

STATEMENT OF
NATIVE INDIAN
CONCERNS RE: CHILD
WELFARE SERVICES
IN
BRITISH COLUMBIA

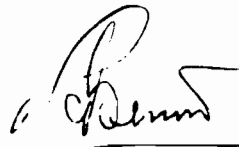
Compiled for
Department of Indian Affairs
and Northern Development
August 1980

INTRODUCTION

In attempting to address the many issues surrounding the provision and delivery system of Child Welfare services in the B.C. Region, the Regional Office, D.I.A.N.D., in consultation with the Social Policy Advisory Committee and selected District/Tribal Council representatives, facilitated the hiring of an Indian researcher for a five month period to consult with as many Indian organizations, groups and individuals as possible. The intent was to gain an understanding of the various concerns and issues regarding Child Welfare services which were felt within the Indian community.

This report represents the results of this consultation process. It reflects the concerns which Indian people have expressed regarding present services and includes recommendations for changes to existing program and services.

It is expected that this Report will serve as a working document for use in connection with a proposed study of Child Welfare services, and in consideration of changes which might be made to the design and delivery of Child Welfare programs and services to ensure they more adequately meet the needs and aspirations of Indian people.



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Regional Manager
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D.I.A.N.D.

August, 1980.

Acknowledgements

I would like to thank the staff of the Health and Social Development Portfolio of the UNION OF B.C. INDIAN CHIEFS for assisting in the gathering of the material and preparation of the report and for the resources they put at my disposal.

Fay Blaney
June 30, 1980.

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Background to the Study

Discussions regarding a "Child Welfare Study" in British Columbia have been underway since November, 1979.

The organizations that have participated in these discussions are the:

Union of B.C. Indian Chiefs
The Alliance
Native Brotherhood of B.C.
Native Sisterhood of B.C.
B.C. Native Women's Society
Indian Homemaker's Association of B.C.
Gitskan-Carrier Tribal Council
North Coast District Council
Prince George Lakes District Council

and: D.I.A.N.D. B.C.Regional Office,
Program Evaluation Branch, Ottawa.

At a meeting in January, 1980 with all of these organizations, a number of important points were agreed upon.

A) Politics among the organizations would be set aside so that a study could be carried out to the benefit of Indian children in B.C.

B) The Union of B.C. Indian Chiefs would be responsible for hiring a coordinator for a one month period. This would be done in consultation with the other organizations and with the understanding that the coordinator would be working for all the organizations.

C) The coordinator task over the next month is to contact as many concerned Indian organizations and individuals as possible to determine what they feel should be included in the terms of reference of the study.

D) When the coordinator has completed this task she will present a report to all the organizations. This report will serve as the basis for the study.

TERMS OF REFERENCE

COORDINATOR - CHILD WELFARE STUDY

- A) The coordinator will act under the supervision of the Health and Social Development Portfolio of the U.B.C.I.C.
- B) The main responsibility of the coordinator will be to compile a list of terms of reference for the Study by consultation with all interested parties.
- C) The consultation will be held with:
 - i. All Provincial Indian organizations
 - ii. All District Councils
 - iii. Any Band that is experiencing a high rate of child apprehension.
 - iv. Any Band that wishes involvement in the study.
 - v. Emphasis to be placed on consultation in the north and isolated areas of the Province.
- D) The coordinator will file a weekly progress report with the Coordinator of the Health and Social Development Portfolio.
- E) The coordinator will present the terms of reference in final form to the Child Welfare Study Committee.

January 28, 1980

TO: ALL PROVINCIAL ORGANIZATIONS PARTICIPATING
IN THE CHILD WELFARE STUDY

ALL DISTRICT COUNCILS
ALL BAND SOCIAL DEVELOPMENT WORKERS
ALL CHIEFS AND COUNCILLORS

RE: CHILD WELFARE STUDY

This letter is to introduce Fay Blaney who has been hired as coordinator for the Child Welfare Study for a one month period.

Although she will be working under the supervision of the Health and Social Development Portfolio of the Union of B.C. Indian Chiefs, she has been hired on behalf of all the organizations that are participating in the study.

Her task over the next month will be to gather your ideas on what the Child Welfare Study should be all about, and put them into a report for implementation by the study committee as the terms of reference.

She may be contacted at the Union of British Columbia Indian Chiefs office and is prepared to travel anywhere in the province to meet.

We hope that all those who have ideas on the Child Welfare Study will present them to Miss Fay Blaney.

Yours truly,

UNION OF B.C. INDIAN CHIEFS

Julie Newman, Coordinator
HEALTH & SOCIAL DEVELOPMENT

JN/ms

BANDS AND ORGANIZATIONS MET WITH

- Native Brotherhood - Jim White - January 29, 1980.
- Native Courtworkers - Wayne Bobb - January 31, 1980.
- Native Women's Society - Mildred Gottfriedson (President, February 5, 1980.
- Bonaparte Band - Elaine Herbert (Chairperson - Family Welfare Committee) February 5, 1980.
- Gitksan-Carrier Tribal Council - Joe Foster (Band Social Worker) Jack Wright, (Assistant Band Social Worker) February 7 & 12, 1980.
- North Coast District Council - Verne Jackson (Welfare Administrator for Kitkatla Band) Helen Clifton (Welfare Administrator and Councillor for Hartley Bay Band) Mair Stuart (Band Social Worker for Massett) February 13, 1980.
- Desolution Sound Tribal Council - Elsie Paul, Anne Gallagher (Band Social Workers) February 22, 1980.
- Osoyoos Band - Mrs. Bryson (Band Social Worker) February 26, 1980.
- Similkameen Band - Mrs. Terbasket (Band Social Worker) February 26, 1980.
- Cowichan Band - Fay Griffith (Band Social Worker) and two Financial Aide Workers, February 28, 1980.
- Coqualeetza Workshop - Representative from Coqualeetza Friendship Centre, Fish Lake Friendship Centre, Nicola Band, Bella Coola Band, February 6, 1980.
- Nuu-Chah-Nulth Tribal Council - George Watts (Band Manager for Sheshaht Band) February 6, 1980.
- Lakes District Council - Nick Prince (District Chairman) and representatives from other Bands of this District, March 7, 1980.

- Nicola Valley - Len Marchand (Band Manager) Erich Bruitkruz (Band Social Worker) Robert Sterling (Councillor and Education Researcher) March 10, 1980.
- Stoney Creek Band - Mabel Luggi (Band Social Worker and member of the Child Welfare Committee) Alice Wuttunee, Doris Thomas (Home School Coordinator) Sophie Thomas (District Vice President) Susan Prince (Community Health Representative and member of the Child Welfare Committee) March 13, 1980.
- Alkali Lake Band - Steven Belleau (Band Social Worker) Charlene Belleau (Tribal Council Administrator) March 17, 1980.
- Canim Lake Band - Charlotte Christopher (Band Social Worker) March 17, 1980.
- B.C. Native Women's Society - Mildred Gottfriedson (President) and representatives from Nicola Valley, Lillooet, Lytton, Bonaparte, Kamloops. Also present were representatives of the Native Courtworkers and the Ministry of Human Resources. April 12, 1980.
- Bella Coola Band - In attendance were their Band Social Worker, Community Health Representative, Public Health Nurse, Band Manager, Alcohol and Drug Councillor, Home-School Coordinator, and a Hereditary Chief Councillor. April 24, 1980.
- Lakes District Council - Alice Wuttunee (Welfare Administrator and Child Welfare Committee Member) Geoffrey Thomas (Chief of Stoney Creek Band) Minnie Thomas (Band Manager of Stoney Creek Band and Child Welfare Committee member) Sophie Thomas (Child Welfare Committee Elder Member) June Moise (Youthworker, Nescoslie) Nancy Tom (Child Care Worker, Tache) Benny Joseph (Welfare Administrator, Tache) Helen Antoine (Nescoslie) Susan Crookes (Nescoslie) Aileen Prince (Nescoslie) Violet Prince (Welfare Aide, Necoslie) Mary John (Elder, Stoney Creek) Ellen Stanley (Stoney Creek) Mabel Luggi (Band Social Worker, Vanderhoof) Cecile Ketlo (MHR Worker, Nautley, Alice Cabral (MHR Worker, Stellaquo) Michelle Demers (MHR Social Worker, Fort St. James) Anne Talbert (MHR Social Worker, Fort St. James) May 6, 1980.

- Mission Friendship Centre - Board of Directors Meeting May 13, 1980.
- Kootenay Indian Area Council - Sophie Pierre (Chief St. Mary's Band and Coordinator of Kootenay Indian Area Council), Mary Bazil (Councillor, Lower Kootenay) Xavier Eugene (Councillor, Shuswap Band and District Representative) Florence Alexander (Community Health Representative and Councillor for St. Mary's Band) Chris Luke (Chief Lower Kootenay) Dan Gravelle (Chief Tobacco Plains Band) Lola Nichlas (Columbia Lake) May 16, 1980.
- Alliance Conference - Glen Newman (Band Social Worker, Squamish Band and Child Welfare Committee member) Elsie Paul (Band Social Worker, Sliammon Band) Mitzi Baker (Squamish Band) Myrtle Point (Musqueam) Steven Kozey (Consultant, Squamish Band) and representatives from Westbank. May 22, 1980.
- Spallumcheen Band - Chief Wayne M. Christian and Band members. June 19, 20, 1980.
- Lower Post - Terri Brown (Band Manager) George Miller (President U.N.N. local) Joe Leah Hopkins (Community Development Worker) and other Band Members. May 23, 24, 1980.
- North Coast District Council and Gitksan-Carrier Tribal Council - Verne Jackson (Member of Child Welfare Committee for North Coast District Council, Joe Foster (Member of Child Welfare Committee for Gitksan-Carrier Tribal Council) and representatives from all Bands in these two tribal councils. June 25, 1980.

TERMS OF REFERENCE

1. We recommend that the child welfare committee examine the Legislative agreements between the federal and provincial governments in child welfare matters.
2. We recommend that the child welfare committee study all provincial child and family welfare services (ie. Superintendent of Child Welfare, Family Court, Children's Aid Society, Ministry of Human Resources).
3. We recommend that the child welfare committee investigate how well the statutory obligations of the federal and provincial governments are being fulfilled.
4. We recommend that the child welfare committee audit the financial arrangements between the federal and provincial governments for services to Indian children.
5. We recommend that child welfare committee examine the operational methods of the provincial social service tax and resolve why band members are paying for this tax but not receiving child care services for them.
6. We recommend that the child welfare committee investigate the reasons why MHR is misappropriating the Family Allowances of Native children in care.
7. We recommend that the child welfare committee examine the authority and responsibilities of MHR Social Workers with the following questions as guidelines:
 - (a) What is the decision making process for child apprehensions? Who makes these decisions and by which standards?
 - (b) What are the responsibilities of the MHR Social once a child has been apprehended and placed in a foster home? What are their responsibilities to the natural parents and the child? How do they monitor the foster home situation? Is their monitoring system effective.
8. We recommend that the child welfare committee examine the theoretical and actual procedures of child apprehension of the provincial agencies who administer these services to see if they are consistent.

9. We recommend that the child welfare committee review the existing Band Child Welfare Committees to see if their arrangements with MHR are adhered to, if these arrangements are easily broken and if so what are the reasons for this happening, and who is in authority to make this decision.
10. We recommend that the child welfare committee define the roles and responsibilities of the Band council, the Band members, and the MHR employees in matters of Indian child welfare.
11. We recommend that the child welfare committee review all past and present Indian child welfare cases.
12. We recommend that the child welfare committee review the Indian child apprehension rates with the intent to find out why they are higher than other children of non-Indian descent.
13. We recommend that the child welfare committee study the age groups in which the highest apprehension rates occur.
14. We recommend that the child welfare committee study the effects of apprehension of the education of the children.
15. We recommend that the child welfare committee examine the extent of involvement of Band council, before, during and after apprehensions.
16. We recommend that the child welfare committee study the degree of Indian participation in policy making and administration of Indian child welfare services.
18. We recommend that the child welfare committee investigate the number of family support workers at each band.
19. We recommend that the child welfare committee study whether the services being provided to Native Indian families take cultural differences into consideration when dealing with them.

20. We recommend that the child welfare committee probe into the possible remedies for the deprivation of cultural and emotional nourishment of Native Indian children who are placed in non-Indian homes.
21. We recommend that the child welfare committee compare Indian children who have been placed in non-Indian foster or adoptive homes or institutions to those Indian who have been placed in Indian homes to see if there is a difference between the overall development of the two groups.
22. We recommend that the child welfare committee investigate the non-Indian foster and adoptive homes to see if Indian children are being exposed to their cultural heritage. The committee should also investigate what the best means are of guaranteeing that Indian children in non-Indian foster or adoptive homes are raised with an awareness of their cultural heritage.
23. We recommend that the child welfare committee investigate whether non-status Indian children are treated any differently than status children before and during apprehension.
24. We recommend that the child welfare committee investigate the background of all Native children in care to determine what rights they have.
25. We recommend that the child welfare committee investigate whether Native children are informed of their status and given an option of maintaining it after they reach the age of majority.
26. We recommend that the child welfare committee investigate whether MHR is recruiting and utilizing Indian foster and adoptive homes on and off reserve within the Tribal grouping of the Native child in question.
27. We recommend that the child welfare committee investigate the number of Indian foster and adoptive homes and day care centres, both on and off reserve that are available to Indian children.
28. We recommend that the child welfare committee study the housing problem on reserve to determine to what degree it prevents Native families from fostering or adopting Native children.

29. We recommend that the child welfare committee study the feasibility of implementing subsidized adoption.
30. We recommend that the child welfare committee study the question of whether non-status children who are adopted by status parents should also have status.
31. We recommend that the child welfare committee study all adoption laws and procedures.
32. We recommend that the child welfare committee examine the procedures in informing the bands of the whereabouts of their children after apprehension and determine what the flaws are with the current system.
33. We recommend that the child welfare committee investigate how and if parents are being informed of their rights when their children are being apprehended.
34. We recommend that the child welfare committee study all preventative and rehabilitative services that are accessible to parents of children who are exposed to the risk of being apprehended, and examine all the strengths and weaknesses of these programs.
35. We recommend that the child welfare committee study the problem of what is being done for Native Indian families to correct the situation before their children are apprehended.
36. We recommend that the child welfare committee study the School of Social Work to see if they fulfill the training requirements for dealing with the cultural differences of Indian people.
37. We recommend that the child welfare committee review the possibilities of alternative training methods of educating Band Social Workers so that they may attain a R.S.W. or a B.S.W. degree.
38. We recommend that the child welfare committee study the CHILD IN THE HOME OF A RELATIVE (CIHR) program to determine whether it is a permanent foster home and if so whether it should be reverted to the provincial foster payment scale or rate.

39. We recommend that the child welfare committee study all the policies and procedures of the CIHR program.
40. We recommend that the child welfare committee study all problems encountered by the clients of the CIHR program.
41. We recommend that the child welfare committee investigate the types of services that are available to children and families on the CIHR program and why these services are not the same as those of the foster homes.
42. We recommend that the child welfare committee analyze the rigidity of the CIHR program to see if it doesn't hinder the original intent of helping those in need.
43. We recommend that the child welfare committee examine the effect and impact of the CIHR program on the traditional extended family system.
44. We recommend that the child welfare committee examine all aspects of the traditional extended family system.
45. We recommend that the child welfare committee study the philosophies and teachings of our elders so that Indian adoption laws and other traditional techniques in managing Indian child welfare may be made available to all Indian people.
46. We recommend that the child welfare committee study the effects of closing the Residential schools on the education of Indian children. Further, we recommend that the committee investigate the reasons why D.I.A. has not provided more funds for boarding homes to replace Residential school.
47. We recommend that the child welfare committee study the feasibility of transferring the responsibility of Indian child welfare from the provincial government back to the Bands.
48. We recommend that the child welfare committee study the feasibility of organizing and administering an on-reserve program in which parents are selected and housing is provided for foster homes, group homes and day care centres.

49. We recommend that the child welfare committee study the feasibility of forming a Native Children's Aid Society for the province of British Columbia.
50. We recommend that the child welfare committee investigate the problem of why MHR is discontinuing their provision of special services on reserves such as those on the Cowichan Reserve.
51. We recommend that the child welfare committee investigate the reason why the Family Resource centre of the Cowichan Reserve is being closed.
52. We recommend that the child welfare committee investigate the special problems of foster and adoptive parents in isolated areas.
53. We recommend that the child welfare committee study the success rate of Native families who are involved in court cases to get their children back, but are unable to pay for good legal counselling, and are forced to use the services of the Legal Aid Society.
54. We recommend that the child welfare committee assess the role of the volunteer worker in child welfare problems and determine whether or not these workers are properly utilized.
55. We recommend that the child welfare committee develop a strategy for the encouragement of volunteer child welfare workers on reserve.
56. We recommend that the child welfare committee investigate the problem of Canadian Native children being apprehended in the U.S.
57. We recommend that the child welfare committee study the problem of suicides amongst young Indian people.
58. The B.C. Native Women's Society recommends that the child welfare committee adopt their position paper as one of the major terms of reference. (Appendix VI)
59. We recommend that the child welfare committee take all children of Native descent into consideration when any aspect of the study is being dealt with because many Indian children rightfully possess status but are being deprived of it when they're apprehended.

RECOMMENDATIONS TO THE COMMITTEE FOR CONSIDERATION

1. The Bonaparte Band recommends that the child welfare committee hire a Native person with a Bachelor of Social Work degree to conduct the study.
2. We recommend that the child welfare committee place more priority on attempting to acquire the participation of the provincial agencies such as the MHR in the study.
3. We recommend that the child welfare committee determine how it intends to deal with existing and arising Indian child welfare problems while the study is being conducted.
4. We recommend that the child welfare committee notify the B.C. Association of Social Workers and ask their participation in the study.
5. We recommend that the child welfare committee approach the Native Courtworkers and request their assistance with certain stages of the study.
6. The Alliance recommends that the child welfare committee include the requested moritorium of the Native Brotherhood in the study.
7. We recommend that the child welfare committee work closely with existing Alcohol and Drug Abuse Programs when conducting the study since this forms a large part of the problem of child welfare.
8. The B.C. Native Women's Society recommends that the study be conducted over a five-year period and that progress reports be sent to the National Indian Brotherhood so that they may contribute where possible.
9. We recommend that the child welfare committee encourage and assist bands in forming Child Welfare Committees comprising of band council members, elders, Band Social Workers, Welfare Aids, Home-School Co-ordinators, former wards of the government, and any other interested band members.
10. We recommend that in examining present Indian child welfare cases, the rectifications be handled by Child Welfare Committees from each band.
11. We recommend that the child welfare committee lobby D.I.A. to fund Bands directly so that they may resume responsibility of their own child welfare concerns.

12. We recommend that the child welfare committee urge all Indian people to promote the restoration of the family unit by any possible means, such as counselling services, homemaker services, Alcohol and Drug Abuse Programs.
13. We recommend that in cases where Indian homes are not available, and only in these cases, non-Indian parents should be approved and supervised by bands concerned. These children's culture should be maintained through cultural events and any other means.
14. We recommend that more Family Support Workers, Child Care Workers, Financial Assistant Workers, and other trained personnel be provided for Bands, so that they may begin working in the area of prevention before problems occur.
15. We recommend that, as an immediate solution, Indian people attempt to establish Native advisors in positions with judges who make decisions about apprehensions and placement of Indian children.
16. We recommend that, as an immediate solution, bands form a liaison committee to correspond with non-Indian foster homes.
17. We recommend that band social workers be given the same authority as MHR Social Workers and that they be held no more liable for the consequences of their actions than MHR workers presently are.
18. We recommend that subsidized adoption be put into effect in cases where Indian families wish to adopt but are financially incapable of doing so.
19. We recommend that the child welfare committee consider the following suggestions about the education requirements of Social Workers.
 - (a) Since most Schools of Social Work programs are not oriented toward helping students to cope with Cultural difference of Native people, we recommend that a program similar to N.I.T.E.P. be put into effect for Indian Social Work Students.
 - (b) There are programs already in existence whereby Band Social Workers attend school for X number of days per month which would eventually lead to a B.S.W. degree. This should be introduced in other areas.

- (c) A concentrated, short-term program should be arranged for Band Social Workers so that they need only leave their work once before attaining a B.S.W. degree.
- (d) Workshops and seminars should be administered on a regular basis so that there is a constant exchange of ideas and growth in knowledge among Band Social Workers.

Appendix I

Fifth Report of the Royal Commission on
Family and Children's Law
Part II - The Status of Children Born to
Unmarried Parents
Summary of Recommendations
March 1975.

SUMMARY OF RECOMMENDATIONS ON

THE STATUS OF CHILDREN

1. Law reform should proceed on the basis of granting equal legal status to all children, whether or not their parents are married. (page 9)
2. Legislation should define presumptions of paternity which, by operation of law, would identify the father-child relationship for children whose fathers have not been ascertained. (page 14)
3. An administrative procedure under the auspices of the Director of Vital Statistics should be established for the formal registration of paternity. This acknowledgement would be proof of the father-child relationship for all legal purposes. Only a judicial finding based on fresh evidence could alter this acknowledgement. (page 17)
4. Informal acts of acknowledgement of paternity should have the status of prima facie evidence in an administrative or judicial proceeding to establish paternity. These acts would have no greater legal status unless they gave rise to a presumption of paternity. (page 18)
5. A single procedure in Provincial Court should be available to a mother, father or child who seeks a judgment of the child's paternity. The judgment would be binding on all future situations where paternity is an issue. (page 19)
6. Legislation should abolish the legal status of illegitimacy by a statement that relationships between every person and his parents shall be determined without anything depending upon whether or not his parents have been married. (page 21)
7. In all proceedings and directions relating to the establishment of a person's paternity, the best interests of the child should be the paramount consideration. (page 22)
8. The Legitimacy Act and the Children of Unmarried Parents Act should be repealed and replaced with new legislation on parental identification, rights and obligations. (page 24)
9. Court proceedings to obtain a declaration of paternity should be civil in nature. There should be no limitation period for commencement of such proceedings. (page 37)

10. The results of blood tests and anthropological examinations undertaken voluntarily should continue to be admissible in evidence in disputed paternity proceedings. (page 39)
11. Upon the application of any party to a civil proceeding where paternity is an issue, the court should have the power to direct that the parties to the action, the child and its mother submit to blood tests. (page 39)
12. No sample of blood should be taken from a person under a direction of the court unless that person consents to its being taken or, if he is incapable of consenting, unless consent is given in accordance with the following:
 - (i) A child aged 16 or over should be capable of giving a valid consent to giving a sample of blood unless, if of full age, he would not have the capacity to consent.
 - (ii) Where a child is under the age of 16 the consent of the person having care and control of him should be required.
 - (iii) If a person is mentally incapable of giving a valid consent it should be in order to take a blood sample from him if the person in whose care and control he is consents and the medical practitioner under whose care he is certifies that giving a sample will not be prejudicial to his proper care or treatment. (page 40)
13. Where a person refuses to comply with the court's direction the court should be entitled to draw whatever inferences it thinks appropriate from the refusal. (page 41)
14. The court should be entitled to draw whatever inferences it thinks appropriate from a refusal of consent by a child's guardian or representative, notwithstanding that the refusal was made in the child's best interests. (page 42)
15. Where a person applying for relief is relying on a presumption of paternity, if he refuses to comply with the court's direction to submit to a blood test the court should have power to adjourn or dismiss the application. (page 42)
16. Both exclusion and non-exclusion results in blood tests should be admissible in evidence. These results should be fully shown and explained in a certificate provided by the serologist responsible for the tests. The serologist should be available for examination and cross-examination upon the request of any party to the proceeding. (page 43)

17. Legislation should state that a donor of semen used in artificial insemination has no legally recognized relationship with a resulting child. An existing relationship between the parents who sought artificial insemination would not be affected, nor would their legal parent-child relationship. (page 44)
18. A man and woman who are married or living together and who consent to artificial insemination of the woman, should be the only legally recognized parents of the resultant child. (page 44)
19. When a paternity proceeding involves blood testing of a person who has consented to artificial insemination, evidence of that fact and evidence of the blood type of the donor should be heard in the privacy of a judge's chambers. (page 45)
20. In the consideration of evidence of paternity, including the rebuttal of presumptions of paternity, the "balance of probabilities" should be the standard of proof. The "reasonable doubt" standard should be expressly abolished. (page 46)
21. The requirement of corroboration of a mother's evidence in paternity proceedings should be abolished. The mother should continue to be a competent and compellable witness in all cases where she is available to testify. (page 46)
22. All evidence of registration of paternity contained in public records should be admissible in paternity proceedings. (page 47)
23. The rules for construction of wills should be changed to recognize the relationship between a father and his child born outside of marriage. Statutory construction rules and statutory definitions in the Administration Act, the Succession Duty Act, the Testator's Family Maintenance Act, and the Probate Fees Act should also be amended to recognize such a relationship. (page 49)
24. The Testator's Family Maintenance Act should be amended to permit claims by a man, woman, or child where they have been living together and have been maintained by the testator for a period of one year immediately preceding the making of the testator's will. (page 51)

25. A child born outside of marriage should be entitled to a share of his deceased mother's and father's estates equal to the share allotted to other issue in a similar position under the Administration Act. (page 52)
26. The discretionary share of the common law spouse under the Administration Act should be reviewed by the government at the same time that changes regarding the shares for children are considered. (page 52)
27. The Administration Act should be amended to permit inheritance from and through the father of a child born outside of marriage. The Act should allow recognized fathers to inherit from the child who dies intestate. (page 53)
28. No interest in property which has vested before the ascertainment of paternity should be affected by a subsequent finding of paternity. (page 54)
29. New legislation on the identification of paternity should not affect wills, deeds or other instruments executed before the coming into force of the new provisions or intestate deaths which occur before the coming into force of the new provisions. (page 55)
30. The onus to bring a claim in the distribution of a father's estate should rest on the child born outside of marriage. At the same time, trustees, executors and administrators should have a duty to make a reasonable inquiry into the existence of such children. Beyond that inquiry, these officials should be exempt from any personal liability. (page 56)
31. The duty on trustees, executors and administrators of a child's estate to search for the father should be limited to registrations and declarations of paternity. If no father is thereby determined, it should be presumed that the child was not survived by his father, unless the contrary is shown. (page 57)
32. The child maintenance obligations of the mother and the presumed, acknowledged, or decreed father of a child born outside of marriage should be set out in the Family Relations Act. (page 59)
33. The Family Relations Act should be amended to include:
(a) pre-natal expenses, and (b) the costs associated with birth or death of the child, among the considerations a judge must review in awarding maintenance for a child born outside of marriage. (page 60)

34. The Unified Family Court Act should be amended to allow a mother and a presumed, acknowledged, or decreed father to make agreements concerning maintenance, custody, and access for the child born outside of marriage. These agreements should be negotiated by family counsellors, reviewed by family advocates and filed in a Unified Family Court.
35. The variation and enforcement of maintenance agreements and orders for children born outside of marriage should become the responsibility of the staff and Judges of the Unified Family Court. (page 62)
36. The issue of maintenance for a child born outside of marriage should be decided in a hearing which is separate from, and subsequent to any proceeding for the identification of the child-parent relationship. (page 64)
37. The parental maintenance obligations contained in the Family Relations Act should be expressed as examples of a general definition of parent-child relationships. These definitions should be continued as a basis for child maintenance which is distinct from the legal identification of a father-child relationship.
38. The Family Relations Act should be amended to allow a spouse, as defined by section 15(e) of that Act, to receive maintenance for himself or herself until the child reaches age nineteen. (page 67)
39. In revised adoption legislation, all reference to legitimacy or illegitimacy should be repealed and replaced by terms which identify the known parent-child relationships. (page 68)
40. A father should have the right to consent or refuse consent to his child's adoption if:
 - (i) he is or has been married to the child's mother unless,
 - (a) he and the mother have been living separate and apart for 300 days prior to the birth of the child and there is evidence of non-access, or
 - (b) another man has been acknowledged or declared to be the child's father;
 - (ii) the father was living with the mother at the time of the child's birth, provided that the father's paternity has been formally acknowledged or judicially declared;
 - (iii) the father is living with and maintaining the child. (pages 70 and 71)

41. New legislation on adoption should give a right to notice and an opportunity to be heard in adoption proceedings to fathers who have shown "sufficient interest" in their child. Guidelines in the legislation should indicate examples of "sufficient interest." (page 73)
42. For the general purposes of new protection of children legislation, "parents" should be defined to include presumed, acknowledged, and declared fathers. (page 73)
43. New legislation on the protection of children should give a right to notice and an opportunity to be heard in all protection proceedings to fathers who have shown "sufficient interest" in their child. Guidelines in the legislation should indicate examples of "sufficient interest." (page 74)
44. New legislation on child custody, access, and guardianship should give a right to notice and an opportunity to be heard in all custody proceedings to fathers who have shown "sufficient interest" in their child. Guidelines in the legislation should indicate examples of "sufficient interest." (page 76)
45. New legislation on child custody, access and guardianship should place all fathers on an equal footing with other applicants. The "best interests of the child" should be made paramount in all such cases. (page 77)
46. In new guardianship legislation, an acknowledged or declared father should be entitled to apply for guardianship and to exercise the guardianship rights of a surviving parent. If he is living with the mother, the acknowledged or declared father should be a joint guardian of the child. (page 78)
47. The Change of Name Act should be amended to delete any references to legitimacy or legitimation. (page 78)
48. The Change of Name Act should be amended to permit an acknowledged or declared father who has sole custody of his child to apply to change the child's name without the consent of the mother. If the father and mother are living together, their joint consent to the change should be required. (page 79)
49. The Marriage Act should be amended to repeal all references to legitimation and illegitimacy. The Director of Vital Statistics should be able to automatically register the paternity of an acknowledged father in any marriage validated by the terms of sections 40, 42, 41A, or 42 of the Marriage Act. (page 80)

50. The definitions of "father" and "mother" in the Mental Health Act, 1964 should be repealed and replaced by definitions which recognize the unmarried mother and the presumed, acknowledged or declared father. (page 80)
51. The Interpretation Act should be amended to add the following rule of general application: Unless otherwise stated, in the interpretation of all statutes, the relationship between every person and his father and mother shall be determined irrespective of whether the father and mother are or have been married to each other, and all other relationships shall be determined accordingly.

This same rule should be established as a general rule of construction for all instruments executed after the coming into force of new legislation. (page 82)
52. The references to the "illegitimate child" in the Criminal Injuries Compensation Act and the Worker's Compensation Act should be repealed and replaced by definitions which recognize the relationship of the child to his mother and to a presumed, acknowledged or declared father. All benefits and family relationships which flow from the identification of the child-parent relationship should be determined according to these new definitions. (page 83)
53. The references to the "illegitimate child" in the Residence and Responsibility Act should be repealed and replaced by terms which recognize that a presumed, acknowledged, or declared father could have sole custody of his child. If the mother and father are living together, their joint legal residence should determine the child's residence. (page 84)
54. As a general rule, new legislation on the status of children should apply to all children and their parents retroactively. Final judgments or orders of a court and all instruments executed before the coming into force of new legislation should be governed by the law that would have applied to them if no new legislation had been passed. (page 86)
55. The Government of Canada should be urged to review and reform all federal laws which distinguish between the legitimate and illegitimate child. (page 88)
56. Should the government accept the recommendations of this Report, we further recommend that they urge the Uniformity Commissioners of Canada to draft uniform legislation on the basis of this Report. (page 92)

57. The new status of children legislation should be stated to apply to every person, whether born in British Columbia or not, and whether or not his father or mother has ever been domiciled in British Columbia. (page 94)
58. The Cabinet should be empowered to specify, by Order in Council, the extra-provincial declarations and formal acknowledgements of paternity that will be recognized by British Columbia courts. The courts should have the discretion to review these declarations and acknowledgements because they should be "prima facie evidence" of actual paternity. (page 95)

Appendix II

Fifth Report of the Royal Commission on
Family and Children's Law
Part III - Children's Rights
Summary of Recommendations
March 1975.

CHILDREN'S RIGHTS

SUMMARY OF RECOMMENDATIONS

1. New legislation should contain a statement of twelve rights of children which are universally applicable, practicable, and enforceable. (page 6)
2. The primary responsibility to meet children's rights should rest with the parents or guardian. A secondary responsibility should fall to the government, which should offer supportive services for children and respond to the requests of parents. If the government is the legal guardian of the child, it should have the full responsibility to fulfil the rights of the child. (page 10)
3. The primary legal remedy for the enforcement of children's rights should be the judicial declaration. This remedy should be available in the Provincial, County and Supreme Courts. (page 13)
4. Four of the enumerated rights of children are procedural rights which should be complied with as necessary elements of any legal or administrative decision concerning the custody, guardianship, or status of the child. Non-compliance should result in the decision being voidable or subject to judicial review. (page 17)
5. The Department of the Attorney-General should be responsible for keeping a digest of all judicial decisions concerning the rights of children. These decisions should be easily available to special interest groups and the general public. (page 19)
6. The government should refer to the appropriate department or agency a study of the "class action" and its applications to the rights of children. (page 19)
7. In children's rights cases, expert witnesses should include parents, members of the extended family, professionals, and all others who have special knowledge of the child's circumstances. (page 21)
8. The statement of children's rights in new legislation should be followed by an interpretation section which requires the cultural and ethnic background of the child and his family to be taken into account. (page 25)
9. If the use of panels sitting with a judge in protection cases is shown to be valuable, the procedure should also be made available to litigants who seek a declaration of children's rights in Provincial Court. (page 26)

Appendix III

Fifth Report of the Royal Commission on
Family and Children's Law
Part V - The Protection of Children
(Child Care)
Summary of Recommendations
March 1975.

THE PROTECTION OF CHILDREN (CHILD CARE)

SUMMARY OF RECOMMENDATIONS

1. The Protection of Children Act should be repealed and replaced by new legislative provisions in the proposed Family Law Reform Act, 1975. (page 3)
2. The proposed Statement of Children's Rights should be fully integrated with new protection of children legislation. (page 5)
3. The government and its child care agencies should be obligated by legislation to offer child care services to families who cannot meet the needs and rights of their children. This offer of services should be accompanied by legislative protections for the persons who are carrying out the services. (page 13)
4. Parents or guardians who are offered child care services on a voluntary basis should have the absolute right to refuse the services offered. (page 13)
5. New legislation should provide for custody by agreement between parents and the Superintendent of Child Welfare. The maximum period for custody by agreement should be fifteen months. (page 15)
6. New legislation should provide for the voluntary surrender of guardianship, without the necessity of a court appearance. This administrative process should be reviewable by a Provincial Court Judge within thirty days of the surrender. In the case of a temporary surrender, the parents should be able to terminate the guardianship after thirty days' notice, and they should be able to withhold their consent to adoption. (page 18)
7. New legislation should introduce the Child Care Conference as a voluntary means of resolving child care cases. The Conference should be chaired by a mediator who can assist the parties in reaching a child care agreement. The discussions in the Conference should be confidential and informally structure. (page 22)
8. Under new legislation designated child care workers should be empowered to take custody of a child in emergency circumstances for a single period of forty-eight hours. The workers should be guided by specific grounds for use of this short-term custody and they should be accountable to the Family Court. (page 25)
9. New legislation should contain a definition of "emotional neglect" as a basis for finding that a child is "in need of care." (page 27)

10. Cases of "emotional neglect" should only be brought into court by way of a summons, after all previous remedies have been exhausted. New legislation should also restrict the types of dispositions available to the court in these cases. (page 29)
11. The basis for apprehension of a child and for a judicial finding that a child is "in need of protection" should be re-written. The new grounds for apprehension should be characterized as "emergency" situations within one of these categories:
 - (1) parental responsibility for the child;
 - (2) child dangerous to self or family;
 - (3) breakdown of custody by agreement or child care agreement. (page 32)
12. The time sequences for temporary and permanent guardianship orders should be changed to reflect the child's sense of time. Children under five should receive special attention in this change of time sequences. (page 34)
13. Child care workers should be required to submit plans for the future of a child who is "in need of care" at three stages in court proceedings:
 - (1) oral presentation at the first appearance.
 - (2) written plan within thirty days of first appearance.
 - (3) written plan at the time any order of the court is renewed. (page 36)
14. The voluntary surrender of guardianship for a temporary period should be limited administratively to six-month periods. Each renewal of voluntary surrender should be checked by the proposed review boards. (page 38)
15. Supervision orders should continue to be limited to a maximum of twelve months. The parents should be able to seek a court review of the order after six months. (page 33)
16. Court orders for temporary guardianship of a child should be limited in duration and made subject to frequent reviews. The restrictions should be as follows:
 - (1) Children under five - initial order of three months, followed by two renewals of six months; maximum total - fifteen months.
 - (2) Children over five - initial order of six months, followed by renewals every six months; maximum period - twenty four months. (page 41)

17. Permanent guardianship orders in new legislation should have the effect of fully terminating parental rights. The permanent guardianship order should be subject to change for three months before it is made final. The family advocate should be required to participate in all proceedings for permanent guardianship. (page 44)
18. Subject to the changes made by the joint federal-provincial review of the Juvenile Delinquents Act, we recommend that committals to the care and custody of the Superintendent of Child Welfare pursuant to that Act should be reviewable. This can be accomplished by requiring the Superintendent, under new legislation, to return these cases to court for a review every twelve months. (page 46)
19. The age at which a child can be taken into care should be raised to eighteen in order to match the proposed age of majority. Where a young person has special needs that will continue into adulthood, the Superintendent of Child Welfare should be able to extend his guardianship for a transitional period. (page 47)
20. The selection of a disposition in a child care case under new legislation should always be based upon "the best interests of the child" test. (page 50)
21. A variety of supervision orders should be available under new legislation so that realistic conditions can be imposed upon the parents, the child, or the Superintendent of Child Welfare. (page 51)
22. The concept of guardianship in new child care legislation should be fully defined in order to clarify the rights and responsibilities of:
 - (1) the natural parents;
 - (2) the Superintendent of Child Welfare and his representatives; and
 - (3) the persons who have actual custody of the child taken into care. (page 53)
23. Under new legislation, it should be possible to join a custody application with protection proceedings to that a judge can make one of the following orders:
 - (1) that custody be granted to one parent exclusively; or
 - (2) that custody be granted to a relative or other suitable person. (page 54)
24. One possible disposition should be the referral of a case back to a Child Care Conference for mediation. This should be possible as a separate disposition or in conjunction with another disposition. (page 55)

25. One disposition resulting from a final order for permanent guardianship should be the option of shared guardianship between the Superintendent of Child Welfare and the permanent foster parents. In some cases, the Superintendent should be prepared to transfer sole guardianship to the foster parents. (page 57)
26. Unless there are exceptional circumstances, the Superintendent of Child Welfare should be required to place a child under a temporary guardianship order in accommodation located in the same region as the home of the child's custodial parents. (page 57)
27. Section 65 of the Protection of Children Act should be repealed and replaced by a section based upon a judicial finding of "irreconcilable differences between parent and child which cannot be resolved unless the court makes an order." (page 61)
28. A disposition following a finding of "irreconcilable differences" should not be confused with juvenile delinquency dispositions. New dispositions should broadly conform to those recommended for children "in need of care." Restricted powers of placement in a confined setting should be left with the court in these cases. (page 63)
29. For the purposes of new child care legislation, a "child" should be defined as including an unborn infant whose mother has elected to carry the child to the full term of her pregnancy. (page 66)
30. The child abuse reporting law, contained in the Protection of Children Amendment Act, 1974 should be transferred to new legislation. Two adjustments should be made:
 - (1) The reports could be made to the Superintendent of Child Welfare or his representative:
 - (2) The privilege between lawyer and client and between family counsellor and client should not be abrogated. (page 67)
31. When all child care agencies develop a capacity to respond quickly to child abuse situations, the reporting law should be more widely publicized. (page 68)
32. The Child Abuse Registry, currently maintained as an administrative procedure, should be given a legislative status which protects the confidentiality of the information on reported child abuse. (page 69)
33. The government should develop team approaches for the prevention and treatment of child abuse. In addition, the government should be prepared to finance and support volunteer community efforts aimed at the prevention of child abuse. (page 76)

34. External review of child welfare cases should be implemented through a review board. These boards should be constituted by a permanent chairman and two local community members, all of whom are independent of the child welfare system. The boards should have a limited jurisdiction in the kinds of cases they review, but they should have adequate powers to fully investigate those cases. (page 80)
35. If the function of ombudsperson is taken up by review boards, the Superintendent of Child Welfare should be clearly defined as an administrative officer. In this new position, termed the "Director of Child Care," he would have the chief responsibility for implementing the guardianship of "the Crown in right of the province." (page 81)
36. The Superintendent of Child Welfare should be assisted in the development of internal review procedures by complete and quickly accessible data on all child care cases. (page 82)
37. The immigrant children provisions of the Protection of Children Act should be repealed and replaced by new legislation which permits the Minister of Human Resources to enter agreements with the federal Ministry of Manpower and Immigration respecting the protection of immigrant children. (page 86)
38. All references to criminal procedure should be phased out of new child care legislation. (page 88)
39. The parents of a child who is in care under a temporary guardianship order should be able to apply for a variation or rescission of that order at any time prior to the expiration of the order. (page 89)
40. Appeals of child care decisions made in the Provincial Court should be direct appeals to the Supreme Court or the Court of Appeal. (page 90)
41. New legislation should contain provisions for the full recognition of extra-provincial child protection orders and documents. (page 90)
42. Interested fathers and persons from whom a child is apprehended should be included among those who are entitled to notice of child care proceedings. (page 91)
43. The notice of child care proceedings should include a notice of the Superintendent's intention to seek a particular disposition. (page 92)

44. Parents who are brought into court in child care proceedings should be entitled to legal counsel as a matter of right. Legal aid should be made readily available to those who cannot afford a lawyer. (page 94)
45. When existing orders are reviewed under new legislation, the judge should be able to rescind the order or make any new disposition available to him under new legislation. (page 95)
46. When existing temporary guardianship orders are brought to court for renewal, they should be made subject to the time sequences of new legislation. (page 96)
47. If existing permanent guardianship orders are to be converted into truly permanent orders under new legislation, this should be done only after a full hearing in the Provincial Court. (page 97)

Appendix IV

Tenth Report of the Royal
Commission on Family & Children Law

Native Families & the Law
Summary of Recommendations
May 1975.

SUMMARY OF RECOMMENDATIONS
ON
NATIVE FAMILIES AND THE LAW

1. An increased number of native consultants and line staff should be hired by the Department of Human Resources and the Vancouver Resources Board.
2. Orientation to the Indian culture should be included in all professional training. Similar orientation should be provided through in-service training for those already employed who are in contact with native people.
3. In protection proceedings involving children apprehended on a reserve, the band should be asked to suggest alternative placements for the child, if that is appropriate.
4. When native children have been apprehended it should be the duty of the Superintendent of Child Welfare to make certain that the parents have had independent legal advice, and, if they so wish, legal representation. Further, it should be the duty of the Superintendent of Child Welfare or his representative to report to the court that they have fulfilled these duties, before proceeding to hearing.
5. When native children are apprehended in urban areas, their band should be notified and given first option for planning. Social workers on the reserve and in Indian Friendship Centres should assist in trying to locate missing parents. Advertisements should be placed in native newspapers where they are more likely to be seen by native Indian families.
6. There should be receiving and group homes on reserves, staffed by native people, to offer protection to the child without severing the tie with the parent or the band.
7. Group home standards for staffing, accommodation and management should be designed in consultation with native people.
8. A manual outlining the requirements for setting up a group home on a reserve should be provided for the use of the Department of Human Resources staff and native applicants.
9. Native children requiring foster care should be placed in native foster homes wherever possible.

10. Native foster homes for native children should be developed. The Campbell River/Kamloops Child Placement Projects should be continued and similar projects established in other areas of B.C.
11. External review of child welfare cases should be implemented through a review board. These boards should be constituted by a permanent chairman and two members of the local Indian bands, all of whom are independent of the child welfare system. The boards should have a limited jurisdiction in the kinds of cases they review, but they should have adequate powers to fully investigate those cases.
12. The Department of Human Resources should notify Indian foster children of their band of origin, where this is requested. Similar consideration should be given to requests by relatives for information about children who have been removed.
13. Employment and training opportunities for native staff to be used in the recruitment of adoption homes should be expanded as quickly as possible.
14. The highest possible priority must be given to finding native adoption homes for native children.
15. Local research should be undertaken to consider the outcome of adoption placement across racial lines.
16. An "ethnic release" should be required of Indian parents who request a non-Indian adoption home for their child.
17. If a mother with Indian status wishes confidentiality and her newborn infant can be placed for adoption with status parents belong to another band, the mother's own band should not be advised of the birth.
18. Non-Indian adopting parents should be required by the Superintendent of Child Welfare to take part in an orientation course, prior to placement, to be designed by or in conjunction with native people.
19. Non-Indian parents adopting Indian children, whether status or non-status, should sign an agreement at the time of placement confirming their willingness to familiarize the child with his Indian heritage.
20. The Superintendent of Child Welfare should be required to convey to the Registrar in the Department of Indian Affairs all relevant information about the adoption of a status Indian child.

21. The Superintendent of Child Welfare should be required to notify the adopting parents of the fact that the child is a status Indian, and of his band membership.
22. The Superintendent of Child Welfare should be required to notify the child at age 21 of the fact that he or she is a status Indian.
23. Subsidies should be available as needed, both in adoption and guardianship proceedings, to enable native families, both status and non-status, to adopt children of native origin.
24. An Indian custom adoption should be recognized as a legal adoption under new adoption legislation.
25. An administrative procedure under the auspices of the Director of Vital Statistics should be established for the formal registration of custom adoptions. This registration would be conclusive proof of the custom adoption for all legal purposes. On a judicial finding based on fresh evidence could alter the validity of the custom adoption.
26. Provincial support should be given to Indian autonomy in the implementation and provision of a program of preventive and statutory social services to enable Indian people in fact as well as in law to enjoy the same level of services as any other citizen of the Province.
27. Social services on the reserve should be provided through a community resource board with broad representation, if this is the wish of the band.
28. Community Resource Boards across the Province should reflect the native population of the community either by direct representation or by invited consultation.
29. A group of community development workers (three native, two non-native) should be provided to assist bands which wish to set up their own community resource board on the reserve.
30. In-service seminars should be provided for employees of the local Indian bands, and for employees of the appropriate departments of the federal and provincial governments to facilitate communication among them and the coordination of services.
31. The B.C. School curriculum should provide recognition of the Indian culture, history and language.

32. Additional support and counselling services should be provided for native students whose education must be completed at centres away from their home.
33. Financial support for non-status Indian students attending educational centres away from their home should be provided by the provincial government.
34. Provincial school boards should reflect the Indian population of the community either by direct representation or by invited participation.
35. An extensive examination of the system of health care delivery to Indian people should be undertaken by the federal and provincial government departments involved.
36. The qualifications for some social work positions, as set out by the Public Service Commission, should be re-examined with a view to recognizing the importance of "Indian expertise", aptitude, and life experience, in lieu of academic education. In addition, there should be on-the-job training and opportunities for upgrading such that these reclassified positions can be part of the civil service career ladder.
37. There must be an adequately funded, continuing, accessible, variety of training opportunities to enable native social service workers to provide the best possible service to the native community--status and non-status, urban and rural.
38. Special preparatory programs should be developed to enable native persons to qualify for and successfully complete social work education programs.
39. Services offered to Indian people should emphasize grass-roots planning and a self-help approach.
40. Training and educational opportunities for native Indians in the field of law must be made available so that a network of legal services can be provided for native people.
41. Community Resource Boards and government departments should make every effort to improve their methods and channels of communication with native people.

Appendix V

Band Social Workers Conference
September, 1977.

WORKSHOP A - Gloria Joe, Leader

1. Our group felt the top priority should be that Natives become involved with the D.I.A. and the M.H.R. in regarding the policies relating to the Natives. These are the on-going policies and those for the future. We'd like to stress the important fact that the Natives must present a united front to work for their common benefits.
2. It was felt, there is a desperate need for an awareness program for non-natives, to encourage people working with the Natives to know and understand the philosophy of the Natives and to know about the culture and heritage of the bands they are working with and for.
3. No matter what ideas, we shared the subject always seemed to relate back to our concerns over child welfare, rates, placements, etc. Child welfare is so important as our children are our future.
4. Isolation appears to be a problem.
 - a) Communication amongst the bands themselves especially between the isolated bands was felt to be important, so there can be a sharing of ideas and solving of problems, e.g.: one band may have had a problem and satisfactorily worked out a solution, this information could and should be shared.
 - b) Isolated areas do not have social workers readily available, due to the fact of their isolation. Band welfare workers expressed they would like the authority to place children where and when the need arises.
 - c) The isolated areas expressed concern over the fact that in some areas the social workers transportation expenses had been cut back and can only visit every three or four months. They felt it is necessary and important that the social workers be able to visit the bands at least once a month.
 - d) Also the isolated areas would like to see the policy makers take into consideration that isolation presents different problems, due to the fact they are isolated.
5. There is a need for formal training and education of Native social workers so they can gain credits to receive their R.S.W. This training and education to be available in or near their own areas.

6. We also felt band staff, chief and councils need to work together to enterpret policies. Support from the bands needs to be there for group homes, foster homes, etc. on their own reserves.
7. There should be a Native Indian Resource person available in providing information relating to the Native Indian cultural environments within each district, to promote or to start as a beginning to better communication and involvement, this person should also be concerned and involved with the M.H.R. Staff Development sessions.
8. All felt there was no real problem concerning the law and the R.C.M.P., as far as co-operation is concerned. Just the fact again of the problem that isolation involves. It was brought out that some bands have had Natives take training so they are readily available to assist the R.C.M.P. on the reserves.
9. Great lack of communication - can't stress enough the need for more communication and education on and off the reserves.

Recorder - Jean Gross, Williams Lake, B.C.

Eight persons present - 1 Family Court Worker, Four Welfare Aid Workers, Two Band Clerks and 1 representative from B.C. Federation of Foster Parent Association - representing areas - Terrace, Vancouver, Burnaby, North Shore, Kleeneta, Powell River and Williams Lake.

Group Number 3 - Stephen Kozey Leader

Workshop A, D, & E Summary - Native Social
Work Conference September 21st - 23rd, 1977

1. Concern:

Poor working relationship between Band workers and D.I.A. and H.R. workers. As a result there is inconsistency in application of regulations and services to people in different Districts and or geographic areas.

Recommendation:

A regional committee (advisory body etc.) of Native Social Workers to work directly and closely with Regional D.I.A. and Prov. H.R. in regards to policy and program service delivery of these government Departments. Similar representation at District levels.

2. Concern:

Lack of Child Care Resources on Reserve. Also native social workers are providing the bulk of child care services without formal authority or recognition or resources, (ie, administrative and staff costs.)

Recommendation:

a. a survey (funded by D.I.A.) to determine extent of time spent by native Social Workers in providing Child care services.

b. That native Social Workers be the primary group providing child care services. This means expansion of D.I.A. Social Development Program to include Child Care Services and that the Province be involved only in providing specialized services where they are needed.

3. Concern:

Band Councils do not place much priority on Social Development as compared to other programs.

Recommendation:

That native social workers familiarize Band Councils with the Social Development Programs and the importance of the "developmental process" of their communities.

4. Concern:

Difficulty of placing children on the same reserve that they reside.

Recommendation:

That all B.C. reserves develop a child care Placement system based on exchanging placement of children among reserves.

5. Concern:

The desperate lack of help and resources available to rural and isolated Indian communities.

Recommendation:

That D.I.A. Social Assistance regulations, and that an association of native Social Workers stress the need to develop and/or change programs to suit the needs of isolated communities.

6. Concern:

D.I.A. "Child In Home of Relative" section forces and pressures Indian families to look after their relative children as their own without financial assistance from D.I.A. Social Assistance program.

Recommendation:

That all native children who are not residing with their parents and living with relatives be classified as foster children, requiring financial and other assistance on the same basis as foster children.

7. Concern:

H.R. will not give out information on Indian Children in care, to Band workers or Band Councils. These children are often deprived of rights and privileges which they may wish to exercise (which exist on their own reserves) eg. loss of revenue, identity, spiritual and heritage contact.

Recommendation:

All Bands should have right to have any information on their children who are in the care of H.R.

8. Concern:

A lack of guidelines for the Band Social Worker therefore this role is also unclear to local Band Councils. Also a lack of knowledge of available training for Band Social Workers.

Recommendation:

An association of Native Social Workers is required.

9. Concern:

Band workers can't afford to go to college or university.

Recommendation:

A subsidy program (subsidizing wages) for Band social workers, enabling more workers complete more formalized training. In addition a Province wide plan offering training leading to R.S.W. status should be implemented immediately and organized by an association of native Social Workers.

10. Concern:

Lack of services to native people in urban areas.

Recommendation:

D.I.A. responsibility for status Indians should not end as soon as people move off the reserve. D.I.A. should be playing a role in assisting the setting up of services for native people in urban areas.

11. Concern:

Colleges and universities should have awareness programs for non-native students built into their curriculum so that these new workers would have a better appreciation of native culture, lifestyle, etc.

Recommendation:

Native input in curriculum's of college and university social work programs. Hiring of experienced staff in this area, to teach at this level.

12. Concern:

Lack of native staff in H.R. programs.

Recommendation:

H.R. should have native staff, as well as native resource persons in each H.R. area.

13. Concern:

Difficulty of developing programs on reserves.

Recommendation:

A "needs survey" of every reserve or identifiable community (groups of reserves, - area council, or District etc.) should be done in order to determine the unique needs of each area. This survey should not be done by outsiders unfamiliar with native people, their lifestyles etc. There are sufficient resource people who could assist with such a survey. (ie, staff of Bands who have already developed extensive Social Development Programs).

In other words this involves basis planning, starting with a.) definition of needs, b.) identifying resources, and followed by a c.) place of action.

This was viewed as the most urgent recommendation because through this organized process, the people of these communities will learn

Group Number 3 - Stephen Kozey - Leader

Workshop B, & C, Summary - Native Social Work
Conference September 21 - 23, 1977.

Topic: Child Welfare Act

1. Concern:

No native input in revisions to child welfare Act being undertaken by Vic Belknap. eg. a native committee should be giving input in regards to the Berger Report's 41 recommendations and discussing how these can be implemented.

Recommendation:

That immediate action be taken to advise the Minister of Human Resources, and all M L A's etc. of our desire to have native representation (committee) to work with Vic Belknap on the revisions of the Act, as they apply to Indian children. Perhaps a resolution from the conference, as well as other means of lobbying should be undertaken immediately.

2. Concern:

Lack of Child Care resources on reserve. Also native social workers are providing the bulk of child care services without formal authority or recognition or resources (ie, administrative and staff costs.)

Recommendation:

- a.) A survey (funded by D.I.A.) to determine extent of time spent by native Social Workers in providing child care services.
- b.) That native social workers be the primary group providing child care services. This means expansion of D.I.A. Social Development Program to include Child Care Services and that the Province be involved only in providing specialized services where they are needed.

3. Concern:

Forty percent of children in care in B.C. are native, yet proportionately there is a lack of resources provided to native communities by H.R. Poor decision-making by H.R. workers in regards to apprehension and placement.

Recommendation:

Band Social Workers should have jurisdiction in providing Child Care Services on reserve and H.R should be involved only in special cases as in necessary in the opinion of Band Council workers.

4. Concern:

D.I.A. "Child In Home of Relative" section forces and pressures Indian families to look after their relative children as their own without financial assistance from the D.I.A. Social Assistance program.

Recommendation:

That all native children who are not residing with their parents and living with relatives be classified as foster children, requiring financial and other assistance on the same basis as foster children.

Questions to

NATIONAL HEALTH AND WELFARE

1. We recommend that there should be more adequate transportation facilities so health resource people can better serve Indian communities.
 2. We recommend that all people, whether they are on S.A. or not, be granted adequate medical coverage, including prosthesis, eyeglasses, dental, etc.
 3. How far advanced are you in the planning and implementation of drug and alcohol facilities for Youth?
 4. What is the future of the alcohol abuse program given that its three year operation phase is almost completed?
-

Questions to

M.H.R.

1. Who takes responsibility at the local level regarding which facilities mentally retarded and physically handicapped people will be referred to?

We would like to see appropriate facilities at the local level.

2. Where is funding coming from for these facilities?
3. M.H.R. is responsible for child care. Where are the funds and where are the services?

It is hereby recommended that M.H.R. fund a study to determine the actual services already provided at the band level.

4. How many of these handicapped people do you expect to employ when fully health people are unemployed?

How was the Committee set up? Who is responsible to review these applications?

5. We recommend that the band social workers assessment be built into the application process.
 6. We recommend that band social workers be involved in the screening of foster home placements where an Indian child is involved.
 7. We recommend that all B.S.W.'s be consulted before an Indian child is apprehended.
 8. We recommend that it be mandatory for all department staff to undergo cultural awareness training conducted by Indian people.
 9. It is recommended that bands be assisted in terms of support dollars so that band social workers could more appropriately carry out their tasks.
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Questions to D.I.A.

1. What is the intention of the C.I.H.R. review? Has the authority of the band social worker been frozen?
2. If it has been frozen, is that general policy? If it is not general policy, why has there been selective application of the freeze to some districts and not to others?
3. It is hereby recommended that all fostering or child care regarding Indian children be the responsibility of Indian people, through their elected councils and hired staff, and that such care recognize the Indian form of families, culture and attitude.
4. It is hereby recommended that an Indian committee be involved in the revision of the child welfare act now being carried out by the Min. of Human Resources.
5. What are the policy changes and recommendations that are being formulated at the provincial and federal levels of government regarding social services to Indian people?
6. Could funds be made available for legal fees regarding adoptions? Can you spell it out?
7. It is hereby recommended that operating band budgets should not be tied to S.A. budgets, as this implies that the harder we work to get people off welfare, the less our bands get in terms of operating budgets.
8. It is hereby recommended that the B.S.W.'s have the authority to determine the need for Homemaker services because they are most familiar with the total situation of the case. The alternative to the provision of Homemaker services could be hospitalization or other institutionalization which would be more costly and create unnecessary separation and isolation of the family unit.
9. How far along are the Ministers of Indian Affairs and Human Resources in their discussions regarding who will be responsible for particular services? Why has there been no local Indian input into this process? We demand that this be rectified immediately.
10. Do we or don't we have power and authority re programs? We would like some clarification.

11. We recommend that information about all services be made available to bands and that the interpretation of basic policies be applied uniformly throughout the Province. It is also recommended that a system of evaluation be established, including major Indian representation, to ensure consistency in the above.
12. We recommend that band councils be consulted before social services changes are implemented.
13. It is recommended that D.I.A. be responsible for the provision of all social services and preventative care services on reserve rather than other provincial or federal agencies. We are tired of being shunted between government bureaucracies while our peoples problems go unmet.
14. It is recommended that D.I.A. fund all future annual social service conferences as well as local district educational conferences.
15. It is hereby recommended that the authority of the band social worker be more clearly defined.
16. It is hereby recommended that D.I.A. personnel not be hired without extensive consultation with the local Indian bands involved.
17. We recommend a streamlining of administrative procedures, including a thorough housecleaning, because we never see the experts who are supposed to be determining our future, and when we do see them, we would rather they had never shown up.

Appendix VI

PROPOSAL FOR RECOMMENDED LEGISLATIVE ENACTMENT
WITH RESPECT TO RIGHTS FOR NATIVE INDIAN CHILDREN
AND PROTECTION OF NATIVE INDIAN CHILDREN
BY INDEPENDENT INDIAN BANDS

SUBMITTED BY THE BRITISH COLUMBIA NATIVE WOMEN'S SOCIETY
at the 12th Annual Conference of the British Columbia
Native Women's Society held October 13th, 14th, at the
Dome Motor Inn, 555 West Columbia Street, in the city
of Kamloops, Province of British Columbia.

PROTECTION OF INDIAN RIGHTS FOR INDIAN CHILDREN

The following RESOLUTIONS were proposed and recommended at the British Columbia Native Women's Society Conference, held at the City of Kamloops, British Columbia, on October 13th and 14th, 1979.

WHEREAS the General Assembly of the United Nations did on 9th, 1948, agree, and Canada being a party thereto as follows:

That genocide is a crime under the International Law, contrary to the spirit and aims of the United Nations and condemned by the civilized world, and that recognizes that in all periods of history genocide has inflicted great losses on humanity; and being convinced, that in order to liberate mankind from such an odious, scourge, International Co-operation is required, and that the parties agree as hereinafter provided.

(1) The contracting parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under International Law which they undertake to prevent and to punish.

(2) That in the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, national, ethnic, racial or religious group as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group, conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

WHEREAS the Indian Act allows laws of the province, ie. Adoption Act, Protection of Children Act, etc., to apply to Indians where Federal Law or Treaty rights have not been enacted. Such provision of the Indian Act is as follows:

"Section #88"

"Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that such laws make provision for any matter for which provision is made by or under this Act" R.S., c. 149, s. 87.

WHEREAS the Adoption Act of British Columbia regulate the adoption of Indian children and provides as follows:

"Section #10"

- (1) For all purposes an adopted child becomes upon adoption, the child of the adopting parent, and the adopting parent becomes the parent of the child, as if the child had been born to that parent in lawful wedlock.
- (2) For all purposes an adopted child ceases upon adoption to be the child of his existing parents (whether his natural parents or his adopting parents under a previous adoption), and the existing parents of the adopted child cease to be his parents.

- (3) The relationship to one another of all persons (whether the adopted person, the adopting parents, the natural parents, or any other persons) shall be determined in accordance with subsections (1) and (2).
- (4) Subsections (2) and (3) do not apply, for the purposes of the laws relating to incest and to the prohibited degrees of marriage, to remove any persons from a relationship in consanguinity which, but for this section, would have existed between them.
- (4a) The status, rights, privileges, disabilities, and limitations of an adopted Indian person acquired as an Indian under the Indian Act (Canada) or under any other Act or Law are not affected by this section.
- (5) This section is to be read subject to the provisions of any Act which distinguishes in anyway between persons related by adoption and persons not so related.
- (6) This section does not apply to the will of a testator dying before or to any other instrument made before the seventeenth day of April, 1920.
- (7) This section applies to adoptions made by the Court or by the Provincial Secretary under legislation heretofore in force.

- (5) For the purpose of this section, "child" includes a person of any age, whether married or unmarried.

WHEREAS by operation of the Protection Act of Children of British Columbia, many native Indian children are permanently committed to the care of the Superintendent of Child Welfare and in many instances inevitably put up for adoption which act is as follows:

"Section #7"

7. (1) The Superintendent and every person who is authorized in writing by the Superintendent, every constable or officer of the Provincial police or of any municipal police, and every Probation Officer, may apprehend, without warrant, and bring a Judge, as needing protection, any child apparently under the age of seventeen years who is within any of the following classes or descriptions:
- (a) Who is found begging in any street, house, or place of public resort, whether actually begging or under pretext of selling or offering anything for sale;
 - (b) Who is found sleeping at night in other than proper housing accommodation and without proper adult supervision;
 - (c) Who is found associating or dwelling with a thief, drunkard, or vagrant, or who, by reason of neglect or drunkenness or other vices of the parents or guardians, is suffered to grow up without salutary parental control and education, or in circumstances exposing such child to an idle or dissolute life;
 - (d) Who is found in any disorderly house, or in company of people reputed to be criminal, immoral, or disorderly;

- (e) Who is an orphan without adequate protection for his upbringing;
- (f) Who has been deserted by his parents;
- (g) Who is found guilty of petty crimes, and who is likely to develop criminal tendencies if not removed from his surroundings;
- (h) Who is found wandering about at late hours and not having any home or settled place or proper guardianship;
- (i) (Repealed. 1969, c. 27, s. 2.)
- (j) Whose only parent or whose parents are undergoing imprisonment;
- (k) Whose home by reason of neglect, cruelty, or depravity is an unfit place for the child, or who has no proper guardianship, or whose parent or parents are unfit, unable, or unwilling to care properly for him;
- (L) Who is subject to such blindness, deafness, feeble-mindedness, or physical disability as is likely to make him a charge upon the public, or who is exposed to infection from tuberculosis or from any venereal disease where proper precautions to prevent infection are not taken, or who is suffering from such a lack of medical or surgical care as is likely to interfere with its normal development;
- (m) Who, by reason of the action of his parents or otherwise, is habitually truant from school and is liable to grow up without proper education;

- (n) Who is neglected so as to be in a state of habitual vagrancy or mendicancy;
- (o) Who is ill-treated so as to be in peril in respect of life, health, or morality by continued personal injury, or by grave misconduct or habitual intemperance of the parents;
- (2a) Every person having information of the abandonment, desertion, physical ill treatment, or need for protection of a child shall report the information to a children's aid society or to the Superintendent of Child Welfare or his duly appointed representative;
- (b) Clause (a) applies notwithstanding that the information is confidential or privileged;

WHEREAS the B.C. Native Women's Society do greatly appreciate that many native Indian children have been adopted by non-Indian families and they do not intend to upset these families directly or indirectly notwithstanding such children may have lost their ancestral cultural identity.

WHEREAS the B.C. Native Women's Society believe that legislation should be enacted that would impose duties on Native Indian parents and Native Indian Band Governments, local or otherwise which would enable Native Indian children who have at least 25% Indian ancestry blood to be given the opportunity to develop within the background of his or her ancestral culture.

WHEREAS the B.C. Native Women's Society feels that it is incumbent upon them to pursue the rights of Native Indian children and guarantee and entrench their rights in legislation as the Native Indians Communities-continual existence depends upon the development of the complex

relationship between the local band, the family and the individual.

WHEREAS the B.C. Native Women's Society feels the present existing legislation that affects Native Indian children can be characterized as "Paternalistic" and none representative of Native Indian concerns and moreover reflects non-Indian adults concerns rather than interests of the Native Indian children.

WHEREAS the B.C. Native Women's Society feels that the Native Indian child should not be subjected to a lulling influence in atmosphere and left languishing because of the importance that early years have in indoctrinating culture, ideas, and language. The time is now to have new legislation which will protect the ancestral culture of Native Indian children.

WHEREAS the B.C. Native Women's Society feel that action is needed and legislation must be enacted in the Native Indian child protection field.

WHEREAS the B.C. Native Women's Society feels that there are the following basic rights of native Indian children required:

1. The right to be influenced by the special affection, love and understanding of parents with native cultural ancestral background.
2. The right to have sufficient nutrition and medical care.
3. The right to protection against all forms of neglect, cruelty and exploitation.
4. The right to free education and full opportunity for play and recreation.
5. The right to a name and the right to their culture and the right to a nationality.
6. The right to special care, if handicapped.
7. The right to be among the first to receive relief in times of disaster.
8. The right to learn to be a useful member of society and to develop individual abilities.

9. The right to be brought up in a spirit of peace and universal brotherhood.

WHEREAS the B.C. Native Women's Society feel that the effect of the Indian Act is to clothe those to whom it applies, with a certain status from which various rights arise, and that cultural independence was implicitly guaranteed. The affect of an adoption under the Adoption Act of British Columbia in the B.C. Native Women's Society view is to obliterate this status and culture.

WHEREAS the B.C. Native Women's Society also feel the Provincial Law of Adoption or in other words, Provincial Laws of application can not operate so as to be inconsistant with the Indian Act. The B.C. Native Women therefore feel that to the extent that the operation of the Adoption Act will affect the status and culture of an Indian child and so extinguish his or her peculiar rights as an Indian is inconsistant with the Indian Act and consequently the Adoption Act of British Columbia should not apply.

WHEREAS the Adoption Act of British Columbia alienates the Native Indian child from the culture in which his parents have been brought up, it should be made law that it does not apply to the Native Indian children.

WHEREAS the Adoption Act states that the rights of Native Indian children are protected but it must be emphasized that in fact such cultural rights are not guaranteed to the Native Indian child upon placement in the hands of the Superintendent of Child Welfare who is not a member of any Indian Band.

WHEREAS the B.C. Native Women feel that for Native Indian children there must be much more involved in the perscribed criterion that does presently exist under the Adoption Act of British Columbia in order to be eligible to adopt a Native Indian child.

WHEREAS the B.C. Native Women's Society feels that there is much more involved than providing the necessities of life, sustenance, clothing, shelter, food, and warmth, to the raising of a Native Indian child and that special care should be involved, to look after the child, to guide the child, to supervise the child, and even to go beyond that and to direct activities of the child which will not destroy the child and will not allow the child to be a menace to others.

WHEREAS the B.C. Native Women's Society have an interest in every Native Indian child in the community; for it is understood that what our Native Indian children become will be reflected in what the community is going to be. And what we do to our Native Indian children we are doing to the community and to ourselves. And that if we look after them and make opportunities available to them and give them the opportunity to take advantages of those opportunities, those Native Indian children will profit by what we can give them and in the long run we will be the gainer by what we have accorded to our children.

WHEREAS the B.C. Native Women's Society feels that what we can accord to our Native Indian child is a duty; what we are to prevent is equally a duty. When a Native Indian child does have a mental or emotional disturbance or whatever the case may be. It is a duty of the Native Indian Community through the instrumentalities set up by the community to do everything to prevent the acts which may be only temporary from becoming a permanent state of mind.

THEREFORE as most adoptions are handled through Childrens Aides Society or Human Resources or the Catholic Children Aid Society who place children in adoptive homes and no direct Native Indian participates in such procedure that Chiefs and Counsellors of members to a particular Indian Band who is giving a child up for adoption be granted the right to place such a child and to review applications of persons wanting to adopt such children and that the Indian ancestral factor be regarded as important in agency placements.

BE IT FURTHER THEREFORE RESOLVED THAT the Indian Act be amended to include the following:

a. THAT the present jurisdiction of the procedure of protection of native Indian children held by the Provincial Government of Canada be forthwith discontinued and that the Federal Government of Canada make legislation in the unoccupied field of the procedure and administration of the manner by which Native Indian children are to be protected provided that the Indian Band Councils of Canada so adopt and recommend such procedure of administering the manner by which Native Indian children are to be protected.

b. THAT Indian Band Councils and committee, selected by members of the Native Indian Band be given the jurisdiction of child protection of any of its members provided that such mother or parents so consent;

c. THAT where a member of an Indian Band places a child for adoption whether legitimate or illegitimate the Band Council of such member be given the adoption referral to review and to discuss same with the member, in full confidence, and to have established a central review agency located in the province of British Columbia made up of committees appointed by the Indian Bands and the province of British Columbia who would in turn review all applications requesting a Native Indian child for adoption and selecting Native Indian children for such applicant.

BE IT THEREFORE FURTHER RESOLVED that a committee be struck to investigate and to set up a procedure by which such committee for adopting Native Indian children can be implemented in the province of British Columbia and that such committee do within six months from the date hereof make recommendations as to the implementations of procedure for adopting Native Indian children in the province of British Columbia.

BE IT THEREFORE RESOLVED that the B.C. Natives Women's Society make application to the Department of Indian Affairs or other funding agencies to receive funding to pay for the review committee researching Native Rights for Native Indian Children.

DULY AUTHORIZED BY:

PRESIDENT Mildred Gottfriedson
Mildred Gottfriedson MC

1ST VICE Lorraine LeBourdais
Lorraine LeBourdais

2ND VICE Mr. Lulu for Alice Klassen
Alice Klassen

3RD VICE Barbara Wyss
Barbara Wyss

SECRETARY Winnifred M. Lulu
Winnifred Lulu

TREASURER Diane Morgan
Diane Morgan

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