

**MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE**

DATE: March 4, 2022

CLIFF#: 268299

PREPARED FOR: The Honourable Mitzi Dean, Minister of Children and Family Development

ISSUE: Update of MCFD's Public Reporting Portal

BACKGROUND:

Since 2012, MCFD has publicly reported out on case data, performance indicators, and administrative information about the ministry such as expenditure by service area and employee counts. In 2018, this reporting moved from a downloadable PDF report onto an online reporting portal.

Public reporting is an essential part of the ministry's commitment to transparency and accountability and helps to foster public confidence in the ministry. The public reporting portal contains financial information, case counts, trends and 34 performance indicators across all six service lines.

The online portal will be fully updated late March 2022 to include caseload and performance measures up to March 31, 2021.

DISCUSSION:

There are some key changes about the results that will be posted on the public portal.

Child protection caseload figures reflect the continued reduction in the number of children and youth in care of the ministry and the continued increase in use of out of care options.

The Children and Youth in Care (CYIC) residential care cost measures continue their increase – driven mainly by the increase in relative use of contracted care providers. Average annualized residential care costs for non-Indigenous CYIC remain higher than Indigenous CYIC.

- Average spending per child fluctuates based partly on how many children and youth have more complex needs and are receiving contracted care services.
- While foster care funding is based on set rates, contracted care is based on the individual needs of children and youth and is often more costly.
- Indigenous CYIC tend to be younger, have less complex care and, as a consequence, are more likely to be cared for in a family-based home rather than a contracted care provider.

Over the past year, CYMH wait time indicators have been impacted by the pandemic. Fewer clients received service without waiting (15% compared to 20% in a typical year) and the average time waiting for a first clinical service was 68 days, about 2 weeks longer than in previous years. Factors impacting CYMH wait times may have included the increase in number and complexity of referrals and a temporary break in therapeutic groups which led to a reduction in group sessions in 2020/21.

Also at the onset of the pandemic, emergency programs were created to support youth with MCFD involvement transitioning to adulthood by allowing them to remain in their existing placement/agreement. This impacted the rate of eligible young adults receiving financial assistance through Agreements with Young Adults (AYA).

NEXT STEPS:

The online public portal will be updated with the new data in late March. s.13
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**MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE**

DATE: March 14, 2022
CLIFF#: 268439

DATE OF PREVIOUS NOTE: November 24, 2021
PREVIOUS CLIFF # (if applicable):

PREPARED FOR: Honourable Mitzi Dean, Minister of Children and Family Development

ISSUE MCFD Quarterly Research Update – March 2022

BACKGROUND:

- On October 28, 2021, the MCFD Research Team presented an overview of the team's budget, services, projects, and partnerships to the Minister.
- Quarterly research updates were requested by the Minister at that time.
- This Information Note and attachment provides the Minister with the First Quarterly Research update of 2022.

DISCUSSION:

The Research Team provides the following research services to MCFD:

- External research
- In-house research
- Research in partnership
- Knowledge mobilization

MCFD research services benefit children, youth, and their families by contributing to policies, practice, service delivery and initiatives across the Ministry's four strategic priorities.

SUMMARY:

The attached Appendix A provides a summary of current research service activities as of March 2022.

ATTACHMENTS:

Appendix A-Strategic Research Update-Dec 2021-March 2022

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MCFD Strategy Research Project Summary (December 2021-March 2022)

This update provides highlights of Ministry of Children and Family Development Strategic Research portfolios, including **external research**, **internal research**, **research in partnership**, and knowledge mobilization. Symbols are provided to highlight how research activities align with MCFD's strategic framework goals.







Legend: Strategic Framework Linkages Symbols



Note: In-House research reports are not publicly available but can be provided upon request. Several knowledge mobilization activities are integrated throughout the tables below (e.g. sharing of research briefs and papers from students, staff, and partners through I-Connect, the Research Sharing Network, presenting to relevant and interested parties and participating in working groups).

Emerging Strategic Research Directions

- 1) Build & strengthen collaborative research capacity across MCFD
- 2) Expand diversity of lenses for research: decolonize, intersectionality (GBA+)
- 3) Pilot participatory, youth-led research action approaches
- 4) Make better use of MCFD Data >> quantitative-driven analysis
- 5) Expand 'Research Circle' for wraparound supports for children, youth & families (Indigenous partners, post-secondary, across government, civil society)
- 6) Boost knowledge mobilization tools - link research to practice - beyond MCFD

External Research: includes facilitating external researcher access to MCFD staff, clients, or data for research purposes			
Title	Status	Project Description	Sponsoring Institution
 Cross-Over Youth Project: Navigating Quicksand	Determining Approval Requirements	Explores meaningful collaboration across service sectors to better serve cross-over youth (i.e. children and youth moving from child welfare or child and youth mental health to youth justice facilities)	Justice Canada & Ontario Ministry of Children, Community and Social Services
 Bordering Practices: Systemic Racism, Immigration and Child Welfare	Determining Approval Requirements	Investigating effectiveness of MCFD services provided to recent immigrant children and families.	University of Victoria
 Indigenous Child Welfare and Decolonizing Practices	In Progress	Identifying promising decolonial and reconciliation practices being used by front-line teams to assess broader applicability.	Royal Roads University
 Barriers and Facilitators for Child Welfare Intervention for Asian-Canadian Families	In Progress	Assessment of the types of barriers and facilitators faced by Asian-Canadian families when receiving child welfare services.	University of British Columbia
 Increasing Access to Justice for People with Fetal Alcohol Spectrum Disorder (FASD)	In Progress	Research designed to collect information for the purposes of redesigning the Asante Centre FASD screening and referral Tool.	University of Guelph & Justice Foundation of BC
 Early Mediation Program Evaluation	In Progress	Evaluating the use and effectiveness of early mediation in resolving family disputes.	Mediate BC & University of Victoria



Legend: Strategic Framework Linkages Symbols


Research Team In-House Research Services (including Applied Promising Practices Projects¹)

Title	Status	Project Description	Partner/ Program
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Legend: Strategic Framework Linkages Symbols

Research Team In-House Research Services (including Applied Promising Practices Projects ¹)			
Title	Status	Project Description	Partner/ Program
 Lalum'utul' Smun'eem Child and Family Services: Family Meetings (APP)	Know. Mobil. Phase Completed- April 2021	MCFD conducted a joint research project to explore and document what makes the Lalum'utul' Smun'eem's Family Meeting practice effective in child welfare service delivery. Report released with Lalum'utul'Smun'eem and shared with DAA staff as well as posted on iConnect and the Research Sharing Network. Further knowledge mobilization activities in progress include an illustrated storybook of the report to shine a light and share knowledge about traditional Family Meetings in community.	Lalum'utul' Smun'eem (DAA)

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Legend: Strategic Framework Linkages Symbols






Research Team In-House Research Services (including Applied Promising Practices Projects ¹)			
Title	Status	Project Description	Partner/ Program

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Legend: Strategic Framework Linkages Symbols





Research in Partnership: Sponsored Research Agreements /Contracts/Service Agreements

Title	Status	Description	Researchers & Ministry Sponsors
 Early Development Instrument (EDI)	Ongoing- expires March 2025	The EDI questionnaire measures five core areas of early child development that are known to be good predictors of adult health, education, and social outcomes. EDI questionnaires are completed by kindergarten teachers from across British Columbia for all children in their classes.	UBC-Human Early Learning Partnership & MCFD Strategic Policy and Research Team
 Adolescent Health Survey (AHS)	Ongoing- expires March 31, 2025	The BC AHS is a province-wide survey administered to youth in Grade 7 to 12 every five years since 1992. The survey gives an evidence base of youth health trends, emerging issues, and risk and protective factors for healthy development. McCreary produces a provincial-level report, health service delivery area reports, and specialized reports on specific topics. A cross-Ministry advisory committee contributes to the direction and development of reports.	McCreary Centre Society & MCFD Strategic Policy and Research Team
 Connections to Culture	Expected completion- March 2022	This research aims to collect stories and wise practices of connecting Indigenous children in care to their culture. The researchers are conducting interviews with seven MCFD teams who are known to be doing good work connecting Indigenous children and youth in care to their culture; as well as interviewing caregivers identified by the above resource workers, to be doing good work. They are also doing arts-based engagement with former youth in care.	University of Victoria & MCFD Executive Director of Practice
 Vancouver Longitudinal Study	Expected completion- June 2022	The Vancouver Longitudinal Study on Psychosocial Development of Children examines the social and psychological development of children and youth using the Cracow Instrument. The Cracow Instrument is a framework designed to assess risk and needs in children to account for the accumulation of factors that may influence youth violence.	Simon Fraser University & MCFD Policy, Legislation and Litigation Branch
 Transitioning Youth with Disabilities and Employment (TYDE)	Expected completion- March 2024	The Transitioning Youth with Disabilities and Employment (TYDE) project aims to develop and test methods to improve and increase the labour market participation of transitioning youth (ages 14-18) with Intellectual Disability (ID) and/or Autism Spectrum Disorder (ASD). This includes the development and testing of an interactive online learning environment for youth and their parents/caregivers.	University of British Columbia-Okanagan, Centre for Inclusion and Citizenship & MCFD Early Years & Inclusion Division



Legend: Strategic Framework Linkages Symbols




Research in Partnership: Sponsored Research Agreements /Contracts/Service Agreements

Title	Status	Description	Researchers & Ministry Sponsors
 Indigenous Evaluative Metrics	Expected completion- June 2022	<p>This research explores how MCFD's programs and services for Indigenous people should be evaluated, to ensure that reviews are informed by and grounded in Indigenous ways of knowing, being and doing, as well as the lived experience and realities of Indigenous peoples accessing or impacted by them. Researchers conducted a literature review, interviews with Indigenous evaluators, a circle with Indigenous YAC members, and interviews with Elders. A virtual community feast with researchers, relatives of the project, and research participants was held in Winter 2021. Another community feast is planned for June 2022 with the MCFD Quality Assurance Branch, MCFD Strategic Policy & Research & Community partners to continue to collectively mobilize this knowledge.</p>	University of Victoria & MCFD Quality Assurance Branch
 Mediation Field Study	In Progress	<p>This research will use a field study to explore (1) when mediation is most effective during the child welfare process, and (2) what the impacts/outcomes of earlier mediated intervention are on children and families, social workers and MCFD.</p>	Mediate BC & University of Victoria, MCFD-Policy, Legislation and Litigation Branch
 UBC Social Work Graduate Research Course  (SOWK 554 Course Syllabus)	In Progress (Expected completion – April 2022)	<p>Graduate Social Work Qualitative Research course (8 months).</p> <p>In progress projects for 2021/22:</p> <ul style="list-style-type: none"> Youth Housing Models - Lessons learned from successful adult models that could be adapted for youth. The impact of virtual technology on child protection response practice during the COVID-19 pandemic Indigenous Wise Practices in Child and Youth Mental Health (CYMH) Exploring the barriers and facilitators for effective child welfare intervention for Asian-Canadian children and families: Perspectives from service users and service providers 	<p>University of British Columbia & MCFD/DAA program areas:</p> <p>Youth Services, Child Welfare Policy, Child & Youth Mental Health (CYMH), Service Delivery-Vancouver/Richmond</p>



Legend: Strategic Framework Linkages Symbols

Research in Partnership: Sponsored Research Agreements /Contracts/Service Agreements

Title	Status	Description	Researchers & Ministry Sponsors
 UVic Multi-Disciplinary Research Internship Course (GS505 Course Description)  	In Progress (Expected completion - April 2022)	<p>Interdisciplinary Graduate Studies Research Internship course (4 months).</p> <p>In progress projects for 2022:</p> <ul style="list-style-type: none"> Youth Informed Complaints Process and Outcomes-based Models Safe and cared for: Indigenous ways of knowing children's 'best interests' Mobilizing Research into Positive Outcomes for Children, Youth and Families 	<p>University of Victoria & MCFD/DAA program areas:</p> <p>Quality Assurance, Strategic Policy & Research</p>



Legend: Strategic Framework Linkages Symbols

**MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE**

DATE: March 17, 2022
CLIFF#: 268594

DATE OF PREVIOUS NOTE:
PREVIOUS CLIFF #:

PREPARED FOR: Mitzi Dean, Minister of Children and Family Development

ISSUE: Submission of draft Action Plan to the Representative for Children and Youth in response to recommendations from the report, “Excluded: Increasing Understanding, Support and Inclusion for Children with FASD and their Families”

BACKGROUND:

On April 5, 2021, the RCY released the report “Excluded: Increasing Understanding, Support and Inclusion for Children with FASD and their Families.” This report details the experiences of children and youth who have Fetal Alcohol Spectrum Disorder (FASD) and their families. It also identifies gaps in support services to children and youth with FASD and their families.

The report provides 11 recommendations. Four recommendations are directed to MCFD, three are directed to MOH, two are directed to MOE. The two joint recommendations are shared between MMHA, MCFD, MOH, CITZ, SDPR and MOE. One is led by MMHA and involves MCFD and MOH and the other is led by CITZ and involves MCFD, MMHA, SDPR and MOE.

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DISCUSSION:

After identifying potential actions in response to the 4 recommendations from “Excluded” directed to MCFD, ministry staff met with the RCY to share these actions and receive RCY feedback. The attached draft Action Plan takes RCY’s feedback into account. Its deliverables have been created in the context of the transformation of CYSN services that is underway.

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At the request of the Select Standing Committee on Children and Youth, MCFD is coordinating a cross-ministry presentation to SSCCY on ministries' responses to "Excluded" recommendations. This presentation will take place on March 30, 2022 and will include a brief summary of MCFD's action plan for "Excluded."

NEXT STEPS:

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ATTACHMENTS:

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Contact	Alternate Contact	Prepared by:	Staff Consulted:
Assistant Deputy Minister: <i>Cory Heavener</i> <i>ADM/Provincial Director of</i> <i>Child Welfare and</i> <i>Aboriginal Services</i>	for content: <i>James Wale</i> <i>Deputy Director of Child</i> <i>Welfare</i>	<i>Deborah Francis</i> <i>Manager of</i> <i>Interface and</i> <i>Provincial</i> <i>Partnerships</i>	
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Withheld pursuant to/removed as

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**MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE**

DATE: March 21, 2022
CLIFF#: 268683

DATE OF PREVIOUS NOTE: N/A
PREVIOUS CLIFF #: N/A

PREPARED FOR: Mitzi Dean, Minister of Children and Family Development

ISSUE: The Representative for Children and Youth will publish a report on funding of services for Indigenous children, youth and families on March 29, 2022

BACKGROUND:

On March 29, 2022, the Representative for Children and Youth (RCY) will release a report on funding of services for Indigenous children, youth and families in B.C. The RCY partnered with the Institute of Fiscal Studies and Democracy (IFSD) to undertake this work. Both the RCY report and the accompanying report by the IFSD that was submitted to the RCY will be released publicly.

The IFSD report “Resource analysis in the provision of Indigenous and non-Indigenous child and family services in British Columbia” maps the respective ecosystems of child and family service delivery for Indigenous and non-Indigenous children in the province and identifies the different factors that impact service delivery. The IFSD report (attached as Appendix C) compares an analysis of MCFD financial data with a “bottom-up” analysis based on information gathered from Indigenous Child and Family Service Agencies, First Nations and the non-for-profit sector.

DISCUSSION:

The RCY report provides context relevant to the IFSD report on funding, including the federal *Act respecting First Nations, Inuit and Métis children, youth and families*, the Canadian Human Rights Tribunal’s 2019 ruling and subsequent Agreements in Principle on compensation for past discriminatory levels of federal funding for Indigenous child welfare services. The report also provides information on the history of advocacy for equitable funding for services to Indigenous children, youth and families.

The RCY report identifies key findings based on the IFSD report, including:

- it is not possible to analyze financial support given to Indigenous and non-Indigenous service providers using provincial data because MCFD does not tag vendors as serving Indigenous children, youth and families, non-Indigenous children, youth families or a combination of the two
- MCFD’s expenditure management practices do not align program expenditures to outcomes, which means that MCFD cannot report on how its spending links to results
- funding differs based on: where a child lives (on- or off-reserve), service funder (federal or provincial government); and whether the child is Indigenous (First Nation, Métis, Inuit, non-Status) or non-Indigenous

- off-reserve First Nations children and Urban Indigenous children in B.C., who are dependent on funding from MCFD are disadvantaged, relative to First Nations children receiving services on-reserve
- expectation of a widening disparity between on-reserve Indigenous children and off-reserve Indigenous children/Urban Indigenous children, resulting from the recent \$40 billion federal settlement arising from the Canadian Human Rights Tribunal rulings

The RCY predicts further complexity in the funding landscape as more First Nations negotiate tripartite Coordination Agreements reclaiming jurisdiction over child welfare services. The report includes a discussion of financial practices and data stewardship that would take into account the needs of Indigenous children and families and allow for funding to be directed to meet desired outcomes. The report identifies a need to shift away from ideological drivers of child protection in B.C.'s child welfare system and toward prevention supports.

The report notes the Calls to Action of the Truth and Reconciliation Commission, the provincial government's commitments to reconciliation, including the *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples*, and MCFD's strategic direction with regard to respecting the rights and meeting the needs of Indigenous children, youth and families. The report indicates that MCFD's "Key Strategies fall short of specific, actionable commitments around changing operating practices" and that changes to MCFD's financial reporting system would better support Nations in the process of resuming jurisdiction over their child welfare.

The RCY report contains three draft recommendations, all of which are directed to MCFD. They are summarized below. (For full text of draft recommendations see Appendix B)

Recommendation #1 – Funding Models

- (A) That MCFD negotiate with the Province of B.C. to adopt the Canadian Human Rights Tribunal principles of funding (by April 1, 2023) and provide appropriate financial resources that allow for needs-based funding models that provide for substantive equality for all children and prioritize prevention services (implemented by Dec. 31, 2023)
- (B) In relation to the 84 First Nations that are unaffiliated with an ICFS Agency, MCFD to negotiate clearer transfer of funding from Indigenous Services Canada, inclusive of any funds associated with the CHRT or Agreements in Principle, to make transparent the flow of funding from Indigenous Services Canada through MCFD to First Nations. (by Sept 30, 2022)

Recommendation #2 – Fiscal Governance

That MCFD update its fiscal management tools and reporting practices to align public funds allocated to First Nations, Métis, Inuit and Urban Indigenous child welfare to stated spending objectives and declared government and ministry priorities. (by April 1, 2023)

Recommendation #3 – Data Stewardship

That MCFD collect disaggregated race-based data to understand the diverse and greater needs of the First Nations, Métis, Inuit and Urban Indigenous populations it serves and their differing points of

departure. Such data collection should be done with the meaningful and respectful involvement of the communities affected. (by December 31, 2022)

NEXT STEPS:

- MCFD staff will meet with the RCY on March 24, 2022 to provide feedback on the draft recommendations.
- The RCY plans to publicly release the report on March 29, 2022.

ATTACHMENTS:

- A. RCY Report (MS Word document)
- B. Draft RCY Recommendations (MS Word document)
- C. IFSD report (PDF document)

Contact	Alternate Contact	Prepared by:	Staff Consulted:
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IFSD Report – Admin Fairness Version

INTRODUCTION

In 2017, the Office of the Representative for Children and Youth (RCY) examined funding models for Indigenous child and youth services and supports in a report titled: *“Delegated Aboriginal Agencies – How resourcing affects service delivery.”* This report was developed on the heels of the landmark 2016 Canadian Human Rights Tribunal (CHRT) decision which found that federal funding models were discriminatory against First Nations children living on-reserve. The RCY report concluded that inequitable and inconsistent funding, both provincial and federal, resulted in a disparity of services between the Ministry of Children and Family Development’s (MCFD) contracted agencies and the capacity for comparable service provision among B.C.’s 24 Indigenous Child and Family Service Agencies (ICFS Agencies – formerly referred to as Delegated Aboriginal Agencies).

The stated intention of the report was to closely monitor progress with a declaration that the findings of the report would form a *“baseline measure against which future improvements can be assessed.”*¹ Furthermore, the report concluded that: *“addressing the current situation will take commitment and action: Indigenous and Northern Affairs Canada must remedy its funding flaws to Indigenous child welfare services; planning in B.C. for Indigenous child welfare must address the distinct needs and circumstances of children, families and communities; and funding by both levels of government must be equitable and clear, and must take into account needs based on the intergenerational effects of colonialism.”*²

The Canadian Human Rights Tribunal’s ruling served to highlight and call out the disadvantage First Nations children and families had experienced for generations that was normalized and embedded in federal funding programs for First Nations children living on-reserve. This pronounced disadvantage had gone unacknowledged until its validation by the Tribunal and the Federal Court. It is worthwhile noting that this type of disadvantage is not limited to federal funding models. As was clearly described in the Representative’s 2017 report, there are also inequities in provincial funding models.

The Representative, in consideration of the recently proclaimed legislation, *An Act respecting First Nations, Inuit and Métis children, youth and families*, is posing a fundamental question: are funding allocations in alignment with current and evolving ideas around child welfare services? If we are to shift from a model of child welfare that is rooted in the ideology of child protection – that is, removing children from families and communities – to a child-, family- and community-centred model that prioritizes preventative measures, how do the financial structures and mechanisms currently in place need to be reconsidered and re-imagined to facilitate conceptual changes to program delivery? In other words, how do funding and fiscal systems need to change to realize a goal that is fundamentally designed to support, rather than separate, children, families and communities?

In order to formulate a clear, evidence-based understanding of the current fiscal ecosystem and how it may be revised to better support evolving ways of perceiving child welfare services, the Representative’s Office partnered with the Institute of Fiscal Studies and Democracy (IFSD). IFSD is a research institute

¹Representative for Children and Youth. (2017) *Delegated Aboriginal Agencies: How Resourcing Affects Service Delivery*. Victoria, B.C.: Office of the Representative for Children and Youth, p. 6.

² Representative for Children and Youth, *Delegated Aboriginal Agencies*, p. 52.

that examines fiscal ecosystems in order to analyze and help solve public policy challenges. Led by Canada's first Parliamentary Budget Officer, Kevin Page, the Institute of Fiscal Studies and Democracy works in Canada and abroad to provide evidence to lend decision-making support to governments as well as the broader public and private sectors. Since 2018, the Institute has been collaborating with First Nations and First Nations child and family service agencies on the costing, design and delivery of child and family services.

This project has involved a broad comparative analysis of government spending intentions, as expressed in budgets and annual fiscal allocations, with how the allocated funds are received and used by service providers. By placing the top-down analysis alongside the bottom-up data, it is possible to detect gaps and limitations to the policy-driven infrastructure through which funds are intended to flow. This research project sought to map the ecosystem of service delivery to both federal and provincial funding infrastructure in order to reveal potential gaps and incongruities in the system. The full report produced by the Institute of Fiscal Studies and Democracy, *Resource analysis in the provision of Indigenous and non-Indigenous child and family services in British Columbia*, is appended.

TEXT BOX

Fiscal Ecosystem

A fiscal ecosystem in the context of this report is a term that borrows from the biological sciences. It is used to describe and understand the inter-related components that make financial systems work and sustain themselves, similar to biological systems of nature.

This report seeks to understand the fiscal ecosystem of the provincial child welfare system by:

- identifying the sources of funding (MCFD and Indigenous Services Canada)
- identifying the different agreements and arrangements in place for the allocation and transfer of funds
- understanding the experiences of the service providers who receive the funding and deliver programs to children and families
- disaggregating the different sub-populations of people served by the system in order to better articulate and understand needs.

The sum of these components is the mapped fiscal ecosystem.

RCY MANDATE AND METHODOLOGICAL APPROACH

The authority to undertake this research project is in accordance with s. 20 of the *Representative for Children and Youth Act*.³ By mapping funding allocations between Indigenous and non-Indigenous designated service provision, RCY sought to understand and quantify possible fiscal inequities and disparities between Indigenous and non-Indigenous groups.

³ *Representative for Children and Youth Act* (SBC 2006) c. 29. (Section 20.2(b,b.1)). Retrieved from https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/06029_01#section20

This research project is a follow-up to the 2017 report produced by the Representative for Children and Youth's Office, *Delegated Aboriginal Agencies: How resourcing affects service delivery*. Key findings of the 2017 report that relate to this study pertain to the relationship between federal and provincial funding levels and practices. While the 2017 report's focus was limited to the experience of ICFS Agencies and the shortcomings of federal and provincial funding models and arrangements, this report has an expanded scope. The present broad research captures how funding is different depending on the defining variables: where a child lives (on- or off-reserve); service funder (federal or provincial government); and whether the child is Indigenous (First Nation, Métis, Inuit, non-Status) or non-Indigenous. For Indigenous children receiving child welfare/wellness services in particular, those factors determine different funding outcomes. While the mandate of the Representative's Office is limited to provincially funded programs and services that fall under the jurisdiction of provincial legislation, it was necessary to include federal data to capture the many components of the fiscal ecosystem this project sought to map.

The study of government fiscal organization, policies and procedures is a highly specialized area. The Representative engaged the expertise of professionals with specialized knowledge of the federal and provincial data systems respectively, to guide the research and navigate data requests and analysis between these complex systems. Broad and comprehensive data sets were requested from the federal government through Indigenous Services Canada (ISC) and from MCFD.⁴ Indigenous Services Canada is a program funder only; MCFD is both a program funder and service provider. It is not possible to directly compare between the two respective programs – that is, Indigenous Services Canada's First Nations Child and Family Services Program (FNCFS) and MCFD's Child and Family Services (CFS) program – because the program functions are different, and the way data sets are organized regionally do not line up for direct comparison. However, it is possible to make an assessment between the two systems and how they manage or steward the data they collect and analyze.

The data requests from Indigenous Services Canada and MCFD formed the 'top down' half of the equation; the other half being the 'bottom up' analysis. For this piece, the research team relied on participation and input from service providers. This included ICFS Agencies, who provide delegated (protection) and non-delegated (prevention) services both on- and off-reserve, as well as Friendship Centres and community service agencies that provide the bulk of prevention services under contracts with MCFD. By joining federal and provincial data and pairing that picture of how the money is allocated from the top with the experiences on the ground, a picture emerges. The places of dislocation or inequity become apparent and tangible. RCY's role in the research process was supporting with outreach and engagement, with the hope and intention of capturing the many diverse experiences and situations that service providers face in the provision of child welfare services in B.C.

CURRENT EVENTS AND CONTEXT

⁴ Access to MCFD's corporate data is granted to the Representative under s. 10 of the *Representative for Children and Youth Act* – Right to Information. Data sets requested from Indigenous Services Canada are public accounts, and while the Representative does not have jurisdiction to comment on Indigenous Services Canada's First Nations Child and Family Services Program, it was essential to examine these data sets to create a full picture of the fiscal ecosystem.

Several noteworthy events occurred during the course of this project's life cycle that affected both the project team and contributors to the case studies, which also reaffirmed the relevance of the research objective in relation to current events. It is not an overstatement to say that the landscape of government – settler – Indigenous relations underwent a seismic shift in 2021.

The announcement made by *Tk'emlúps te Secwépemc* of the preliminary findings of 215 unmarked graves at the former Kamloops Indian Residential School was – in the Representative's own words – a point of no return. This event marked a tangible, notable shift in the public consciousness about the truth of the intentionally harmful assimilationist policies of residential schools, and was coupled with an emerging public capacity to understand the undeniable correlation between the ideology that drove government policies around residential schools and the perpetual and chronic over-representation of Indigenous children and youth in government care. As other Nations have come forward with their preliminary findings about missing children and unmarked graves, the Representative's project team has kept this unfolding truth in the foreground of our consciousness. Many adjustments to the project timeline and expectations for community outreach and engagement were made out of consideration for the very deep wounds resurfacing and the resulting ripple effects.

Shortly thereafter, in June 2021, Cowessess First Nation Chief Cadmus Delorme made two equally compelling announcements – one being notable for the depths of its tragedy and the other, a symbol of empowerment for First Nations. At the location of the former Marieval Indian Residential School, preliminary findings of 751 unmarked graves were confirmed by ground penetrating radar, again returning public attention to residential schools and prompting a reconsideration of the unacknowledged truths of those institutions of forced assimilation. Within a month of that announcement, in July 2021, Cowessess First Nation became the first Nation to reclaim its inherent right to look after its own children – asserting jurisdiction under the federal *Act Respecting First Nations, Inuit and Métis children, families and communities*.⁵ The *Cowessess First Nation Miyo Pimatisowin Act* represents the hope of a new era for Indigenous children, families and communities.⁶ It is the hope of a generation that will be raised immersed in culture and nested in the care of kinship ties and community bonds, allowing for the transmission of Indigenous ways of parenting and worldviews from one generation to the next.

TEXT BOX

Indigenous Governing Bodies

To come...

Another contributing factor to this hopefulness came on the eve of first National Day of Truth and Reconciliation, when the Federal Court of Canada announced its decision to uphold the Canadian Human Rights Tribunal's 2019 ruling to award individual compensation to children and family members affected by the underfunding of the federal First Nations Child and Family Services program and

⁵ *An Act respecting First Nations, Inuit and Métis children, youth and families* (S.C. 2019, c. 24) - Assented to June 21, 2019. <https://laws-lois.justice.gc.ca/eng/acts/F-11.73/page-1.html>

⁶ *Cowessess First Nation Miyo Pimatisowin Act* - Assented to April 1, 2021. <https://www.cowessessfn.com/wp-content/uploads/2021/01/Cowessess-First-Nation-Miyo-Pimatisowin-Act.pdf>

inadequate service provision for Jordan's Principle.⁷ After a third request for judicial review made by the federal Department of Justice, the Federal Court affirmed that the Canadian Human Rights Tribunal was within its right to order financial compensation to each First Nations child and guardian affected by federal discriminatory funding practices, which resulted in many First Nations children being unnecessarily separated from their homes, communities and culture. With this decision, the federal court also upheld the Canadian Human Rights Tribunal ruling regarding an expanded definition of eligibility for Jordan's Principle.⁸

TEXT BOX

Jordan's Principle

To come

On the following day – Sept. 30 – Canadians were encouraged by the first Indigenous Governor General, Mary Simon, to “*pause and reflect on Canada's full history*,” and further expressing the need to: “*...honour those Indigenous children who experienced or witnessed cruel injustices. Many emerged traumatized, many still suffer.*” Residential school survivors were finally validated for the truths they had long carried, in the form of a visual acknowledgement, as public buildings across the country were bathed in orange light.⁹

In the final hours of the year 2021, and after a protracted 15-year battle with the First Nations Child and Family Caring Society and the Assembly of First Nations,¹⁰ the federal government announced two Agreements in Principle (AIP) worth a total of \$40 billion with the intention for:

“... a global resolution related to compensation for those harmed by discriminatory underfunding of First Nations child and family services and to achieve long-term reform of the First Nations Child and Family Services program and Jordan's Principle, to ensure that no child faces discrimination again.”¹¹

⁷2019 CHRT 39 - Retrieved from https://fncaringsociety.com/sites/default/files/2019_chrt_39.pdf

⁸ Forester, Brett “Canada files 3rd judicial review of Canadian Human Rights Tribunal ruling” *APTN National News*, Sept. 24, 2021. Retrieved from <https://www.aptnnews.ca/national-news/canada-files-3rd-judicial-review-canadian-human-rights-tribunal/>

⁹ Government of Canada (2021) “National Day for Truth and Reconciliation.” (Accessed 2022 02) Retrieved from <https://www.canada.ca/en/canadian-heritage/campaigns/national-day-truth-reconciliation.html>

¹⁰ Assembly of First Nations “The Federal Court of Canada Upholds the CHRT's Ruling in Full,” News Release, Sept. 29, 2021. Retrieved from <https://www.afn.ca/the-federal-court-of-canada-upholds-the-chrts-ruling-in-full/> For a more fulsome historical account of the First Nations Child and Family Caring Society's and Assembly of First Nations's case against Indigenous Services Canada's First Nations Child and Family Services Program, see “I am a Witness: Tribunal Timeline and Documents.” Retrieved from <https://fncaringsociety.com/i-am-witness-tribunal-timeline-and-documents>

¹¹ Indigenous Services Canada, “Agreements-in-Principle reached on compensation and long-term reform of First Nations child and family services and Jordan's Principle,” News Release, 4 January 2022. Retrieved from <https://www.canada.ca/en/indigenous-services-canada/news/2022/01/agreements-in-principle-reached-on-compensation-and-long-term-reform-of-first-nations-child-and-family-services-and-jordans-principle.html>

It is noteworthy that the \$40 billion Agreements in Principle constitute the largest settlement in Canadian legal history.¹² Prior to the Agreements in Principle, the Indian Residential Schools Settlement Agreement was the largest class action against the government of Canada in Canadian legal history.¹³ These settlements are a testament to the links between the two closely connected systems, and are an indicator of the scale of the devastation and remediation required, serving as a stark reminder of the true cost of chronic and discriminatory underfunding practices. As stated by (then) Assembly of First Nations National Chief Perry Bellegarde when the Canadian Human Rights Tribunal claim was first launched in 2007: *“The child welfare system was doing essentially the same thing to our children that the residential schools had done: removing children from their families, communities and cultures in an attempt to assimilate them into colonizing society.”*¹⁴

The preamble of the *Act respecting First Nations, Inuit and Métis children, families and communities* affirms:

“The Government of Canada acknowledges the ongoing call for funding for child and family services that is predictable, stable, sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Indigenous children, families and communities.”

Such an inspiring objective responds directly to the Truth and Reconciliation Commission’s first five *Calls to Action* regarding the legacy of child welfare. Yet, it is important to note that this federal legislation alone is not a guarantee of improved outcomes for Indigenous children in care who are vastly over-represented in the child welfare system.¹⁵ While the Act came into force on Jan. 1, 2020, resumption of jurisdiction will be implemented over time. It is up to each individual First Nation to initiate the process of negotiating the resumption of the inherent right to child welfare jurisdiction for its respective Nation. Funding will require the negotiation of a Coordination Agreement between the federal and provincial governments and the respective Indigenous governing body. In other words, the preamble of the Act acknowledges the long-term advocacy that has taken place about the need for change to funding formulas and models; however, the Act does not contain prescribed funding formulas or guarantee

¹² Forester, Brett “Canada, First Nations reveal details of \$40B draft deals to settle child welfare claims” *APTN National News*, 4 January 2022. Retrieved from <https://www.aptnnews.ca/national-news/canada-first-nations-reveal-details-of-40b-draft-deals-to-settle-child-welfare-claims/>

¹³ Canada’s expenditures in litigation against First Nations forms an uncomfortable incongruence when placed alongside the dominant messaging of the Liberal government around ‘investments to advance reconciliation’. See Forester, Brett “Despite promise of reconciliation, Trudeau spent nearly \$100M fighting First Nations in court during first years in power” *APTN National News*, 18 December 2020. Retrieved from <https://www.aptnnews.ca/national-news/trudeau-spent-nearly-100m-fighting-first-nations-in-court-during-first-years-in-power/> Investments in reconciliation are presented under Archived Budget Highlights:

<https://www.rcaanc-cirnac.gc.ca/eng/1400782178444/1529183710887>

¹⁴ Fontaine, Phil (National Chief) “Speaking Notes” Assembly of First Nations International Conference on Ethics. 5 February 2007. Retrieved from <https://nationtalk.ca/story/speaking-notes-for-assembly-of-first-nations-national-chief-phil-fontaine-international-conference-on-ethics> (accessed 2022 02 from FNCFCs timeline)

¹⁵ In B.C. Indigenous children are more than 18 times more likely to be in care than their non-Indigenous counterparts. See MCFD’s data Children and Youth in Care (CYIC): Provincial Rate of CYIC per 1,000 Population (as at Mar 31, 2019) <https://mcfcd.gov.bc.ca/reporting/services/child-protection/permanency-for-children-and-youth/performance-indicators/children-in-care>

funding commitments.¹⁶ Furthermore, prevention funding that is part of the Agreements in Principle will no longer be available to Indigenous governing bodies once they have completed the Coordination Agreement process and implemented their own child welfare legislation.

TEXT BOX

Coordination Agreements

The federal *Act respecting First Nations, Inuit and Métis children, youth and families* came into force in January 2020. The Act affirms the inherent right and jurisdiction of Indigenous peoples in relation to child and family services.

The federal Act requires Indigenous governing bodies to enter into Coordination Agreements with the federal and provincial governments to support the exercise of their legislative authority.

These agreements must include the provision of emergency services, support measures for Indigenous children to exercise their rights, fiscal arrangements, and any other coordination measures related to the exercise of jurisdiction. The ministry's Indigenous Engagement Branch is currently participating with Indigenous Services Canada and Indigenous governing bodies at five tripartite Coordination Agreement tables:

For First Nations, Métis and Inuit people, this moment in time represents a critically important and hopeful crossroads. It is a time when the truth about the harms caused by colonialism is becoming more clearly seen and acknowledged. This is evidenced by the fact that the fiscal ecosystem the Representative's project team has sought to map is characterized even by the Minister of Indigenous Services Canada as one of: *"....ongoing, and I would say, endemic systemic discrimination that has happened through funding mechanisms in this country..."*.¹⁷ With that governmental acknowledgement of the current state, there is now a need to inspire those responsible for Indigenous child welfare to speak a harmonized and unified language of needs-based funding and substantive equality. The Representative's intention for this project was to be of service to First Nations, Métis, Inuit and non-Status Indigenous children, youth and families and to support First Nations and Métis leadership, service providers, policy makers and the public to better understand the differences, challenges and opportunities in the Indigenous and non-Indigenous delivery of child and family services in the province during this time of change. This report is intended to be a lever for positive change – encompassing both change to the fiscal ecosystem and change to the architecture of the financial system itself.

TEXT BOX

¹⁶ From Indigenous Services Canada Technical Information Package: "Funding, liability issues and conflict of laws scenarios will be addressed via coordination agreement discussions," (p.25) It is up to the Indigenous governing body to submit a funding proposal to support the coordination agreement. (p. 36)

https://cwrp.ca/sites/default/files/publications/tech-info-pkg-Act-respecting-FN-Inuit-MetisChildren_1579795374325_eng.pdf

¹⁷ Indigenous Services Canada Minister Patty Hadju in conversation with Matt Galloway (CBC Interview: Jan 6, 2022) [Implementation will be key to First Nation child welfare agreement, says advocate | CBC Radio](#)

Terminology

First Nations is a general, non-legal term that came into use in the 1980s, referring to sovereign nations that existed prior to the formation of the colonial government.¹⁸ Over time it came to replace the use of the colonial term 'Indian Band', which is the legal reference to a 'body of Indians' as expressed in the *Indian Act*.¹⁹ Métis and Inuit are not included in the *Indian Act* and are therefore not referred to as First Nations.

Métis is a term that has different historical and contemporary meanings. Among levels of both colonial and Indigenous governing bodies there are different definitions and a lack of consensus about the definition of Métis. To address the issue of ambiguity over who can claim to be Métis, the Supreme Court of Canada established the "Powley Test"²⁰ with three criteria that must be met. A person must: 1. Self-identify as Métis 2. Have ancestral connection to a historic Métis community and 3. Be accepted by a contemporary community that exists in continuity with a historic rights-bearing community.²¹ As Métis are not under the jurisdiction of the *Indian Act* and do not receive child welfare program funding from the First Nations Child and Family Service program, they are exempt from the Canadian Human Rights Tribunal Agreements in Principle.

Inuit refers to Indigenous populations of the far northern Arctic territory – referred to as *Inuit Nunangat* (translates from Inuktitut as 'Inuit Homeland').²² The Inuit are not under the jurisdiction of the *Indian Act* and do not receive child welfare program funding from the First Nations Child and Family Service program; therefore, they are exempt from the Canadian Human Rights Tribunal Agreements in Principle.

Non-Status is an Indigenous person who is excluded or does not meet the criteria to be registered in the federal registration system as defined by the *Indian Act*.²³ Non-Status refers to First Nations people who are not formally registered with a Nation as defined by the colonial government; it is not used to refer to Métis or Inuit, who are also non-Status (for the reason that they never had Status). Someone who identifies as non-Status would not qualify for federal funding under the Canadian Human Rights Tribunal Agreements in Principle.

¹⁸ Gadacz, Rene R. (2006, updated 2019) Canadian Encyclopedia entry "First Nations" Retrieved from <https://www.thecanadianencyclopedia.ca/en/article/first-nations>

¹⁹ *Indian Act* (R.S.C., 1985, c. 1-5). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/i-5/page-1.html#h-331794>

²⁰ Government of Canada (2010). General Métis Frequently Asked Questions. Retrieved from <https://www.rcaanc-cirnac.gc.ca/eng/1100100014416/1535469642035>

²¹ Government of Canada (2010). General Métis Frequently Asked Questions. *What is the legal test established by the Supreme Court for proving a Métis community's Aboriginal right?* "To qualify for Aboriginal rights under section 35, a Métis group must demonstrate: that a Métis community has existed continuously since Europeans established effective control of the area in which the community is located; and that the activity the community seeks to protect as an Aboriginal right has been and continues to be of central significance to the community." Retrieved from <https://www.rcaanc-cirnac.gc.ca/eng/1100100014416/1535469642035>

²² <https://www.facinghistory.org/stolen-lives-indigenous-peoples-canada-and-indian-residential-schools/historical-background/inuit>

²³ Indigenous Services Canada (2021). *Who can apply for a Status Card?* "Eligibility for Indian status under the *Indian Act* is based on the degree of descent from ancestors who were registered or were entitled to be registered." Retrieved from <https://www.sac-isc.gc.ca/eng/1462808207464/1572460627149#s1>

Urban Indigenous is a complex term, as it can include any (and all) of the above terms. Someone who has Status, (a registered member of a First Nation), who lives off-reserve can be Urban Indigenous; it can also apply to someone who is non-Status Indigenous, Métis or Inuit.²⁴ As noted by Indigenous Services Canada, more than half of Indigenous peoples in Canada live in urban centres.²⁵ As the Canadian Human Rights Tribunal Agreements in Principle apply only to First Nations on-reserve, there are First Nations people who are excluded from aspects of that funding framework, due to the fact they reside off-reserve.

FUNDING ADVOCACY – A Marathon

It is important to consider the findings of the appended report, *Resource analysis in the provision of Indigenous and non-Indigenous child and family services in British Columbia*, within the context of intergenerational advocacy – at both the federal and provincial levels. The fight for inherent rights and fiscal equity has literally been going on over generations. Governments at all levels purport to value equality, even as the lived reality for First Nations, Métis and Inuit peoples often begins from a place of socio-economic disadvantage that is well-documented and quantifiable.²⁶ In this way it is possible to frame a discussion about funding as a human rights issue.

Evidence of fiscal discrimination against Indigenous children in care has been presented to the federal government for over 25 years. The beginning of the story of the First Nations Child and Family Caring Society and the Assembly of First Nations' combined longstanding advocacy through the Canadian Human Rights Tribunal for equitable funding for First Nations children on-reserve is often located in the year 2007, when the first Canadian Human Rights Tribunal complaint was filed. In actuality, that marked the beginning of a second chapter of advocacy efforts that began a decade prior. As Dr. Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society, recounts:

"I think it's important for people to know that the legal case wasn't our first card we played off the deck. We actually worked for 10 years before that with Canada, documenting the

²⁴ Anderson, Thomas (2019). *Insights on Canadian Society – Results from the 2016 Census: Housing, income and residential dissimilarity among Indigenous people in Canadian cities*, notes: "In 2016, 731,480 Indigenous people lived in the 49 Census Metropolitan Areas (CMAs) and census agglomerations (Cas) that were large enough to be divided into census tracts, accounting for 44% of the total Indigenous population. Of these, 51% were First Nations people, 45% Métis and 1% Inuit." Retrieved from <https://www150.statcan.gc.ca/n1/pub/75-006-x/2019001/article/00018-eng.htm>

²⁵ Indigenous Services Canada (2018). "Urban Programming for indigenous Peoples" Retrieved from <https://www.sac-isc.gc.ca/eng/1471368138533/1536932634432?wbdisable=true>

²⁶ Public Health Agency of Canada (2018), "Key Health Inequalities in Canada – a National Portrait – Executive Summary, Retrieved from <https://www.canada.ca/en/public-health/services/publications/science-research-data/key-health-inequalities-canada-national-portrait-executive-summary.html> See also Report 5, Socio-Economic Gaps on First Nations Reserves – Indigenous Services Canada of the 2018 Spring Report of the Auditor General of Canada. Retrieved from <https://www.ourcommons.ca/DocumentViewer/en/42-1/PACP/report-54/page-18>

inequalities and coming up with evidence-informed solutions by economists and others. And it was only when Canada didn't implement that we turned to litigation.”²⁷

The Auditor General highlighted severe deficiencies to what was then referred to as Indigenous and Northern Affairs Canada's (INAC) First Nations Child and Family Services Program in 2008. Among the key findings:

1. Indigenous and Northern Affairs Canada's program lacked clear definitions and policy frameworks to provide culturally appropriate services
2. Inadequate policy commitment to provide services comparable to off-reserve
3. No link between the financial obligations of the program and the way resources were allocated to it.²⁸

Three years later, in 2011, the Auditor General made the following remarks:

“We found that INAC has not defined what is meant by comparability. Until it does so, it is unclear what is the service standard for which the Department is providing funding and what level of services First Nations communities can eventually expect to receive. We also found that the Department had not conducted a review of all social services available in the provinces to see whether they are the same as what is available to children on reserves.”²⁹

In 2015, the Truth and Reconciliation Commission of Canada released its *Calls to Action*, which positioned the over-representation of Indigenous children in care as the first five of its 94 action items for change “[i]n order to redress the legacy of residential schools and advance the process of Canadian reconciliation...”.³⁰ The *Calls to Action* compelled response from all levels of government to address the child welfare legacy by committing to “reduce the number of Aboriginal children in care.”³¹ Three years later, in January 2018, an emergency national meeting was hosted by then Minister of Indigenous Services Canada, Jane Philpott, to discuss the child welfare crisis. Titled: “Indigenous Child and Family Services: Children and Families Together,” this emergency meeting brought together governments, community service organizations, advocates, Elders, youth with First Nations, Métis and Inuit leaders to

²⁷ Ball, David P. “Cindy Blackstock is Still Fighting for Indigenous Kids” *The Tyee*. 4 February 2021. Retrieved from <https://thetyee.ca/News/2021/02/04/Cindy-Blackstock-Fighting-For-Indigenous-Kids/>

²⁸ Auditor General of Canada (2011). “Status Report of the Auditor General of Canada to the House of Commons, Chapter 4 – Programs for First Nations on Reserves.” Ottawa: Office of the Auditor General of Canada, p. 23. Retrieved from https://publications.gc.ca/collections/collection_2011/bvg-oag/FA1-10-2011-4-eng.pdf

²⁹ Status Report of the Auditor General of Canada – 2011, (p. 23)
https://publications.gc.ca/collections/collection_2011/bvg-oag/FA1-10-2011-4-eng.pdf

³⁰ Truth and Reconciliation Commission of Canada (2015). *Calls to Action*, p. 1. Retrieved from https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls_to_action_english2.pdf

³¹ Truth and Reconciliation Commission of Canada (2015). *Truth and Reconciliation Commission of Canada: Calls to Action*. Winnipeg: Truth and Reconciliation Commission of Canada. Retrieved from www.trc.ca

acknowledge the magnitude of the systemic problem and to begin to envision a new way forward.³² At the outset of the meeting, Minister Philpott acknowledged, in her welcome speech:

*We are acutely aware that there are concerns about funding – that it is insufficient, inflexible and incentivizes apprehension. Many have talked to me about how current funding policies don't permit financial support for kinship care. Simply put, funding based on the number of children in care is apprehension-focused and not prevention-focused. The underfunding of prevention services while fully funding maintenance and apprehension expenses creates a perverse incentive.*³³

Among several key action items identified from this emergency meeting was the need for funding reform. Clearly articulated was the need for equalization of child welfare funding for *all* Indigenous children, families and communities. Participants also identified the need to replace the federal child welfare funding formula – known by the arcane title of Directive 20-1 – and the Enhanced Prevention Focused Approach with a policy and funding formula that would be co-developed with First Nations.³⁴

Recommendations specific to the provincial and territorial governments were made as well: an encouragement that the provinces and territories allocate resources to participate in the policy development process – without requesting support from the federal government; and, to investigate and evaluate outcomes-based funding models, with an emphasis on culturally appropriate needs-based services. Also included was an imperative to address root causes of involvement in the child welfare system and a commitment for increased prevention funding for First Nations-, Inuit- and Métis-specific prevention services.³⁵

Child welfare advocacy in the B.C. context also has a long history, with grassroots movements such as the Indian Homemakers Association of B.C. calling for the resumption of Indigenous jurisdiction over child welfare in the 1960s and 1970s – stressing the relationship between sovereign nationhood and responsibility and control over child welfare. The Spallumcheen Child Welfare Program (now known as Splatstsin Stsmamlt Services) was the result of a groundbreaking bylaw passed in 1980, which came about only by sustained and supported advocacy efforts.³⁶ Both levels of government were reluctant to transfer child welfare jurisdiction and the related transfer payments. Led by Kupki7 Wayne Christian, and with the support of many Nations and the Union of B.C. Indian Chiefs, the Indian Child Caravan journeyed from Prince George to Vancouver – gathering supporters along the way from Williams Lake, Mount Currie and Nanaimo and ending with a demonstration in Vancouver.³⁷ A critical component of

³² McKay, Celeste – Celeste McKay Consulting Inc. (2019). *A Report on Children and Families Together: An Emergency Meeting on Indigenous Child and Family Services*. Prepared for Indigenous Services Canada. Ottawa: Government of Canada. Retrieved from https://publications.gc.ca/collections/collection_2019/sac-isc/R5-717-2018-eng.pdf

³³ Philpott, Jane. “Welcome Speech” Emergency Meeting on First Nations, Inuit and Métis Nation Child and Family Services. Indigenous Services Canada, Ottawa: 25 January 2018. Speech. Retrieved from Indigenous Services Canada <https://www.canada.ca/en/indigenous-services-canada/news/2018/04/emergency-meeting-on-first-nations-inuit-and-metis-nation-child-and-family-services.html>

³⁴ McKay, Celeste (2019), (p. 58).

³⁵ McKay, Celeste (2019), (p. 59).

³⁶ Indigenous Child and Family Service Directors. “The History of Indigenous child welfare in BC”. Retrieved from <https://ourchildrenourway.ca/indigenous-jurisdiction/the-history-of-indigenous-child-welfare-in-bc/>

³⁷ <https://caravan.ubcic.bc.ca/node/21>

this bylaw was that it necessitated a renegotiation of the existing fiscal arrangement between the federal government and the province in order to support the transferring of child welfare program funding to the Nation. Christian said:

“It took us that level of political push and that’s the unfortunate part. Why have we got to do that all the time? We all seem to have to make political statements or do things where people see us as radical. We’re just standing up for our basic human rights.”³⁸

Thereafter, other First Nations sought to follow this model of resuming child welfare jurisdiction, but none were successful due to bylaw restrictions imposed by amendments to the *Indian Act*. The bylaw delegation model Splatshin has had for decades remains unique in Canada.³⁹

The Nuu-chah-nulth Tribal Council forged a different path towards regaining and resuming jurisdiction over the child and family services of its 14 member Nations, when, in 1985, it established the first Delegated Aboriginal Agency in B.C., Usma Nuu-chah-nulth Child and Family Services. While the province of B.C. extended this form of support of returning historic responsibility for child protection and family supports to the Tribal Council through a Delegation Agreement, resistance to such transference of jurisdiction and responsibility prevailed. Shortly after Usma Nuu-chah-nulth Child and Family Services was formed, the federal government formally blocked any other First Nation from obtaining delegation authority for child welfare services by imposing a moratorium on delegation.⁴⁰ Throughout this long advocacy to reclaim inherent rights, as some barriers were removed, other barriers and challenges surfaced.

In 1991, Canada implemented a national First Nations child and family service policy. The resulting establishment of the First Nations Child and Family Service program is the origin of the previously mentioned Directive 20-1 funding formula. In the same year, the moratorium on delegation was lifted and the landscape of child welfare services in B.C. underwent major changes. From 1991 to 1995, eight Delegated Aboriginal Agencies were established. The voice of Indigenous advocacy grew louder in 1991, in the form of a report titled *Liberating our Children, Liberating our Nation* created by the Aboriginal Committee of the Community Panel Child Protection Legislation Review. This report was the product of extensive consultation with First Nations and Indigenous communities and detailed shared experiences of damage caused by the interference and intergenerational effects of colonial child welfare ideology and practice. The report’s preface painfully and plainly acknowledged the current state at that time:

“In travelling the province, many themes repeated themselves from community to community. 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

³⁸ Narine, Shari “‘Father of all the people’ protected his family by asserting jurisdiction of child services” *Windspeaker News* 10 March 2021. Retrieved from <https://windspeaker.com/news/windspeaker-news/father-all-people-protected-his-family-asserting-jurisdiction-child-services>

³⁹ Following the success of the Splatshin people, the federal government quickly shut down any further attempts by First Nations to draft their own child welfare by-laws, and Splatshin remains the only First Nation in Canada to achieve a ‘Band-by-law Model’. Indigenous Child and Family Service Directors. “The History of Indigenous child welfare in BC”. Retrieved from <https://ourchildrenourway.ca/indigenous-jurisdiction/the-history-of-indigenous-child-welfare-in-bc/>

⁴⁰ Directors Forum and the Partnership Forum (2020). *Partnership Orientation Manual* (pp. 14-15) <https://ourchildrenourway.ca/wp-content/uploads/2021/04/2020-Orientation-Manual.pdf>

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.”⁴¹

The 1991 report also pointed to legislation as a part of the problem because it displaced jurisdiction and usurped the inherent rights of Indigenous peoples to care for their own children. At the same time, the report also articulated the need for adequate financial resources as part of the remedy.

TEXT BOX quote

*“Your present laws empower your Superintendent of Child and Family Services and your family courts to remove our children from our Nations and place them in the care and custody of others. The first step to righting the wrongs done to us is to limit the authority to interfere in the lives of our families, and to provide remedies other than the removal of our children from our Nations. **This must be accompanied by the financial resources we require to heal the wounds inflicted upon us.** At the same time, the responsibilities and jurisdictions vested in your Superintendent and the family courts must be vested in our Nations. Finally, as our Nations assert our own family laws to meet our contemporary needs, as we rebuild the authority usurped from our Nations, the laws of our Nations must have paramountcy over your laws as they apply to our people.” (emphasis added)*

From *Liberating Our Children, Liberating Our Nations*
1991

A testament to the intergenerational advocacy for fiscal equity is found in the 1996 Royal Commission on Aboriginal People (RCAP) hearings. As stated in the RCAP report:

“We begin our discussion of social policy with a focus on the family because it is our conviction that much of the failure of responsibility that contributes to the current imbalance and distress in Aboriginal life centres around the family. Let us clarify at the outset that the failure of responsibility that we seek to understand and correct is not a failure of Aboriginal families. Rather, it is a failure of public policy to recognize and respect Aboriginal culture and family systems and to ensure a just distribution of the wealth and power of this land so Aboriginal nations, communities and families can provide for themselves and determine how best to pursue a good life.”⁴²

This call for a *just distribution of wealth and power* encapsulates the two forces that have worked in tandem against Indigenous families and communities – legislation and inadequate funding.

Fiscal challenges and solutions around Indigenous child welfare in B.C. were presented in a 2016 report to the B.C. Legislature, *Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions*. Regarding the complex fiscal relationship between MCFD and what was then known as Indigenous and Northern Affairs Canada, the report states that the current problems (at that time) were

⁴¹ Aboriginal Committee of the Community Panel Child Protection Legislation Review, *Liberating Our Children, Liberating Our Nations* (1991). Pg. 7.

⁴²Royal Commission on Aboriginal Peoples *Report of the Royal Commission on Aboriginal Peoples* (RCAP) (1996). Ottawa: Canada Communication Group Publishing, p. 8. Retrieved from <https://www.bac-lac.gc.ca/eng/discover/aboriginal-heritage/royal-commission-aboriginal-peoples/Pages/final-report.aspx>

not limited to the amount of money provided for child welfare, but also involved a need to rethink the funding formulas and the very nature of the fiscal relationship between Canada, B.C., ICFS Agencies and Indigenous communities, including Métis, Inuit, non-Status and Urban Indigenous peoples.⁴³ As some B.C. First Nations prepare to create Coordination Agreements that are part of the process required to resume and reclaim their inherent rights to govern their own child welfare, the imperative for a transformed fiscal relationship is amplified.

Leadership from B.C.'s Directors Forum of Indigenous Child and Family Service Agencies has been advocating for changes to provincial funding formulas for at least 15 years. Long before the 2016 report, *Indigenous Resilience, Connectedness and Reunification*, was released, the Directors of the ICFS Agencies penned a document outlining "21 Issues." In June 2007, this list of system deficiencies was submitted to the Minister of Children and Family Development. Among the 21 issues, the ICFS Agencies articulated the need for a "... standardized provincial formula that is fair and equitable, and in line with actual costs."⁴⁴

A follow up to this 21 Issues document was submitted to MCFD in 2018, at which point it was noted that a revised funding approach for the ICFS Agencies had been developed by the ministry. The approach was, however, lacking in adequate consultation with the ICFS Agencies and was also so narrowed in scope through the exclusion of prevention funding that it was unable to yield any meaningful improvement. As recently as September 2021, the Directors of the ICFS Agencies continued to call on MCFD to replace the current funding formula, which in their words: "...is based on the number of children in care, and [is] thereby a clear example of systemic racism."⁴⁵

Through a human rights lens, it is necessary to acknowledge the damage caused by a system that requires as a prerequisite that children be in care in order for agencies to receive funding. This is completely contrary to the Truth and Reconciliation Commission *Calls to Action* as it incentivizes the removal of children from their homes and often extended families and communities in order to receive services. It is clearly necessary to step away from a funding formula that is based on the number of children in care and adopt an alternative approach, such as a needs-based design consistent with the federal funding model mandated by the Canadian Human Rights Tribunal.

Some of the criticisms raised by the Auditor General in 2008 of the federal government's program design recur in the appended report by the Institute of Fiscal Studies and Democracy as deficiencies of MCFD's Child and Family Services fiscal management system. One of the systemic deficiencies noted by the Auditor General that stands out was the observation that the federal First Nations Child and Family Services program was never designed to measure outcomes.⁴⁶

⁴³John, Ed (Grand Chief) (2016). *Indigenous Resilience, Connectedness and Reunification – from Root Causes to Root Solutions*. Victoria: MCFD, pp. 104-105. Retrieved from <https://fns.bc.ca/wp-content/uploads/2017/01/Final-Report-of-Grand-Chief-Ed-John-re-Indig-Child-Welfare-in-BC-November-2016.pdf>

⁴⁴ Correspondence titled: '21 Issues' – provided by Bart Knuudsgard, with permission from ICFS Directors Secretariat.

⁴⁵ Table of Recommendations presented to the minister in a letter dated Sept. 13, 2021; cited here appended to correspondence with the Minister dated Nov 25, 2021 – with permission by BK and the ICFS Directors Secretariat.

⁴⁶ 2008 OAG Report ch. 4 FNCFS pp. 19-29. Retrieved from https://www.oag-bvg.gc.ca/internet/docs/aud_ch_oag_200805_04_e.pdf

Furthermore, it is the case that these two separate funding sources (federal and provincial), form a disjointed relationship.⁴⁷ This continues to be an issue today. The relationship – or lack thereof – between federal and provincial funding and provision of child and family services is a systemic barrier to the kind of meaningful change that would ensure adequate service delivery at equitable funding levels for all Indigenous children and families, including Métis, Inuit, non-Status and Urban Indigenous peoples. Indigenous Services Canada and MCFD are two separate and autonomous systems that actually have overlapping and shared responsibility for all First Nations off-reserve, but that have inadequately considered how the systems need to function together to effectively address off-reserve populations.

UNDERSTANDING THE CANADIAN HUMAN RIGHTS TRIBUNAL

On the surface this report is about money, underneath the surface it's about human rights.

The Canadian Human Rights Tribunal is the mechanism through which the *Canadian Human Rights Act* is upheld. It is noteworthy to consider that while the Tribunal's processes are court-like, it is not a court of law. It is an administrative tribunal which hears evidence and receives testimony from witnesses about discrimination and adjudicates the matter. Its function is not punitive in nature, but rather, remedial. Jurisdiction of the Canadian Human Rights Tribunal is limited to employers and service providers that are under federal regulation.⁴⁸ Thus, Canadian Human Rights Tribunal decisions brought against Indigenous Services Canada's First Nations Child and Family Services program do not apply to the provincial child and family services program provided by MCFD.

The Tribunal describes the parameters of its responsibility in the following statement:

...the purpose of the Canadian Human Rights Act is to give effect to the principle that:

*...all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices...*⁴⁹

The initial decision of the Canadian Human Rights Tribunal was released in January 2016. This landmark ruling in favour of the First Nations Child and Family Caring Society and the Assembly of First Nations acknowledged and validated the claim that the government of Canada had engaged in discriminatory fiscal policies affecting 165,000 First Nations children. The ruling addressed two main grievances: the discriminatory nature of funding formulas that incentivized the removal of Indigenous children from

⁴⁷ This is articulated by the OAG's 2008 report, with the statement: "We also found that funding arrangements between INAC and First Nations agencies are generally not tied to the responsibilities that First Nations agencies have under their agreements with provinces; INAC pre-determines the level of funding it will provide to a First Nations agency without regard to the terms of the agreement between the First Nation and the province. Moreover, the funding arrangements rarely define the child welfare services to be made available by the funded agency, the results expected, or the desired outcomes." OAG (2008). P. 14. Retrieved from https://www.oag-bvg.gc.ca/internet/docs/aud_ch_oag_200805_04_e.pdf

⁴⁸ Canadian Human Rights Tribunal (2020). *A Guide to Understanding The Canadian Human Rights Tribunal*. Retrieved from <https://www.chrt-tcdp.gc.ca/resources/guide-to-understanding-the-chrt-en.html>

⁴⁹ *Canadian Human Rights Act* (R.S.C., 1985, c. H-6). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/h-6/>

their homes in order to access child welfare services and the overly narrow interpretation of Jordan's Principle. The Canadian Human Rights Tribunal decision affirmed Jordan's Principle should apply to all First Nations children, regardless of whether they live on- or off-reserve, and regardless of the distinction between the disability being short- or long-term.⁵⁰

In April 2016, the Tribunal released a compliance report review that called upon Canada to "*cease its discriminatory practices and reform the First Nations Child and Family Services Program.*"⁵¹ A second remedial order was issued by the Tribunal to the federal government in September 2016, again ordering Canada to cease its narrow application of Jordan's Principle. Further compliance orders were issued by the Tribunal in May 2017, which were later amended in November of that year both regarding the implementation of Jordan's Principle and specifically articulating the expectation of substantive equality and culturally appropriate services.⁵²

A question that arises related to the Canadian Human Rights Tribunal ruling is whether funding was actually being paid after the 2016 ruling or not. The appended report finds that ICFS Agencies serving children on-reserve have received more funding than those agencies serving children off-reserve, and the reason given is that the Canadian Human Rights Tribunal ruling of 2016 effectively forced the federal government to pay for services for children on-reserve according to a different funding formula that recognizes actual costs of services. The appended report makes clear that this level of payment has made a tangible and fundamental difference in the ability of ICFS Agencies serving children on-reserve to provide services, and therefore support children and families. One might ask, if this was the case, why it was necessary for the Tribunal to issue 21 non-compliance orders to the federal government if it was already providing funding as required.

The answer is complex but can be resolved. Between 2006/07 and 2018/19, Indigenous Services Canada program expenditures for First Nations child and family services on-reserve increased by over 48 per cent. The majority of this funding increase took place in the 2018/19 fiscal year, years after the original Canadian Human Rights Tribunal order was made in January 2016. Thus, the federal government was excessively late in increasing payments and, as a result, received non-compliance orders. The second reason for the many non-compliance orders is that many of the orders were connected with individual cases related to the application of Jordan's Principle, and were not related to system-wide failures to pay.

On the eve of the first National Day of Truth and Reconciliation – Sept. 30, 2021 – the Federal Court of Canada upheld the Canadian Human Rights Tribunal's 2019 ruling, ordering the maximum amount payable under the Tribunal's mandate – \$40,000 per person – in compensation to First Nations children and their families. At that time, the federal court also agreed with the Tribunal regarding expanding the eligibility for Jordan's Principle which had, until that point, been narrowly interpreted to limit benefits to residents living on-reserve. The expanded definition of eligibility would be regardless of *Indian Act*

⁵⁰ Indigenous Services Canada (2021). *Timeline: Jordan's Principle and First Nations child and family services*. Retrieved from <https://www.sac-isc.gc.ca/eng/1500661556435/1533316366163>

⁵¹ Canadian Human Rights Tribunal (April 26, 2016). *2016 CHRT 10* Ottawa, ON., p. 4. Retrieved from https://fncaringociety.com/sites/default/files/2016_chrt_10.pdf

⁵² Indigenous Services Canada (2021). *Timeline: Jordan's Principle and First Nations child and family services*. Retrieved from <https://www.sac-isc.gc.ca/eng/1500661556435/1533316366163>

Status or place of residence on- or off-reserve.⁵³ The Federal Court had become involved in the rulings made by the Canadian Human Rights Tribunal because the federal government had requested judicial review of the orders. A judicial review can be called to ensure that decisions made by an administrative body, such as the Canadian Human Rights Tribunal, are fair, reasonable and lawful. The federal government used this as an outlet to contest the capacity of the Canadian Human Rights Tribunal's jurisdiction to award compensation, and also to contest the decision about expanded eligibility criteria for Jordan's Principle.

THE CANADIAN HUMAN RIGHTS TRIBUNAL AGREEMENTS IN PRINCIPLE

The implementation of the Agreements in Principle is an emergent and complex topic, with many components as yet undetermined because they have not yet been finalized. The \$40 billion settlement has two distinct components: \$20 billion to compensate for past harms caused by policies and practices of the federal First Nations Child and Family Service program, and \$20 billion for systemic reform of the program. The compensation element of the Agreements in Principle has two aspects; one being the Canadian Human Rights Tribunal rulings that provide for a fixed amount of \$40,000 per person within specific parameters, and two legal cases (Mooshum and Trout Class Actions) with variable compensation amounts that are as yet undetermined. The combination of the Canadian Human Rights Tribunal ruling and the legal class action is the reason why there are two Agreements in Principle.

What is known is that despite not being finalized, the additional funding for prevention services and youth aging out of care will begin to be directed to ICFS Agencies and to the 84 First Nations who receive child and family services directly from MCFD for on-reserve services on April 1, 2022. It is also known that any Indigenous governing body seeking to reclaim its inherent right to child welfare jurisdiction would no longer be eligible for the prevention funding available as part of the Tribunal's Agreements in Principle because once jurisdiction is drawn down and an Indigenous governing body has its own child welfare legislation, it would no longer be operating under the funding arrangements of the federal government First Nations Child and Family Service program.

In webinar discussions regarding Canadian Human Rights Tribunal Agreements in Principle implementation, Mary Teegee – Executive Director of Carrier Sekani Family Services, Indigenous Child and Family Services Directors Society chair, and a board member of the First Nations Child and Family Caring Society – cited the following core principles in relation to the Tribunal's Agreements in Principle announcements: *"discrimination ends now; discrimination never happens again; and compensation for healing from the harms of the past."*

It should be noted that the Agreements in Principle, resulting from the Tribunal decision, represent a significant win for on-reserve First Nations children, families and their service providers – this is to be celebrated. At the same time, it is important to be mindful that there are Indigenous children and families – and their service providers – in B.C. that are excluded, as only those who received services from the federal government's First Nations Child and Family Service program are eligible for the

⁵³ Assembly of First Nations "The Federal Court of Canada Upholds the CHRT's Ruling in Full" News Release 29 September 2021. Retrieved from <https://www.afn.ca/the-federal-court-of-canada-upholds-the-chrts-ruling-in-full/>

Agreements in Principle compensation. In other words, the positive changes resulting from the Agreements in Principle do not apply to all Indigenous young people. Many are left out of the equation.

OVERVIEW OF FINDINGS

The child welfare funding ecosystem in B.C. is not a simple, linear transmission from A to B. It is complex and siloed, involving the federal and provincial government, in addition to at least 6,500 contract holders and multiple community agencies. This project sought to map the fiscal ecosystem between federal and provincial Indigenous and non-Indigenous services in order to reveal gaps and disparities. The research result is a significant reportable finding in and of itself – that it is not possible to map the ecosystem between Indigenous and non-Indigenous service providers using provincial data. As stated by the Deputy Director of Child Welfare, MCFD: *“The way the ministry’s financial system collects information does not readily allow the mapping of expenditure by community or Indigenous and non-Indigenous children and families.”*⁵⁴ This research result is a significant starting point, as it signals the need for a discussion about fiscal architecture and data stewardship – before getting to the topic of substantive equality being expressed in fiscal allocations. If the ministry is unable to assess expenditures and outcomes for Indigenous and non-Indigenous children and families because it doesn’t track the data, it is impossible to know whether gaps or inequities exist, let alone to begin to address them.

The appended report has two distinct data components. The fiscal mapping is achieved by gathering data from the top – that is, the source of the fiscal allocations – and comparing it with the destination – that is, the experience of the service providers who receive the funding. Weak points and strengths within each respective system (federal and provincial) are revealed when compared side by side. Looking at the topic of resource analysis from both the top down and the bottom up leads to important suggestions for change. Service providers provide perspectives not only on what isn’t working, but also offer many valuable insights and suggestions on how the two ends of the system could be more harmonized and thereby function better. For service providers, matching funding allocations to outcomes and needs on the ground is a dominant theme.

A clear and startling finding is that the resource allocation to a young person depends on where they live – on- or off-reserve. The disparity in funding between provincial and federal jurisdictions is clearly presented in the appended report. The report suggests that off-reserve First Nations children and Urban Indigenous children in B.C. – who are dependent on funding from MCFD – are disadvantaged, relative to First Nations children receiving services on-reserve. A widening gap can be anticipated, resulting from the recent \$40 billion federal settlement arising from the Canadian Human Rights Tribunal rulings. Even before this settlement, the Institute of Fiscal Studies and Democracy report finds that there are differences in funding within B.C.’s Indigenous population based on location of residency and whether the funding source is federal or provincial.⁵⁵ The difference between on-reserve (federal government funded) and off-reserve (MCFD funded) resourcing is largely due to the Canadian Human Rights Tribunal’s orders for federal payments, which appear to be closer to adequate and appropriate levels of funding to address the different needs of Indigenous children and families on-reserve. This, too, is a

⁵⁴ Letter from Deputy Director of Child Welfare, MCFD to the Deputy Representative, Dec. 16, 2021.

⁵⁵ Gaspard, H. (2021), pg. 105.

significant finding. Current Tribunal-mandated funding at actual costs for service provision on-reserve – although not ongoing – is a better indication of funding adequacy.⁵⁶

The report prepared by the Institute of Fiscal Studies and Democracy presents a current fiscal state of funding models and mechanisms within MCFD that are disjointed, uneven in the distribution of funds and inadequate in their provision of culturally based, restorative programming. Furthermore, within the current context of the Agreements in Principle, the appended report is a useful tool to illustrate a potentially widening disparity in funding between First Nations children residing on- and off-reserve.

MCFD – Describing the current ecosystem

MCFD is a large and complex organization, operationally decentralized, and responsible for the delivery of a wide variety of programs and services across six core lines of service which operate under the jurisdiction of several acts of provincial legislation and in tandem with the recently enacted federal *Act respecting First Nations, Inuit and Métis children, youth and families*. Within each of these core areas, services range from community well-being, to prevention, to intervention and in-care supports.

MCFD is both a program funder and a provider of child welfare services. Provincially, service delivery occurs in three ways: through MCFD staff, ICFS Agencies' staff, and contracts awarded to a wide variety of community-based agencies comprised of First Nations, Métis and other Indigenous and non-Indigenous organizations. Staff in each of these three modalities are either delegated or non-delegated. MCFD and ICFS Agency staff are delegated under the *Child, Family and Community Service Act* to perform the more intensive intervention-oriented child welfare services, including the removal of children from their family homes. Prevention-based (non-delegated) services are awarded on a contract basis only with the ministry relying extensively on contracted community-based agencies to provide most of its prevention services. Approximately 80 per cent of MCFD's total expenditures are allocated to 6,500 contractors throughout the province. In the fiscal year 2019, it was estimated that five per cent of vendors were awarded 80 per cent of the contracts and associated funding.

Geographically, MCFD staff are organized within 13 Service Delivery Areas across the province. Each Service Delivery Area has a centralized administration which is operationally responsible for the provision of all core services, which are further divided into 46 Local Services Areas. First Nations resident on-reserve receive child welfare services from either an ICFS Agency, where established, or directly from MCFD.

TEXT BOX

Indigenous Child and Family Service Agencies

Under the *Child, Family and Community Service Act*, MCFD has legal authority and responsibility for the child welfare service needs of all children and their families in B.C. The Provincial Director of Child Welfare at MCFD negotiates and enters into delegation agreements with ICFS Agencies. Through these delegation agreements, the "*Provincial Director gives authority to Aboriginal agencies, and their employees, to undertake administration of all or parts of the CFCS Act. The*

⁵⁶ Gaspard, H. (2021), pg. 3.

amount of responsibility undertaken by each agency is the result of negotiations between the ministry and Aboriginal community served by the agency, and the level of delegation provided by the minister.” CITE

There are currently 24 ICFS Agencies supporting 120 First Nations across the province. The remaining 84 First Nations are referred to as unaffiliated, meaning they are not receiving child welfare services from an ICFS Agency. The 84 First Nations that are unaffiliated receive child welfare services directly from MCFD. Agencies provide either partial or full delegation of child welfare services within their area of agreement. In the provision of these services MCFD and ICFS Agencies are challenged by vastly different situations between rural, remote and urban settings.

In May 2018, amendments to the *Child, Family and Community Service Act* were introduced and passed in the provincial Legislature. Brought into force in April 2019, the amendments recognized that Indigenous families and communities share responsibility for the upbringing and well-being of their children and underscored the importance of Indigenous children learning about and practicing their traditions, customs and languages, and belonging to their Indigenous communities. The Indigenous identity of some non-Status Indigenous groups, such as Métis and Inuit, were affirmed and acknowledged in this amended legislation. The federal *Act respecting First Nations, Inuit and Métis children and families* came into force on Jan. 1, 2020. To better integrate how the federal legislation functions in relation to the provincial child welfare legislation, MCFD recently announced its intention to reform the *Child, Family and Community Service Act*.

Most recent figures indicate there are 5,000 children and youth in care B.C., and 68 per cent are Indigenous. Of the total, 1,825 are served by ICFS Agencies; the other 3,175 are served by MCFD and of those, 1,572 are Indigenous.

Provincial and Federal Funding – Disparities and Gaps

Funding to support child welfare within MCFD’s current operational model is complicated, compartmentalized and confusing. Visually it is conveyed as a spaghetti diagram. Funding specific to the child safety core area originates from either the provincial or federal government, depending on residency of the child. The provincial government is responsible for funding off-reserve services and the federal government is responsible for funding on-reserve services. The federal government provides program funding only and is not itself a service provider. Through the First Nations Child and Family Service program, the federal government directs funding either to an ICFS Agency or MCFD to support on-reserve child welfare services for those Nations that do not work with ICFS Agencies. MCFD provides on-reserve services for the 84 First Nations that are not affiliated with an ICFS Agency, as well as child protection services for those ICFS Agencies that are not delegated to handle this aspect of child welfare services.

As mentioned, all child and family service provision in B.C. originates from MCFD in the form of either MCFD staff; delegation to ICFS Agencies; or contracts with a variety of community-based agencies to provide all on-and off-reserve services. Because funding originates from different sources – that is, the federal or provincial governments – it is often bound by different objectives, policies and limitations.

Currently in B.C., there are three different funding arrangements that dictate the amount of money that is allocated to different Indigenous groups:

1. Funding for First Nations residents on-reserve who are registered members of their Nation (i.e., have *Indian Act* Status) served by an ICFS Agency. This is the Canadian Human Rights Tribunal needs-based funding model.
2. Funding for First Nations residents on-reserve who are registered members of their Nation (i.e., have *Indian Act* Status) served by MCFD. This is a negotiated Service Agreement for those 84 First Nations that are unaffiliated with an ICFS Agency.
3. Urban Indigenous (this could include registered First Nations members with *Indian Act* Status living off-reserve; or Métis, Inuit or non-Status persons) served by MCFD.

Gaps and inequities are embedded within these existing funding arrangements between the federal and provincial governments.⁵⁷ The Institute of Fiscal Studies and Democracy report reveals where the current gaps are situated and is also a potential tool for forecasting future gaps on the horizon, such as aspects of the Agreements in Principle that will come into effect on April 1, 2022.

Indigenous Services Canada allocates funding to ICFS Agencies and MCFD for First Nations children who are registered members of their Nation (i.e., who have *Indian Act* Status) in different ways. ICFS Agencies submit a needs-based budget proposal to Indigenous Services Canada that covers actual costs and prevention services whereas Indigenous Services Canada directs funding to MCFD based on a negotiated Service Agreement.⁵⁸ Unlike a needs-based funding arrangement, the Service Agreement between Indigenous Services Canada and MCFD uses a costing model based on pre-determined fixed transfer payment amounts in three categories: development, maintenance and operations.⁵⁹ There are two key points about the costing model: maintenance funding is reimbursed according to the provincial rate structure;⁶⁰ and rates of funding for operations, which includes both prevention and protection services, is *based on the number of children in care*.⁶¹ The use of the number of children in care as the base from which to allocate funding was deemed discriminatory by the Canadian Human Rights Tribunal, as it incentivizes apprehension to maintain adequate funding.

⁵⁷ Awaiting S10 Supplemental #3 to articulate this more clearly. (Pending - end of day Tuesday Mar 8)

⁵⁸ MCFD-Indigenous Services Canada Service Agreement covers the federal government's commitment to "fund the costs of maintaining Eligible First Nation Children Ordinarily Resident on Reserve in placements out of the parental home. Canada also pays for operational costs associated with providing child welfare services." The funding is provided for the provision of on-reserve services for the 84 First Nations not affiliated with an ICFS Agency. In addition, for the other 120 First Nations, the funding is provided to deliver services not provided by ICFS Agencies, as the services are outside of their delegation levels. Information provided by MCFD Interface (8 Mar 2022).

⁵⁹ See Section 5.1 - Services of "Annex 'A' Service Agreement Regarding the Funding of Child Protection Services of First Nations Children Ordinarily Resident on Reserve" – between Department of Indigenous Services Canada and Ministry of Children and Family Development (2020). Information provided by MCFD Interface (8 Mar 2022).

⁶⁰ See Section 5.2 - Services of "Annex 'A' Service Agreement Regarding the Funding of Child Protection Services of First Nations Children Ordinarily Resident on Reserve" – between Department of Indigenous Services Canada and Ministry of Child and Family Development (2020). Information provided by MCFD Interface (8 Mar 2022).

⁶¹ "Annual rate revisited in fiscal year 2021 and calculated by applying the qualifying children in care versus all children in care percentage to the qualifying costs. At last calculation, the qualifying children represent 7.8% of all children in care and this percentage was applied to total costs in the categories mentioned previously." Information provided by MCFD Interface (8 Mar 2022).

The Service Agreement between the federal government and MCFD for First Nations on-reserve not served by an ICFS Agency predates the Canadian Human Rights Tribunal orders and has only recently increased (by 20 per cent from \$28.1 million to \$33.9 million in fiscal 2020/21). It is not clear if the increases allocated to MCFD for on-reserve services mirror the funding allocated from Indigenous Services Canada to ICFS Agencies; however, it should be noted that federal funding to ICFS Agencies has more than tripled since 2017/18 while federal funding to MCFD has only increased by 20 per cent in the same period.⁶² MCFD's expenditure management system is unable to describe how this funding is being allocated to the respective First Nations for services. The language of this old funding model forms an uncomfortable incongruence against such a term as *needs-based budget* and the broader community wellness prevention services that were envisioned by the Canadian Human Rights Tribunal which ICFS Agencies are able to access but MCFD is not on behalf of the 84 unaffiliated First Nations.

The provincial government provides funding for off-reserve services to MCFD which in turn allocates it regionally to the 13 Service Delivery Areas. This includes the ICFS Agencies that serve a diverse population of Indigenous children and families in urban settings, and also ICFS Agencies specific to Métis children and families.⁶³ MCFD directs funding to its ICFS Agencies that provide child welfare services off-reserve through a funding structure known as the "Standardized Funding Approach."⁶⁴ It is noteworthy that the current Standardized Funding Approach does not include a prevention component. ICFS Agencies funded by MCFD for off-reserve child welfare services must compete for contracts to receive prevention funding.

TEXT BOX

Standardized Funding Approach

MCFD introduced the first phase of its Standardized Funding Approach in 2017 to bring some consistency and stability of funding to the 24 ICFS Agencies in B.C. ICFS Agencies were underfunded for staffing costs and were challenged in meeting increasing foster care costs. The Standardized Funding Approach brought in a short-term fix to stabilize funding so that ICFS Agencies were at least funded equitably in relation to their MCFD colleagues. This allowed ICFS Agencies to pay staff using the same wage grid as an MCFD social worker and covered the cost of residential in-care placement costs for children. The model was restricted to these costs only and did not include funding for any prevention services. Prevention services were left to the individual discretion of each Service Delivery Area to decide if/how to fund an ICFS Agency. The

⁶² Gaspard, H. (2021), p. 24.

⁶³ Off-reserve agencies include: Surrounded by Cedar, VACFAS etc.

⁶⁴ MCFD introduced the first phase of its Standardized Funding Approach in 2017 to bring some consistency and stability of funding to the 24 ICFS Agencies in B.C. ICFS Agencies were underfunded for staffing costs and were challenged in meeting increasing foster care costs. The Standardized Funding Approach brought in a short-term fix to stabilize funding so that ICFS Agencies were at least funded equitably in relation to their MCFD colleagues. This allowed ICFS Agencies to pay staff using the same wage grid as an MCFD social worker and covered the cost of residential in-care placement costs for children. The model was restricted to these costs only and did not include funding for any prevention services. Prevention services were left to the individual discretion of each Service Delivery Area to decide if/how to fund an ICFS Agency. The result is that some ICFS Agencies receive prevention funding and others must refer their children and families to other community-based agencies for supports.

result is that some ICFS Agencies receive prevention funding and others must refer their children and families to other community-based agencies for supports.

MCFD provides all prevention funding to its 13 Service Delivery Areas and each Area enters a procurement process that determines if the funding is contracted with an ICFS Agency, a First Nation or another community-based agency. As a result, ICFS Agencies must bid for short-term contract funding in order to deliver prevention services themselves, or otherwise refer the children and families they serve to other community-based agencies that have been awarded prevention contracts for these supports and services. One service provider makes this revealing comment: *“While Indigenous children are over-represented in care in B.C., they are not necessarily served by Indigenous-focused vendors.”*⁶⁵

There are other challenges to the existing procurement model for prevention funding. As one ICFS Agency representative interviewed in the appended report observes:

*“MCFD funding to [the ICFS Agency] is specific to the children transferred to its care. For supporting services, children in [the ICFS Agency] are expected to use other provincial services. MCFD will not fund [the ICFS Agency] to offer any of the services it already provides. ... Beyond funding for children in care, additional funding from MCFD is hard to come by.”*⁶⁶

This latter practice is particularly troublesome to ICFS Agencies that have been advocating for combined protection and prevention funding, mirroring the federal funding practice. The current model also requires ICFS Agencies to negotiate with one division of MCFD for transfer of funding for intervention (protection) services, and another division for access to prevention funding, which illustrates that even within MCFD, funding practices in relation to ICFS Agencies are fractured and siloed. ICFS Agencies have offered other input and suggestions about how MCFD could structure its funding agreements to better support them in planning and resource allocation to meet actual needs, rather than relying on what is permissible based on the current fee-for-service model.⁶⁷

What all this means to an individual First Nation is that they receive funding from several different pathways that are not integrated, transparent or easily understandable. First, federal and provincial funding is different for similar areas of jurisdiction. In the current state ecosystem, the federal government is funding child welfare services to First Nations on-reserve at a much higher rate than the province is funding for comparable services.

Second, MCFD funding to First Nations for provincial off-reserve services flows from separate divisions that are not coordinated or integrated, and MCFD is unable to articulate how its expenditures map by community or by Indigenous and non-Indigenous children and families. In other words, the ministry has not tracked whether its expenditures are serving Indigenous or non-Indigenous peoples, nor has it tracked outcomes. There is an inherent paradox here, as the intended outcome of the Canadian Human Rights Tribunal ruling and the Agreements in Principle was to address and rectify long-term, systemic fiscal discrimination. An unintended consequence in B.C. of Indigenous Services Canada’s fiscal reorganization is that it will cause and amplify discrimination against First Nations children who reside

⁶⁵ Gaspard, H. (2021), p. 38.

⁶⁶ Gaspard, H. (2021), pg. 95.

⁶⁷ Gaspard, H. (2021) p. 95.

off-reserve and will also leave out Métis, non-Status and Inuit children as they do not fall under the jurisdiction of the *Indian Act*.

Herein lies the real problem – the dynamic of the system as it currently functions between the federal and provincial governments passively permits leaving some children out of the equation. Agencies serving both on- and off-reserve Indigenous children face in-house inequities as they receive different levels of funding from MCFD and Indigenous Services Canada. This results in agencies having to fill in the gaps. Service providers want to offer the same level of service to every child, yet they are hampered by a disjointed system that inadvertently perpetuates fiscal discrimination.

Residence Determine Funding

“Indigenous Peoples residing in urban places and First Nations residing in community can be physically close but worlds apart due to funding practices.”⁶⁸

Recent estimates indicate that in B.C., 78 per cent of Indigenous people from First Nations, Métis and Inuit backgrounds are living, studying and working in urban and off-reserve areas.⁶⁹ There are also differences between on-reserve designations. With respect to child welfare services, reserve communities governed by the *Indian Act* fall under federal funding obligations administered by Indigenous Services Canada. In B.C., there are also First Nations that have completed modern treaties such as the Nisga’a Nation and Tsawwassen First Nation which have autonomous governance and are not under the jurisdiction of the *Indian Act*.⁷⁰ These First Nations operate under individually negotiated tripartite agreements with the federal and provincial governments. All others – including First Nations, Métis and Inuit peoples – fall under the jurisdiction of the provincial *Child Family and Community Service Act* and are the funding responsibility of MCFD’s Child and Family Services program.

Funding for child welfare services is not attached to the child, but rather, is dependent upon the location of the child’s residence. Currently the funding arrangements between Indigenous Services Canada and MCFD do not adequately address this reality. In a recent letter to the minister, the ICFS Agency Directors advocated: *“B.C. has a responsibility to ensure that Indigenous children and families who reside off-reserve have access to services equivalent to the federally funded services now available on-reserve.”⁷¹*

The Ideological Driver: Child Protection

“The bifurcation of prevention and protection is a false dichotomy” – Dr. Cindy Blackstock⁷²

The structural roots of child welfare services in B.C. rest upon a foundation that prioritizes child protection. Consequently, the ideological drivers behind how money is distributed have long been

⁶⁸ Gaspard, H. (2021), p. 81.

⁶⁹ Government of B.C. (2021) “Urban and Off-Reserve Aboriginal People” Retrieved from <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/supporting-communities/urban-off-reserve-aboriginal-people>

⁷⁰ Active or completed negotiations involve 39 self-determining First Nations, representing 72 current or former *Indian Act* bands, totaling 36% of all *Indian Act* bands in BC. BC Treaty Commission (2022) “Negotiations Update” (Accessed 2022 02). Retrieved from <https://www.bctreaty.ca/negotiation-update>

⁷¹ Note 7 - Table of Recommendations presented to the minister in a letter dated Sept. 13, 2021; cited here appended to correspondence with the Minister dated Nov. 25, 2021 – with permission by BK and the Secretariat.

⁷² ICFCA Director’s Forum webinar on AIP.

oriented around protection services. In the 1990s, criticisms of the provincial child welfare system emerged among Indigenous advocacy groups. Calls to re-orient the system towards prevention, which would be achieved by better supporting families and communities, were being directed to policy-makers. Support for the proposed changes at that time extended to legislation. A draft revision of the *Child, Family and Community Service Act* reflected this re-orientation to family and community supports and the overall enhancement of prevention-based initiatives, however these revisions were never brought into force. In 1995, the Gove Report was released, and child welfare services were defined and designed around protection.⁷³ This orientation to protection, however, predates Gove. It is tied to white settler notions of “acceptable” parenting and child rearing, and of “protecting children” who were vulnerable. It also encompasses assumptions around intent or incapacity of parents – especially those who did not conform to the white settler ideas about parenting.

The ICFS Agencies have long called on MCFD to expand its funding to include prevention services. The Standardized Funding Approach for ICFS Agencies serving children who live off-reserve is limited to protection services only. Funding for prevention is attained in a piecemeal fashion, from contracts and grants. MCFD’s funding models and transfer agreements with ICFS Agencies and their First Nations reflect this *bifurcation* of prevention and protection services. This awkward and inappropriate placement of prevention funding under the larger umbrella of protection funding created by MCFD is at odds with the vision and worldview of the ICFS Agencies to provide holistic services and supports to their communities. Mary Teegee, in her capacity as chair of the Indigenous Child and Family Services Directors Society, asserts:

“You have to look at prevention not in the limited scope of just keeping that child out of care. You have to look at prevention right at birth.”⁷⁴

The paradox inherent in the current system is that child protection will not yield the result sought by the Truth and Reconciliation Commission *Calls to Action*. A system that is inherently oriented around protection – which can involve removing children from their homes, families and often communities, cannot reduce the number of children in care. Programs and services to strengthen community and cultural connections are a critical piece of prevention and focusing on expanding wellness across the community will keep children out of care.

Recent shifts to MCFD priorities, particularly regarding Indigenous children and youth, have centred around the desire to keep children at home, support communities to care for their children and minimize the use of the removal of young people from their family homes. The ministry has made some inroads in funding First Nations and their ICFS Agencies for prevention services in child welfare. In response to recommendations made in the 2016 report to the provincial Legislature, *Indigenous Resilience, Connectedness and Reunification*, MCFD began to make investments in prevention in 2018, with \$5 million in cultural funding to support children in care to have access to programs and services to connect them to their culture and language. This funding is available to Service Delivery Areas or ICFS Agencies annually.

⁷³ Hon. Thomas J. Gove, *Report of the Gove Inquiry into Child Protection in British Columbia* (November 1995).

⁷⁴ Griffiths, Nathan “Here’s what the feds’ \$40B child welfare settlement could mean for Indigenous kids in B.C.” *Vancouver Sun* 13 January 2022. Retrieved from <https://vancouver.sun.com/news/heres-what-the-feds-40b-child-welfare-settlement-means-for-b-c>

Also in 2018, MCFD introduced a \$6.4 million dollar grant program for prevention.⁷⁵ All 204 First Nations and the seven agencies who serve Métis people in B.C. were invited to apply for a grant of up to \$30,000 per year to promote and support a range of prevention-oriented services. These improvements represent a contribution towards the investment of preventing children from coming into care; however, the 2018 provincial prevention funding allocations are not without challenges. Placed within the context of an agency's or First Nations operational costs, \$30,000 per year is less than half the cost of one full-time equivalent staff member, which is a pittance in absolute terms and miniscule in relation to needs. One could argue that it borders on tokenism.

What is more, First Nations are required to apply for this \$30,000 grant, rather than it being automatically allocated directly, which creates inequity. Many smaller nations do not have the capacity to prepare and submit an application, and consequently do not receive the funds.⁷⁶ Of the \$6.4 million grant, the funds that are not allocated are absorbed by MCFD's operations budget. Thus, while the ministry responded to the need for funding to support prevention services, the insufficiency of the size of the grants and the means by which they are transmitted to agencies perpetuates fiscal instability and uncertainty, and reinforces the false dichotomy of prevention and protection service provision.

Data Stewardship and Accountability

The appended report, *Resource Analysis in the provision of Indigenous and non-Indigenous child and family services in British Columbia*, reveals problematic aspects of the fiscal architecture within MCFD and also conveys differences between MCFD and Indigenous Services Canada in terms of how they manage, or *steward*, the data they collect about the respective child welfare systems they fund. Notable areas of concern are the inability of MCFD to report on client group – specifically, the lack of disaggregation of data between Indigenous versus non-Indigenous children and families – and an inability to link funding allocations to outcomes. Among the many relevant findings of the report is a conclusive statement: “*The data required to answer RCY's research question to understand the differences between Indigenous and non-Indigenous Child and Family Services cannot be directly answered through existing data.*”⁷⁷

The ministry's internal Corporate Data Warehouse houses vast amounts of data. Similarly, MCFD's external online reporting portal provides an extensive amount of information, leaving the impression of a robust system of public reporting and accountability. However, when viewed through an Indigenous lens, it is necessary to assess the data and its outcomes from the position of valuing reciprocity and

⁷⁵ Government of B.C. (2021). “Indigenous Child and Family Development.” Retrieved from <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/supporting-communities/child-family-development>

⁷⁶ Government of B.C. (2021). “Indigenous Child and Family Development.” It is noted that 167 (of 204) First Nations/Agencies have received this grant funding. This would mean approximately \$1 million of the funds allocated to support prevention for Indigenous children and communities is applied against MCFD's bottom line. Retrieved from <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/supporting-communities/child-family-development>

⁷⁷ Gaspard, Helaina (2021). *Resource Analysis in the provision of Indigenous and non-Indigenous child and family services in British Columbia* Ottawa, ON: Institute for Fiscal Studies and Democracy. Report prepared for British Columbia's Office of the Representative for Children and Youth. (p. 14)

relational responsibility. It becomes necessary to consider whether the data collected is of value to the individuals, service organizations and communities they are serving. There is data about the many contract-holding service providers generally, yet it is insufficiently tagged to be able to sort and report by client group. MCFD has acknowledged that its system does not readily allow for the mapping of expenditure by community or by Indigenous and non-Indigenous children and families.⁷⁸ This inadequate accountability to Indigenous service providers, families and communities is not an overt or deliberate act of exclusion on the part of MCFD. It does, however, reveal a system that not only excludes the voices and perspectives of those it serves, but that is also segregated from the worldviews and perspectives of the people it ostensibly supports.

MCFD has a declared accountability to First Nations within its annual Service Plan to provide transparency around funding flowing to their communities for services within its mandate. Objective 1.3, which is about ensuring transparency and accountability to Indigenous children, youth, families and communities states:

*“Distributed annual accountability statements to inform communities on how much funding is spent in support of Indigenous children, youth and families, as well as the number of children in care, and the outcomes being achieved”.*⁷⁹

The Institute of Fiscal Studies and Democracy report confirms that MCFD cannot define what resources it allocates to vendors serving Indigenous clients. The report also confirms that the ministry does not take into account that Indigenous clients and communities may be facing far greater social and economic challenges than others and therefore require greater funding. This is the key principle of substantive equality. Furthermore, MCFD’s data does not clearly align spending with stated strategic priorities, making it difficult to understand if desired results are being achieved.

Discussion

Standardized Funding Approach versus Directive 20-1

When the Executive Leadership of the ICFS Agencies composed a list of ‘21 Issues’ in 2007, they articulated a clear need for: *“a standardized provincial funding formula that is fair and equitable, and in line with actual costs.”* What eventually came about – the Standardized Funding Approach – was a step in the right direction but in no way did it achieve all of those things.

The Standardized Funding Approach was introduced by MCFD in fiscal 2017/18 to address funding shortfalls in the provision of child protection services by ICFS Agencies and to bring some consistency to different past regional funding and contracting practices. The model is based on providing funding for operations, maintenance and some support services. Operational funding covers the cost of delegated/protection and operational staffing and is measured by caseloads and wage parity with MCFD staff. Excluded from this formula are staff who provide prevention programs and services. Caseload formulas and ratios determine the number of staff required and current British Columbia Government

⁷⁸ Letter from the Deputy Director of MCFD to the Deputy Representative RCY, Dec 16, 2021.

⁷⁹ MCFD *Annual Service Plan Report 2021/2022 to 2023/2024*, p. 8. Retrieved from <https://www.bcbudget.gov.bc.ca/2021/sp/pdf/ministry/cfd.pdf>

Employees' Union (BCGEU) rates determine salary costs. Maintenance funding covers the cost of placements for children in foster or contracted care homes, as well as costs for other placement alternatives to care. Funding is adjusted annually to cover the actual costs of these placements. Ancillary costs cover a small range of child-protection costs associated with caseloads. No funding for prevention is included in this model.

MCFD's Standardized Funding Agreement bears resemblance to the previous federal funding formula known as Directive 20-1, which was found to be discriminatory through the Canadian Human Rights Tribunal rulings and affirmed by the Federal Court. Directive 20-1 had an operations component that was driven by population percentages and a maintenance component that paid the actual costs for placements for children in care. Furthermore, in the province of B.C., the former federal government funding model did not include any additional prevention-specific funding that other provinces received through a program known as the Enhanced Prevention Funding model. MCFD's current Standardized Funding Approach shares in common with the discriminatory Directive 20-1 a reliance on children being in care as the basis for funding.

The implementation of the Standardized Funding Approach did result in an increase in funding to ICFS Agencies, rising over 40 per cent from fiscal 2017/18 to 2020/21. Since 2017/18, on average, 60 per cent of the ICFS Agencies' budgets were allocated to maintenance of actual in-care placement costs.⁸⁰ On average, 35 per cent of budgets were allocated to operations in support of staffing. This notion of funding being attached to children in care is summarized in an interview with an ICFS Agency:

*"Provincial funding from MCFD is connected to children transferred to the agency, with MCFD funding full-time equivalents [staff] based on workload. When the number of children in care decreases, so, too, do resources for staffing. Although MCFD has changed its funding structure since 2018, and [the ICFS Agency] has benefited from a funding increase, it, however, does not support sustainable wellness. Just because case numbers are dropping, it does not imply that supports are no longer required. Case complexity, contextual challenges, and a focus on well-being, require consistent and sustainable resources that can focus on community needs and the development of programming and tools to support them."*⁸¹

Salaries for staff are directly linked to caseloads of children in care, and reimbursement of actual in-care placement costs are guaranteed to any agency that does off-reserve work. This aspect of the Standardized Funding Approach model, which parallels the former Directive 20-1 funding from Indigenous Services Canada and was determined to be discriminatory, could be interpreted as continuing to discriminate against B.C.'s Indigenous children residing off-reserve. In the provincial ecosystem, some ICFS Agencies get the majority of their funding from Indigenous Services Canada; other agencies are 100 per cent funded by MCFD; still others receive a percentage of funding from both Indigenous Services Canada and MCFD. In those cases, within a single ICFS Agency, Indigenous children are funded at different levels. This is fiscal racism.

⁸⁰ Gaspard, H. (2021), pg. 46.

⁸¹ Gaspard, H. (2021), pg. 94.

Prioritizing Culture and Repair

Why the Calls to Action are Important

It's important to recognize the historical and ongoing wrongs perpetrated against Indigenous peoples and the legacy of colonialism still in place today. The legacy of that separation and suppression of culture has had a profoundly negative impact on Indigenous communities, families, and cultural connections through the generations. The [Truth and Reconciliation Commission] Calls to Action address the ongoing impact of residential schools on survivors and their families.⁸²

The value of culturally rooted and culturally specific programming is not adequately reflected in MCFD's current funding allocation systems. Culturally specific programming provides a sense of safety and positive identity. It should be equally available to all Indigenous peoples in B.C. – First Nations on-reserve and those living off-reserve, as well as Métis, Inuit and non-Status Indigenous peoples. Currently, it is not. All are in need of healing and repair that is community-centric in its design and orientation. Healing from colonial violence has a collective component.

"Intergenerational trauma is community wide" – Cindy Blackstock⁸³

The first *Call to Action* made by the Truth and Reconciliation Commission of Canada states that governments must provide adequate resources to enable Indigenous communities and organizations to keep families together where it is safe to do so, and to keep children in culturally appropriate environments.⁸⁴ This requires re-interpreting and re-understanding prevention as the ultimate expression of child protection by preventing the need for protection services. Investing in prevention, not instead of protection, but simply as its own dimension of providing a spectrum of social services is required. Serving families and communities with a diverse and adequate array of supports – particularly for those who are marginalized, disadvantaged or vulnerable, is a way to invest in prevention. Preventing kids from coming into care should be a service line. A broader reconsideration of the language and ideological drivers behind protection would be a component of the needed overall system reform. Shifting the language from child protection to child and family well-being would provide a foundational realignment to the intention and objectives of the system.

Provincial Government Commitments to Reconciliation

⁸² B.C. government on the Truth and Reconciliation Commission Calls to Action. Retrieved from <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/truth-and-reconciliation-commission-calls-to-action>

⁸³ Ward, Dennis "Governments need to stop politicizing the lives of First Nations children says Cindy Blackstock" APTN National News, 18 January 2022, Face to Face Interview, (8:05 min). Retrieved from [Lives of First Nations children shouldn't be politicized: Blackstock \(aptnnews.ca\)](https://www.aptnnews.ca/lives-of-first-nations-children-shouldn-t-be-politicized-blackstock)

⁸⁴ TRC *Call to Action* (1.ii) We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside. Retrieved from

“We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.”⁸⁵

- Truth and Reconciliation Commission Call to Action #1.ii

It took Canadian Human Rights Tribunal orders and court settlements to move the federal government to reassess its funding model and to begin a substantive infusion of funding – particularly prevention funding – into on-reserve child welfare services.

Commitments to Indigenous reconciliation are not the sole responsibility of MCFD. The B.C. government has made formal commitments to Indigenous reconciliation – in the form of the *Declaration Act* (in support of the *United Nations Declaration on the Rights of Indigenous Peoples*); the *Draft Principles that Guide the Province of British Columbia’s Relationship with Indigenous Peoples*; as well as the *Métis Nation Relationship Accord*; and public commitments to the Truth and Reconciliation Commission’s *Calls to Action*.

The provincial government, through MCFD, is lagging in its stated commitments to improving current approaches to funding prevention for off-reserve child welfare services. The Institute of Fiscal Studies and Democracy report clearly articulates an adequacy gap between federal and provincial funding for their respective areas of jurisdiction. MCFD faces the real challenge that its funding models and approaches will be seen as discriminatory. The issue that confronts the ministry is that its funding models and approaches don’t align with the public commitments made to Indigenous reconciliation. In the current fiscal ecosystem, Indigenous children and families are caught in the middle of two funding systems that are unaligned and inconsistent with stated government priorities.⁸⁶ MCFD is underfunding prevention in child welfare services and also inadequately supporting service providers to deliver culturally oriented programs for Indigenous communities.

MCFD on its own cannot increase funding without Treasury Board support and Legislative approval through the annual budget cycle. Ministries are funded against their core business areas (or lines of service) and are given guidelines that define what priorities the government will consider for funding submissions. MCFD needs to be supported by the provincial government to make the appropriate funding requests to address the prevention funding shortfalls for Indigenous children and families within the child welfare system.

⁸⁵ Truth and Reconciliation Commission of Canada (2015). *Truth and Reconciliation Commission of Canada: Calls to Action*, p. 1. Retrieved from https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Calls_to_Action_English2.pdf

⁸⁶ Section 5.5 states: “Recognizing the Province of British Columbia refers to children and family development services as a ‘continuum’ and that other federal departments provide funding for components of this continuum, further work will be required to clarify provincial services to establish funding requirements within Canada’s authorities.” From: “Annex ‘A’ Service Agreement Regarding the Funding of Child Protection Services of First Nations Children Ordinarily Resident on Reserve” – between Department of Indigenous Services Canada and Ministry of Child and Family Development (2020). Information provided by MCFD Interface (8 Mar 2022).

MCFD Strategic Direction

MCFD's service plan (2019/20 to 2021/22) speaks to its strategic direction with Goal #1 being to *"recognize the rights of Indigenous families and communities to retain shared responsibility for the upbringing, training, education, and well-being of their children with the rights of the child (UNDRIP) and the Truth and Reconciliation Commission's Calls to Action."*⁸⁷ Key objectives include engaging in discussions regarding jurisdiction over child welfare with Indigenous communities that are interested and willing, and, in collaboration with Indigenous peoples, designing and implementing restorative policy, legislation, practices and services to honour cultural systems of caring and resiliency. Included in the key strategies are commitments to *"improve our current approach to funding prevention by working closely with the Government of Canada and Indigenous communities."*

Support for this kind of systemic change is written into the *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples*. Following the lead of the federal government, the province of B.C. prepared a set of principles that would serve as high-level guidance for the way ministries and provincial representatives could engage with Indigenous peoples, in a way that incorporates and upholds the key commitments made regarding the *United Nations Declaration on the Rights of Indigenous Peoples* and the *Truth and Reconciliation Commission Calls to Action*.⁸⁸ Relevant to the recommendations made by the appended report is the following commitment: *"The right of Indigenous peoples to self-determination and self-government and the responsibility of government to change operating practices and processes to recognize these rights."* Furthermore, 4.3. states: *"putting in to place effective mechanisms to support the transition away from colonial systems of administration and governance."*⁸⁹

Within the context of this *"responsibility of government to change operating practices and processes to recognize Indigenous rights,"* the MCFD Service Plan (2019/2020 to 2022/23) contains shortcomings. While the Performance Planning section mentions *Truth and Reconciliation Commission Calls to Action* and *UNDRIP*, the Key Strategies fall short of specific, actionable commitments around changing operating practices.⁹⁰ The Key Strategies do acknowledge the *Act respecting First Nations, Inuit and Métis children, families and communities*, but only in very broad and general terms. One of the most fundamental components of the implementation of the *Act* is the process an Indigenous governing body must undertake to finalize a Coordination Agreement between the Indigenous governing body and the provincial and federal governments. Changes to MCFD's reporting system, as recommended by the

⁸⁷ MCFD *Annual Service Plan Report 2020/2021 to 2022/2023*, p. 7. Retrieved from

<https://www.bcbudget.gov.bc.ca/2020/sp/pdf/ministry/cfd.pdf>

⁸⁸ Government of B.C. (2021). "About the 10 Principles". Retrieved from

<https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/about-the-ten-principles>

⁸⁹ Government of B.C. (2021). *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous People*, p. 2 https://www2.gov.bc.ca/assets/gov/careers/about-the-bc-public-service/diversity-inclusion-respect/draft_principles.pdf

⁹⁰ MCFD *Annual Service Plan Report 2021/2022 to 2023/2024*, p. 7. Retrieved from

<https://www.bcbudget.gov.bc.ca/2021/sp/pdf/ministry/cfd.pdf>

Institute of Fiscal Studies and Democracy report, would better support Nations in the process of resuming jurisdiction over their child welfare.⁹¹

Conclusion

The next five to ten years will be a time of transformation for B.C. First Nations and Indigenous communities. The existing child welfare system – both in B.C., and across the country, will be in an ongoing state of change. Some First Nations are already in various stages of negotiating tripartite Coordination Agreements to reclaim their inherent rights to jurisdiction over their own children – but some will not. This process will unfold over time and be defined by changing dynamics. Government agencies will be compelled to release power they formerly held exclusively.

As Indigenous governing bodies begin to reclaim their inherent rights to care for their children and communities, MCFD appears to have been prompted to undertake its own reflective journey of transformation. The coming years will involve considerable change. The ministry's recent public messaging about transformation reflects an awareness and responsiveness to the shifting landscape of child welfare ideology.⁹² Placing increased value on prevention and family/community supports appears to be a component of the ministry's transformation plan. Such broad conceptual changes require adequate and sustained financial support to become reality. The old funding models do not align with these new approaches to provision of child welfare, as they are based on prioritizing protection rather than investing in prevention. When funding reflects long-term, stable and predictable investments in prevention-related services, and when those who provide child care services receive funding in a format that embodies the principles of substantive equality and needs-based funding models, then – and only then – will the transformation be complete.

When asked about the Agreements in Principle, Indigenous Services Canada Minister Patty Hajdu expressed: *"I hope this is a lesson that the federal government will not have to learn again and that we will continue to focus on equity and funding and continue to focus on systems that don't discriminate so that we don't find ourselves in this situation again."*⁹³ This is a moment in time when the provincial government has an opportunity to alter direction and make positive change. Systemic changes that would support Indigenous governing bodies in their journey towards resuming child welfare jurisdiction and changing to a needs-based funding model that does not leave anyone out – regardless of residence or *Indian Act* Status – is necessary. Ideally, the provincial and federal governments would harmonize

⁹¹ As of January 2022, ISC has received from B.C. FNs two Notices of Intention to exercise legislative authority (Subsection 20.1 of the Act); and five requests to enter into a coordination agreement (Subsection 20.2 of the Act) <https://www.sac-isc.gc.ca/eng/1608565826510/1608565862367#wb-auto-4>; see also <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/supporting-communities/child-family-development/partnership-and-indigenous-engagement#:~:text=Coordination%20Agreements,to%20child%20and%20family%20services>.

⁹² <https://www2.gov.bc.ca/gov/content/family-social-supports/data-monitoring-quality-assurance/reporting-monitoring/mcfd-transformation>

⁹³ SC Minister Patty Hadju in conversation with Matt Galloway (CBC Interview: Jan 6, 2022) [Implementation will be key to First Nation child welfare agreement, says advocate | CBC Radio](#)

their respective funding approaches according to the needs-based performance management approach Indigenous Services Canada has adopted in response to the Canadian Human Rights Tribunal rulings.

MCFD's declared commitments to reconciliation with Indigenous peoples foretell major structural and systemic change on the horizon. The Institute of Fiscal Studies and Democracy report clearly demonstrates significant deficits within MCFD's fiscal management practices and its inability to adequately disaggregate data. MCFD needs to be more accountable both for the money it is entrusted with, and the way the ministry stewards data about different client groups. It is now time to implement changes to the very structure of the fiscal system so that it reflects the shared agreement that *every child matters*.

DRAFT Recommendations – Wording details to come...

Recommendation #1 – funding models

a) province of BC adopt Canadian Human Rights Tribunal principles of funding

(Needs-based, substantive equality, prioritize prevention services)

b) negotiate a clearer transfer of funding from ISC, special consideration of First Nations not affiliated to an ICFS Agency (and off-reserve First Nations)

Recommendation #2 – data stewardship

a) Fiscal Governance – MCFD needs to update its fiscal management tools, line up public funds to spending objectives.

b) Data Stewardship – Grandmother Principle: understand the needs of populations to achieve equity. Disaggregation of data as a tool for social justice. (*Anti Discrimination Data Act*)

RCY – IFSD Fiscal Mapping Report - DRAFT Recommendations

(Confidential – not for distribution)

The child welfare landscape in Canada has undergone seismic shifts in recent years, and this will continue to be the case for some time to come. In a historic ruling in January 2016, the Canadian Human Rights Tribunal (CHRT) found that the federal government's approach to child welfare for First Nations children on-reserve was flawed and discriminatory. In its ruling, the Tribunal said that the federal government's attempts to improve services by focusing only on funding was not enough to correct the huge imbalances and injustices. Rather, it would be vital for the federal government to understand the distinct needs and circumstances of the First Nations children and families it has served in order to ensure and achieve substantive equality.¹ The B.C. government needs to do so as well.

The CHRT ruling led to a drastic change in the way child welfare services on-reserve are funded such that actual costs, including costs for preventative services, are now covered based on a needs-based budget, leading to tangible and fundamental improvements in services on reserve for First Nations children connected to a Delegated Agency. First Nations, Métis, Inuit and Urban Indigenous children living off reserve, and First Nations children belonging to the 84 First Nations who are unaffiliated with a Delegated Agency fell behind in services and support when the CHRT money started to flow. In addition, for those 84 unaffiliated Nations, funding from the federal government is transmitted through MCFD, and the ministry is unable to say how much of it actually reaches the First Nations.

As of April 1, 2022, when funding from the Agreements in Principle related to the Canadian Human Rights Tribunal begins to flow, improvements for on-reserve children and families will expand even further. At the same time, however, First Nations, Métis, Inuit and Urban Indigenous children living off-reserve in B.C. will fall even further behind, as funding levels for services for them are not calculated using actual costs as the baseline.

There is a notable lack of disaggregation of data between First Nations, Métis, Inuit and Urban Indigenous peoples versus non-Indigenous children and families. In addition – and equally important – are considerations that are critical to understanding the reality of First Nations, Métis, Inuit and Urban Indigenous children and families due to colonialism and intergenerational trauma. The result of this data not being collected is that baseline knowledge of the unique circumstances of First Nations, Métis, Inuit and Urban Indigenous children and families does not exist within the ministry. There is, simultaneously, an inability to link funding allocations to outcomes. MCFD has acknowledged that its system does not readily allow for the mapping of expenditure by community or by First Nations, Métis, Inuit and Urban Indigenous versus non-Indigenous children and families.² And yet, as the Canadian Human Rights Tribunal ruled, it is vital for governments to have a thorough understanding of the needs of the populations they serve. Disaggregated race-based data should be carefully collected, in meaningful relationship with First Nations, Métis, Inuit and Urban Indigenous communities. Such data collection should also ensure that communities are the ones to define needs and outcomes, not

¹ First Nations Child and Family Caring Society, "Victory for First Nations Children: Canadian Human Rights Tribunal Finds Discrimination Against First Nations Children Living On-Reserve," (Ottawa, ON: First Nations Child and Family Caring Society), 2016.

<https://fncaringsociety.com/sites/default/files/Information%20Sheet%20re%20CHRT%20Decision.pdf>

² Letter from the Deputy Director of MCFD to the Deputy Representative RCY, Dec 16, 2021.

government. In delivering services without this data to First Nations, Métis, Inuit and Urban Indigenous children, youth and families off-reserve and in the 84 unaffiliated First Nations, MCFD is effectively operating with blinders on.

This is especially disconcerting since it all takes place against the backdrop of the B.C. government's formal commitment to adopt the *United Nations Declaration on the Rights of Indigenous Peoples*, public commitments to the Truth and Reconciliation Commission's *Calls to Action*, and the provincial government's own *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples*. MCFD is already underfunding prevention in child welfare services and also inadequately supporting service providers to deliver culturally oriented programs for First Nations, Métis, Inuit and Urban Indigenous communities. The previous (pre-Tribunal ruling) discriminatory funding practices of the federal government are, in some ways, still at play provincially. It is not unreasonable to wonder how the provincial government, that purports to be so committed to reconciliation, could, at the same time be underfunding First Nations, Métis, Inuit and Urban Indigenous child welfare services in relation to federal funding.

The principles and values at play here centre on rights, equity and ending discriminatory funding practices for First Nations, Métis, Inuit and Urban Indigenous children and youth – key hallmarks of reconciliation. The B.C. government, as well as the Minister of Children and Family Development, have repeatedly declared their commitment to reconciliation, which is part of what makes the findings of fiscal discrimination in the appended report, *Resource analysis in the provision of Indigenous and non-Indigenous child and family services in British Columbia*, so disappointing. Current funding structures in B.C. do not embody the principles of reconciliation. In fact, they do the opposite. This needs to change.

As was made so clear by the Canadian Human Rights Tribunal ruling, funding structures are critical to equity. Without structures and practices that are grounded in a needs-based approach, and that operate from the principle of substantive equity for all children, equality will be elusive and fiscal discrimination will continue. To ensure equity for all children, it is imperative that the provincial government, through MCFD, closely examine and revise its funding structures. Currently, the federal government model is superior to the provincial model. It is time for MCFD to duplicate those parts of the federal funding structures that are producing improved results for First Nations children, so that it can deliver equity in services to First Nations off-reserve, First Nations on-reserve but unaffiliated with an ICFS Agency, Métis, Inuit and Urban Indigenous or non-Status children and families. It is absolutely essential that no child be left behind. To this end, the following recommendations from the Representative represent a starting point for MCFD and the provincial government.

Recommendation #1 – Funding Models

- (A) That MCFD as lead ministry negotiate with the Province of B.C. to adopt the Canadian Human Rights Tribunal (CHRT) principles of funding and provide appropriate financial resources that allow for revised funding models that are needs-based, provide for substantive equality for all children and prioritize prevention services.

New Canadian Human Rights Tribunal ruling-based funding model to be negotiated by April 1, 2023 and fully implemented by Dec. 31, 2023

- (B) As part of such revision, and in relation to the 84 First Nations that are unaffiliated with an ICFS Agency, MCFD led by rights holder of the 84 unaffiliated First Nations, to negotiate a clearer transfer of funding from Indigenous Services Canada, inclusive of any funds associated with the CHRT or Agreements in Principle (AIP), with the goal of making transparent the flow of funding from Indigenous Services Canada through MCFD to First Nations.

More transparent transfer of funding from Indigenous Services Canada through MCFD to the 84 unaffiliated First Nations to be complete by September 30, 2022.

Recommendation #2 – Fiscal Governance

That MCFD update its fiscal management tools and reporting practices in order to align public funds allocated to First Nations, Métis, Inuit and Urban Indigenous child welfare to stated spending objectives and declared government and ministry priorities as stated in the Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples. 4.3 states "putting in to place effective mechanisms to support the transition away from colonial systems of administration and governance."

MCFD to update its fiscal tools and reporting practices by April 1, 2023.

Recommendation #3 – Data Stewardship

That MCFD lead the incorporation of the Grandmother Principle, as described in the Office of the Human Rights Commissioner's 2020 report on disaggregated data collection, in order to collect disaggregated race-based data to understand the diverse and greater needs of the First Nations, Métis, Inuit and Urban Indigenous populations it serves and their differing points of departure.³ The purpose of such data collection, which should align with forthcoming provincial anti-racism data legislation, is to reduce and ultimately eliminate fiscal discrimination against First Nations, Métis, Inuit and Urban Indigenous children, youth and families, and achieve equity in funding and services for them. Such data collection should be done with the meaningful and respectful involvement of the communities affected.

MCFD to begin collecting disaggregated race-based data by December 31, 2022.

³ British Columbia Office of the Human Rights Commissioner, *Disaggregated Demographic Data Collection in British Columbia: The Grandmother Perspective* (Vancouver, B.C.: Office of the Human Rights Commissioner), 2020. https://bchumanrights.ca/wp-content/uploads/BCOHRC_Sept2020_Disaggregated-Data-Report_FINAL.pdf



Resource analysis in the provision of Indigenous and non- Indigenous child and family services in British Columbia

Report submitted to the Office of
the Representative for Children
and Youth

Institute of Fiscal Studies and
Democracy

November 22, 2021

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**MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE**

DATE: March 24, 2022
CLIFF#: 268765

DATE OF PREVIOUS NOTE (if applicable): January 6, 2022
PREVIOUS CLIFF # (if applicable): 266446

PREPARED FOR: Honourable Mitzi Dean, Minister of Children and Family Development

ISSUE: Social Work Oversight Engagement – March 2022 Update

BACKGROUND:

In March 2021, the Minister of Children and Family Development (Minister) directed Ministry of Children and Family Development (MCFD) staff to launch an engagement on social work oversight in BC (see Cliff # 257419). In preparation for that engagement, MCFD staff held initial conversations with internal and external partners to discuss engagement scope and approach.

On January 11, 2022, MCFD staff briefed the Minister on the proposed engagement plan and materials. During that meeting, the Minister verbally approved the draft materials (see Cliff # 266446) with changes as directed.

Since January, staff have moved forward with the approved engagement plan, including:

1. Holding additional conversations with key partners and committees (e.g., Children's Forum, MCFD Portfolio Board, cross-government partners, regional health authorities).
2. Launching a public engagement [website](#);
3. Distributing session invitations to internal and external partners(Attachment A).

Engagement with Indigenous Peoples

On March 1, 2022, MCFD sent a bulletin to Indigenous partners and communities (including First Nations, Métis and Inuit groups). This bulletin included a request for participation in upcoming engagements, including the engagement on social work oversight.

This bulletin was sent further to Minister Dean's [introductory letter and newsletter](#), sent February 10, 2022. The bulletin is also part of MCFD's ministry-wide approach to coordinating engagements with Indigenous partners and communities. This coordinated approach will support consistency, clarity and transparency around engagements – while minimizing burden on communities.

Staff are following up directly with Indigenous partners (e.g., First Nations Leadership Council), Treaty First Nations, and Indigenous communities where established relationships exist, seeking participation in the social work oversight engagement.

DISCUSSION:

Engagement sessions with internal and external partners are scheduled to begin in early April 2022. This includes cross-government partners, MCFD service delivery and policy leadership, Indigenous partners, health service providers, social work educators and social services sector partners. Additionally, staff are working to schedule an engagement session with youth, via MCFD's Youth Advisory Council and the BC Federation of Youth in Care Networks.

Staff have prepared public-facing materials for the upcoming engagement sessions with internal and external partners. Government Communications and Public Engagement (GCPE) has reviewed and approved these materials:

1. Engagement session PowerPoint (Attachment B); and
2. Session information package, which we will provide to participants before each session (Attachment C).

Staff are also preparing a Feedback Form to distribute to participants at the end of each session in order to capture additional reflections on the materials and areas for continued improvement in the presentation.

Additionally, staff are seeking the Minister's guidance on providing cross-government engagement updates at the minister/parliamentary secretary level. In particular, the original briefing note refers to "joint minister briefings" and "discussions and updates with Parliamentary Secretaries for Anti-Racism Initiatives and Gender Equity".

NEXT STEPS:

- Engagement sessions with internal and external partners are scheduled to begin in early April 2022. To support these sessions, staff have prepared the attached public-facing engagement materials.
- Staff are seeking the Minister's guidance on how to approach cross-government engagement updates at the minister / parliamentary secretary level.

ATTACHMENTS:


- A. Invitation mailout and response tracking (high-level)
- B. Engagement session PowerPoint
- C. Engagement session information package

Contact	Alternate Contact	Prepared by:	Staff Consulted:
Assistant Deputy Minister: <i>Carolyn Kamper</i> <i>Strategic Integration,</i> <i>Policy and Legislation Div.</i> 778 698-8835	for content: <i>Sarah Gosman</i> <i>Policy, Legislation and</i> <i>Litigation Branch</i> 778 698-5049	<i>Quinn Macdonald</i> <i>Strategic Policy</i> <i>and Research</i> 236 478-3043	

Updated March 24, 2022

Social Work Oversight Engagement: Invitations and Responses

Partner Category	Invitations Sent (approximate)	Responses
Cross-government partners	7	6
Health service providers	9	12
Indigenous partners	6	1
MCFD policy leadership	20	12
MCFD service delivery leadership	16	10
Sector Partners	17	8
Social work educators	25	10
Treaty first nations	8	0

A black and white photograph of several maple leaves, some in sharp focus and others blurred in the background, creating a natural, textured backdrop.

Social Work Oversight Engagement

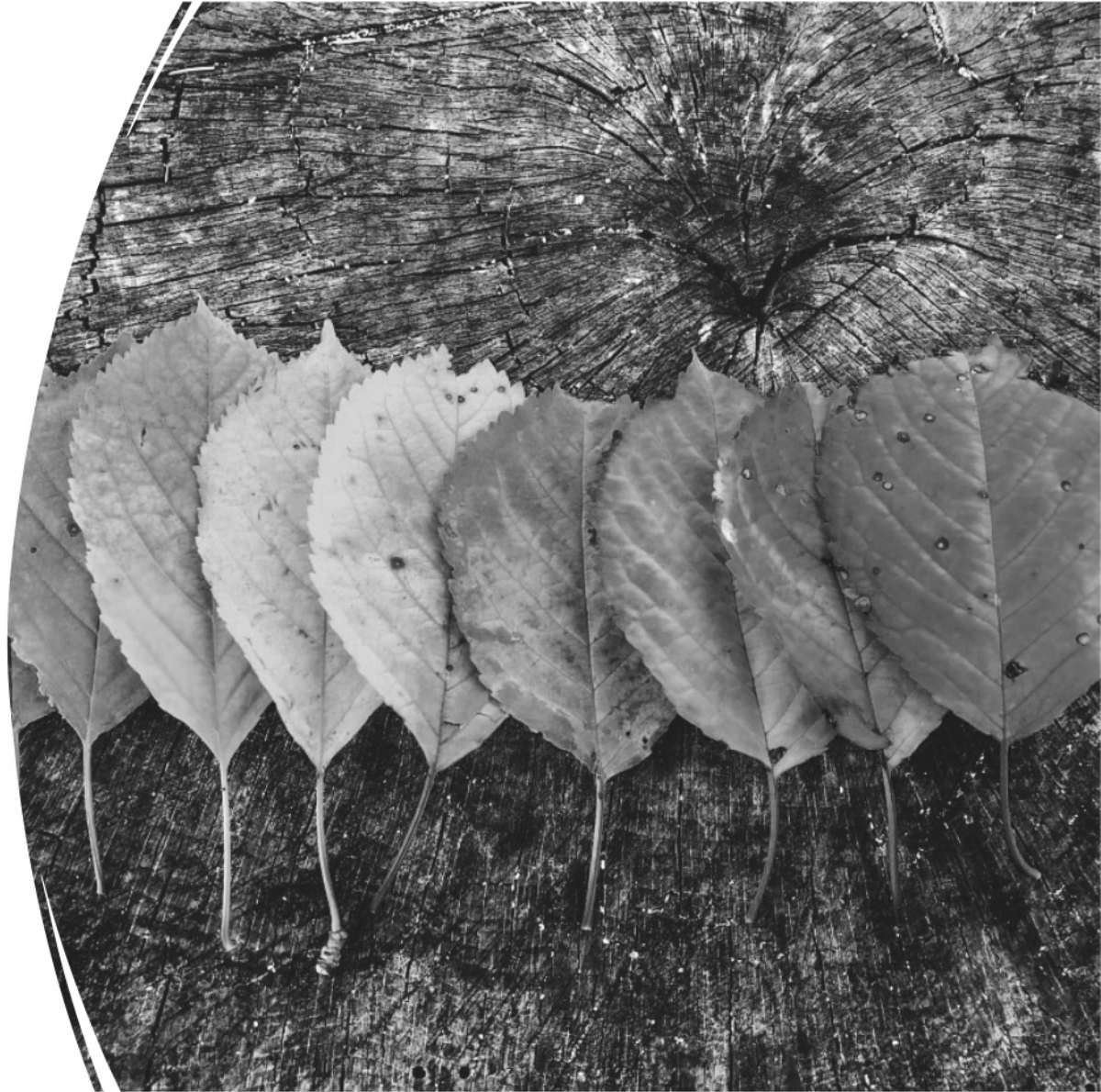
Strategic Policy & Research



Ministry of
Children and Family
Development

Agenda

1. Welcome and Session Opening
2. Overview of Social Work Oversight Engagement
-- Break (10 minutes) --
3. Assessing Current and Future States:
Full group discussion
-- Break (15 minutes) --
4. Themed Discussions
5. Next Steps
6. Session Close



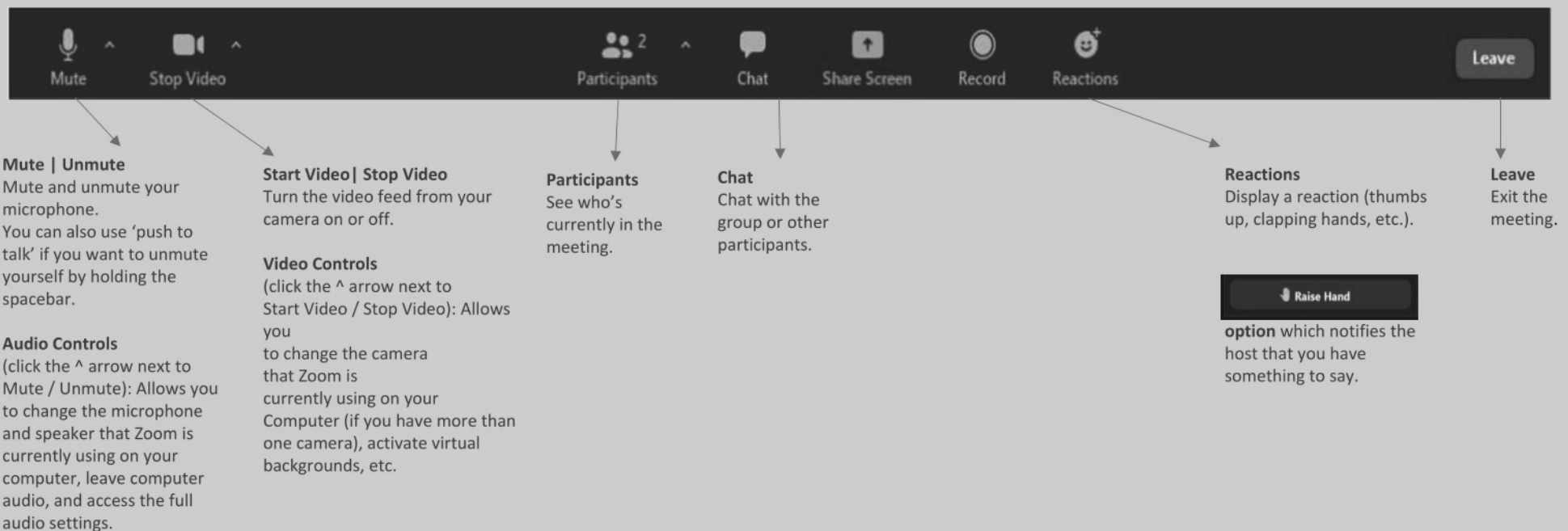


Session Guidelines

- Respectful and brave space
- Cameras on/off
- Mute yourself when not speaking
- Raising your virtual hand
- Breaks
- Bike rack

Social Work Oversight Engagement

Virtual Engagement Tips & Tricks



The Circle as a Restorative Process



Aboriginal Policy and Practice Framework (APPF)

Social Work Oversight Engagement

Introductions



- Name
- Where you are located
- Organization
- One reason you're here today



Engagement Approach

Iterative engagement

Engagement is evolving in response to learnings gathered throughout the engagement process

What We Heard Report



Session Roadmap and Goals

- Review the current state of social work oversight
- **Group exploration** – current and future states of social work oversight
 - What's working well?
 - What are the challenges?
 - Where are the opportunities for improvement and/or transformation?
- Discussion on key themes in social work oversight
- Sharing of information



Social Work Oversight Engagement Overview

In this section we will discuss:

1. Social work oversight in BC: current state
2. Engagement context
3. Discussion themes & topics

BC's Social Work Oversight Framework

Social Workers Act & Regulation establishes the oversight framework

British Columbia College of Social Workers oversees the social work profession in BC





BC's Social Work Oversight Framework (cont'd)

Social workers in BC **must register with the College**, unless exempt under the Social Workers Regulation



Why are we engaging?

Drivers for Change:

1. MCFD mandate:
 - Social Worker Act and Regulation
 - Legislative requirements
 - Strategic policy priorities
2. Calls for reform
3. Health regulation modernizations
4. Develop understanding

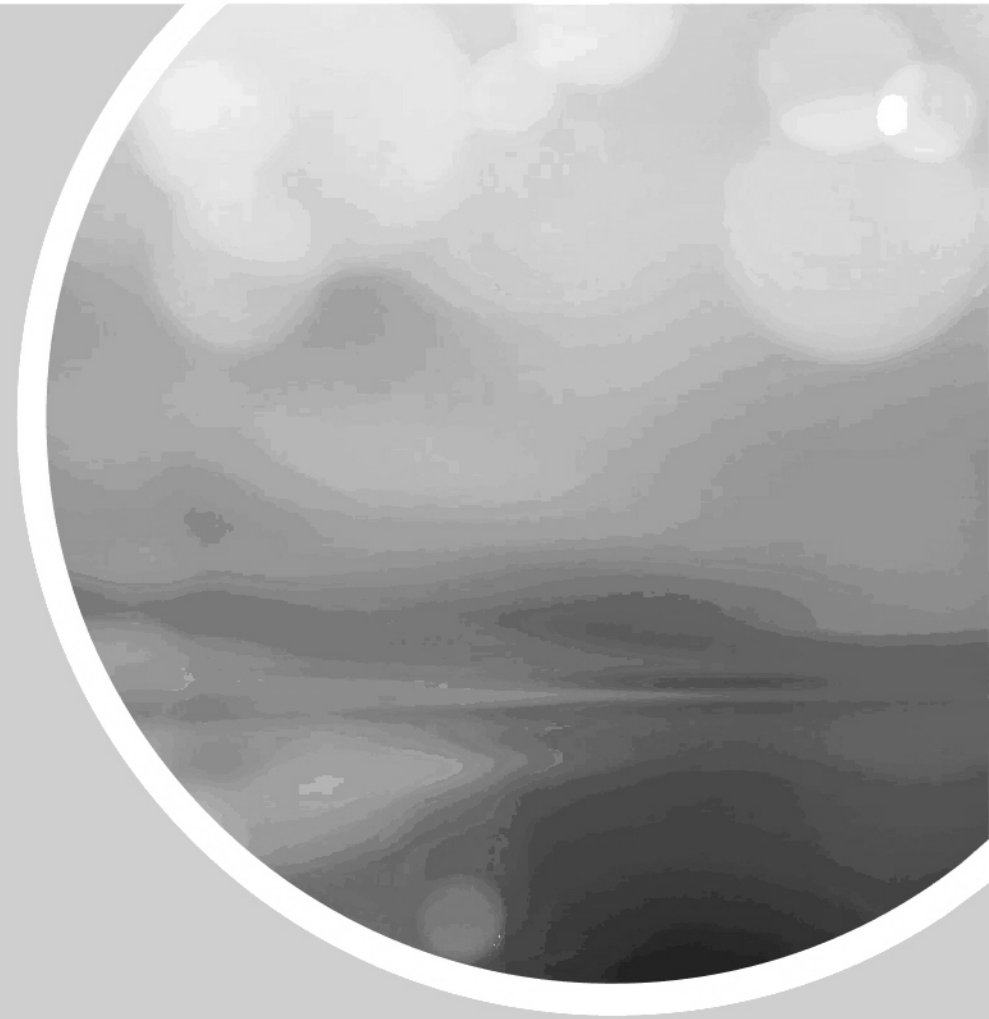
Engaging with Indigenous Peoples


Government-to-government engagement

Equity, inclusion, anti-racism, and reconciliation

Early, consistent and transparent engagement

Developing meaningful relationships, trust and mutual understanding



A black and white photograph of several maple leaves. The leaves are in sharp focus in the foreground, showing their characteristic lobed shape and vein structure. In the background, more leaves are visible but are out of focus, creating a bokeh effect. A large, semi-transparent white circle is overlaid on the right side of the image, containing the text "Wellness Break" and "10 minutes".

Wellness Break
10 minutes

Group Discussion: Assessing Current and Future States



Group Discussion

What is your experience with the current social work oversight model?



What is your experience with the current social work oversight model?

You are viewing Quinn Macdonald's screen

View Options ▾

Zoom Ratio Fit to Window ▸

Hide Video Panel

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Exit Full Screen

Side-by-side mode



Mouse

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Text



Draw



Stamp



Arrow



Eraser



Format



Undo



Redo



Clear



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Group Discussion

What is working well under
the current oversight model?

What is working well under the current oversight model?



Group Discussion

What would you change about the current model of social work oversight?

What would you change about the current model of social work oversight?



Group Discussion

What would the ideal oversight model look like to you?

What would the ideal oversight model look like to you?



Group Discussion

What else should we consider regarding social work oversight in BC?

What else should we consider regarding social work oversight in BC?




Key Discussion Themes

Five Engagement Themes:

1. Oversight and Governance
2. Equity, Inclusion, Anti-Racism and Reconciliation
3. Practice Requirements, Standards and Ethics
4. Recruitment, Retention and Service Delivery
5. Legal and Administrative Issues

The background is a dark, mottled grey with a rough, stone-like texture. Scattered across the right side and bottom are several dry, light-colored leaves and thin twigs. The leaves vary in shape, including some with serrated edges and others that are more oval. The twigs are thin and light brown, some with small buds or leaf scars.

Poll

A black and white photograph of several maple leaves. The leaves are in various stages of focus, with some in sharp foreground and others blurred in the background. A large, semi-transparent white circle is positioned on the right side of the image, partially overlapping the leaves. Inside this circle, the text "Wellness Break" and "15 minutes" is displayed in a clean, sans-serif font, with a horizontal line underneath "15 minutes".

Wellness Break
15 minutes
—

Campfire Discussions





Oversight and Governance

1. What is your experience with social work oversight and governance under the current model?
2. What's working well under the current oversight model?
3. What would you change about governance and oversight under the current model?
4. Keeping this theme in mind, what would the ideal oversight model look like to you?



Equity, Inclusion, Anti-Racism and Reconciliation

1. What is your experience with Equity, Inclusion, Anti-Racism and Reconciliation under the current social work oversight model?
2. What's working well in this regard under the current oversight model?
3. What would you change to ensure social work oversight is equitable, inclusive, anti-racist and encourages reconciliation?
4. Keeping this theme in mind, what would the ideal oversight model look like to you?



Practice Requirements, Standards and Ethics

1. What is your experience with the practice requirements, standards and ethics under the current social work oversight model?
2. What's working well in this regard under the current oversight model?
3. What would you change regarding the practice requirements, standards and ethics under the current model?
4. Keeping this theme in mind, what would the ideal oversight model look like to you?



Recruitment, Retention and Service Delivery

1. What is your experience in terms of recruitment, retention and service delivery under the current social work oversight model?
2. What's working well in this regard under the current oversight model?
3. What would you change in terms of recruitment, retention and service delivery under the current model?
4. Keeping this theme in mind, what would the ideal oversight model look like to you?



Legal and Administrative Considerations

1. What is your experience with the legislation that guides the current oversight model (SWA & SWR)?
2. What's working well in this regard under the current oversight model?
3. What would you change in terms of legal considerations?
4. Keeping this theme in mind, what would the ideal oversight model look like to you?



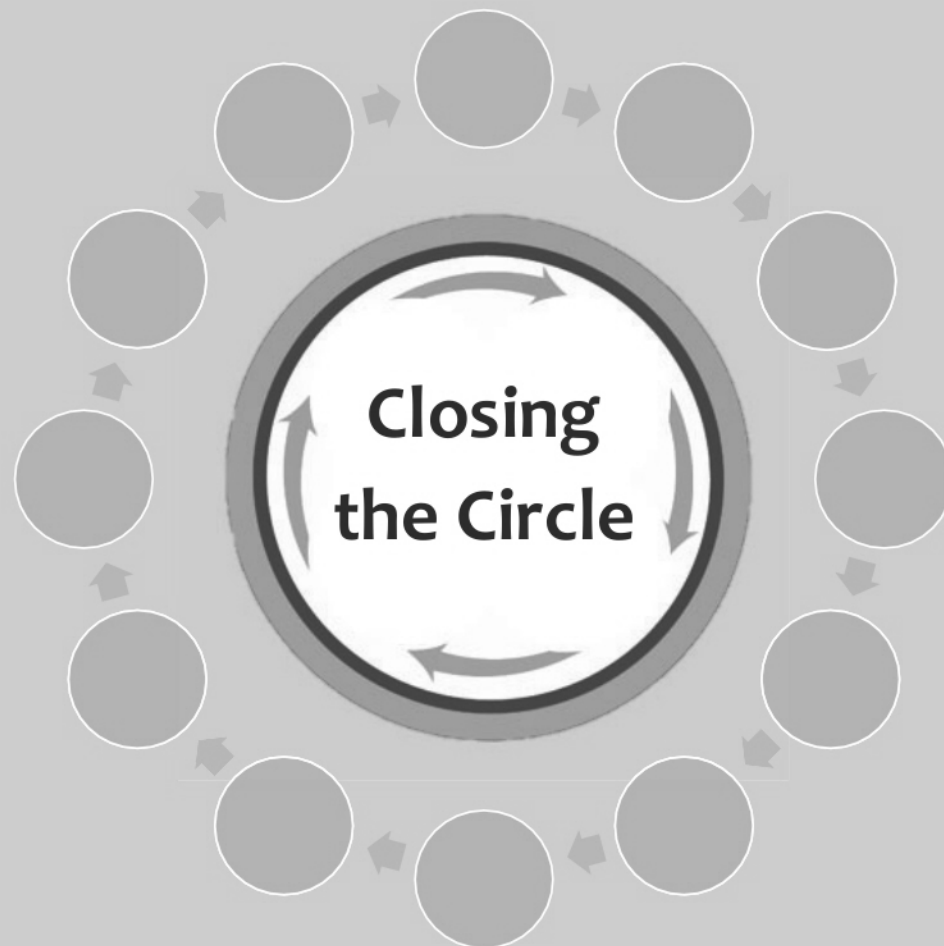
Social Work Oversight Engagement

Keeping the Circle Strong



Next Steps

Social Work Oversight Engagement





Ministry of
Children and Family
Development

Any further ideas or questions:

mcf.socialworkengagement@gov.bc.ca

Website:

<https://engage.gov.bc.ca/socialworkoversight/>



SOCIAL WORK OVERSIGHT ENGAGEMENT:

SESSION INFORMATION PACKAGE

SOCIAL WORK OVERSIGHT ENGAGEMENT: OVERVIEW

The Ministry of Children and Family Development (MCFD) is leading an engagement on the oversight of social workers in B.C. This engagement will explore the strengths, challenges and impacts of the current social work oversight model, as well as opportunities for change and transformation. It will allow MCFD to develop an understanding of the diverse range of needs, perspectives and opinions on social work oversight.

We hope to hear from as many people as possible. With that in mind, please feel free to share our engagement [website](#) with anyone you think may be interested in participating. Additionally, anyone interested in participating can sign up for engagement updates by emailing MCF.SocialWorkEngagement@gov.bc.ca

GROUP ENGAGEMENT SESSIONS

We are inviting internal and external partners to join facilitated ½ day engagement sessions. Sessions will include:

1. brief overview of the current social work oversight model;
2. broad discussion on the current and future states of social work oversight in B.C., including:
 - What is working well with the current model;
 - What the challenges are with the current model;
 - Where the opportunities are for change; and
3. focused discussions based on key themes (see below).

THEMES

Engagement sessions will leverage five key themes and guiding questions chosen based on extensive research and analysis on social work oversight. This includes consideration of past reports^[1], research into professional regulation best practices, and a jurisdictional scan of existing best practices.

1. Oversight and Governance
2. Equity, Inclusion, Anti-Racism and Reconciliation
3. Practice Requirements, Standards and Ethics (including complaints and discipline processes)
4. Recruitment, Retention and Service Delivery
5. Legal and Administrative Considerations

OVERSIGHT AND GOVERNANCE

This theme explores the strengths and challenges of oversight models. Health and social service professional regulation helps ensure professionals provide services safely in a way that benefits the public. To achieve this, professional regulators typically develop rules addressing:

1. Requirements for entry into practice, including training, education, and experience
2. Standards of practice
3. Ethics
4. Continuing professional development (CPD)

Additionally, regulators are tasked with monitoring and enforcing standards of conduct and ethics.

EQUITY, INCLUSION, ANTI-RACISM AND RECONCILIATION

This theme looks at how social work oversight intersects with equity, inclusion, anti-racism and reconciliation. It also looks at how the current and alternative oversight models impact the many diverse people who access social worker services throughout B.C.

Given the diverse range of environments social workers work in, it is crucial that social work regulation and practice be grounded in equitable, inclusive, culturally safe, anti-racist and trauma-informed approaches that proactively create safe spaces for all. Numerous reports^[1], highlight the need for social workers to understand how the legacy of colonialism and racism impact the relationship between social work professionals and Indigenous peoples, as well as other racialized communities and individuals. This includes actively working to address and eliminate colonialism, racism, and the denial of the rights of Indigenous Peoples.

PRACTICE REQUIREMENTS, STANDARDS AND ETHICS

This theme explores how regulation helps ensure practitioners maintain consistent practice and ethical standards, who sets those standards, and how they are maintained. Standards of practice, ethics and competencies provide a transparent set of expectations by which children, youth and families, practitioners, employers, and members of the public know what they can expect from a social worker.

RECRUITMENT, RETENTION AND SERVICE DELIVERY

This theme explores the strengths and challenges of the current oversight model on recruitment and retention of social workers in B.C.

Social work oversight impacts who can enter the social work profession, who can call themselves a social worker and, in certain jurisdictions, who can engage in certain activities. In B.C., the [Social Workers Act](#) (SWA) requires anyone using the title “social worker” register with the British Columbia College of Social Workers (College) unless they are exempt under the [Social Workers Regulation](#). Exemptions include those employed by provincial and federal governments; municipalities, regional districts and boards of education; First Nations; MCFD, Delegated Aboriginal Agencies (DAAs); and post secondary institutions.

LEGAL AND ADMINISTRATIVE CONSIDERATIONS

This theme explores any potential legal, legislative, and administrative implications associated with alternative oversight models (e.g. potential legal impacts of mandatory registration). Currently, the SWA creates the College and sets out the high-level regulatory framework for social worker oversight. The College operates under this framework. Specifically, the SWA sets out the College’s role and responsibilities and empowers the College to create bylaws to govern the social work profession. Certain bylaws require approval by the Minister of Children and Family Development.

^[1] For example: [Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions](#); Ministry of Health [Recommendations for Modernizing the Provincial Health Profession Regulatory Framework in B.C.](#); Mary Ellen Turpel-Lafond’s recent report [Addressing Racism: An independent investigation into Indigenous-specific discrimination in B.C. health care](#)

**MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE**

DATE: March 30, 2022

CLIFF #: 268892

PREPARED FOR: Honourable Mitzi Dean, Minister of Children and Family Development

ISSUE: Update on *Mental Health Act* Rights Advice Service Legislation

BACKGROUND:

The Ministry of Attorney General is proposing legislative amendments to the *Mental Health Act* to establish a rights advice service for patients who are involuntarily admitted to designated facilities under the *Mental Health Act*. These amendments are in line with recommendations from both the BC Ombudsperson and the Representative for Children and Youth.

The role of the rights advice service will be to explain rights and options available under the *Mental Health Act*, assist patients to exercise these rights, and refer patients to a lawyer or advocate if a court hearing or Mental Health Review Board hearing is requested. The rights advice service will be available to involuntary patients of all ages, including children and youth. This service will help meet constitutional obligations to protect Charter rights of individuals who are involuntarily detained.

The rights advice service will be implemented through a phased approach, with rights advice initially available upon request in the first year, and automatic notification of the rights advice service to be mandated at key points starting in the second year. The legislative amendments will give authority to make regulations mandating circumstances when the rights advice service must be notified. The specific circumstances of automatic notification will be set out in a future regulation that is planned to come into force for the second year of the service. Additional consultations will be conducted prior to implementing any regulations establishing automatic notification.

Broad engagements on the service model for the rights advice service were conducted from December of 2020 to June of 2021 and included: health authorities, facility operators (including staff from MCFD Youth Forensic Psychiatric Services), professional associations, Indigenous organizations, and people with lived experience in the involuntary mental health system. Nearly all responses viewed the rights advice service positively and as a much needed service.

There were concerns expressed from several Indigenous representatives that the project timelines necessary for a Spring session did not allow for meaningful engagement with Indigenous partners on legislative amendments.

DISCUSSION:

The Cabinet Committee on Social Initiatives (CCSI) reviewed and approved the recommend service model for the rights advice service on November 23rd, 2021, and the RFL to amend the *Mental Health Act* to establish the rights advice service on January 11, 2021.

The Request for Legislation was reviewed by Treasury Board Staff on November 24th, 2021. A Treasury Board date is expected early April.

The RFL does not contain any consequential amendments to MCFD legislation and does not appear to have direct implications on the *Child, Family and Community Service Act* or the *Federal Act Respecting First Nations, Inuit and Métis Children, Youth and Families*.

NEXT STEPS:

The Request for Legislation will be presented to the Legislative Review Committee on April 4, 2022, with an anticipated Spring introduction for the proposed amendments.

Contact	Alternate Contact	Prepared by:	Staff Consulted:
Assistant Deputy Minister: <i>Carolyn Kamper</i>	for content: <i>Sarah Gosman</i>	<i>Sarah Gosman</i>	<i>Emily Horton, MCFD</i> <i>Penny Lloyd, MCFD</i> <i>Shannon Gibson, AG</i>
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