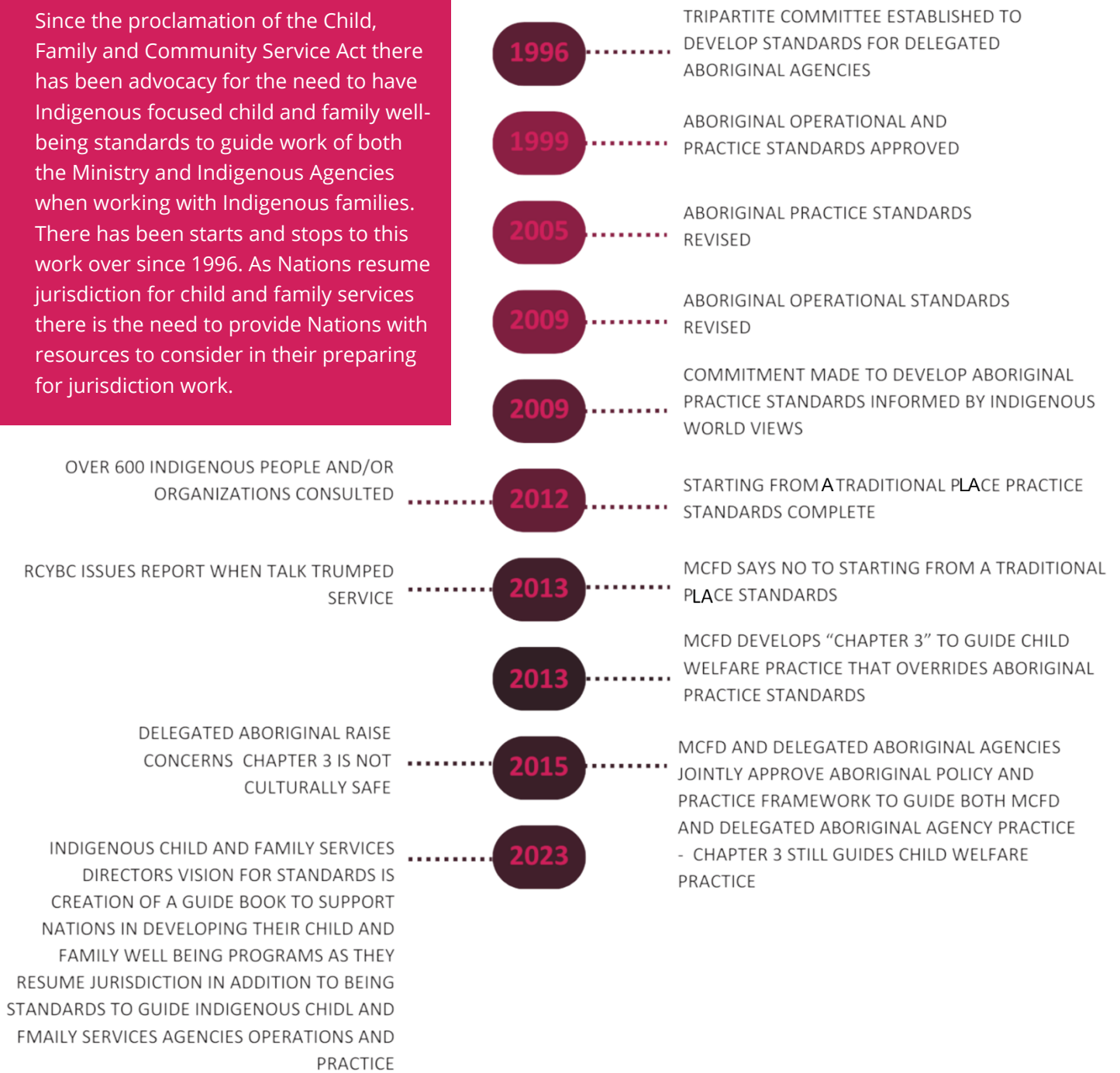
The critical question is whether the outcomes for Indigenous children, for all children, have improved because of the decrease of children in care. There are increased options available to social workers to prevent children from entering care, however; the efficacy of these alternatives in supporting better outcomes is unknown.

⁹³ White and Jacobs, *Liberating Our Children, Liberating Our Nations*; "Children in Care."

The following illustration describes the cycle of policy changes, including the events that precipitated shifts as demonstrated in the Ministry's Service Plans and Annual Reports. The illustration also reflects Indigenous advocacy for changes and increased Indigenous jurisdiction in Provincial child and family services delivery.



Since the proclamation of the Child, Family and Community Service Act there has been advocacy for the need to have Indigenous focused child and family well-being standards to guide work of both the Ministry and Indigenous Agencies when working with Indigenous families. There has been starts and stops to this work over since 1996. As Nations resume jurisdiction for child and family services there is the need to provide Nations with resources to consider in their preparing for jurisdiction work.



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