

**Report on the 2010  
Review of the *Child and  
Family Services Act***



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## **MINISTER'S MESSAGE**

The *Child and Family Services Act* is a key piece of legislation that governs many of the province's programs and services for children and youth.

This legislation requires a review of the Act every five years, which helps to assess the evolving needs of children and youth, families, communities and service partners across Ontario. With the release of this document, I am pleased to report on the second of these reviews, which was carried out during 2009-2010.

This review was designed to gather points of view on potential changes to the Act, and its related regulations and policies, that would improve outcomes for children and youth, enhance the experience of clients accessing services, and modernize the legislation. For the first time, the review also examined how well children's aid societies are complying with specific provisions of the Act when providing services to Aboriginal children and youth.

I extend my sincere thanks to the hundreds of individuals and organizations across Ontario whose insights, experiences and expertise are reflected in this report. In particular I would like to express my appreciation for the families and young people who participated – your contributions were invaluable. I can assure you that these contributions will inform the work of the province as we continue to pursue the best possible outcomes for children and youth.

A key topic that emerged from the review was the importance of improving outcomes for Aboriginal children and youth, particularly those receiving child welfare services. Building on the work that I started last fall, I am committed to continuing conversations and strengthening partnerships with First Nations leadership, Aboriginal service provider agencies and Aboriginal communities, and to acting on recommendations made by review participants to improve outcomes for Aboriginal children and youth so that they have every opportunity to reach their full potential.

Sincerely,

***Original Signed By***

Laurel Broten  
Minister of Children and Youth Services

## INTRODUCTION

The 2010 review of the *Child and Family Services Act* (the CFSA or the Act) was formally launched on December 17, 2009, and was completed at the end of February 2010. The review included two components:

- A review of compliance by children’s aid societies (CASs) with the Indian and Native<sup>1</sup> provisions of the Act, conducted for the first time in 2010.
- A review of the CFSA guided by the ministry’s strategic framework and focused on how the legislation, its regulations and policies might be enhanced to better enable outcomes-based service delivery, support an improved service experience for young people, and modernize the Act.

Distinct processes were developed to support each of the two components of the review.

This report provides an overview of the 2010 review including the scope of each review component, the process for participation, and participants’ responses. The chart below summarizes topic areas most commonly discussed by participants.

During both review processes, participants made a variety of observations about the broader child and youth service sector which were beyond the formal scope of the review. These contributions provide a rich source of information and advice from a variety of valuable perspectives, and have been included in this report as “Additional Observations”.

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### ***Compliance with Indian and Native Provisions of the Act***

#### **1. Current Status of Compliance**

- Variation in compliance

#### **2. Factors Affecting Compliance**

- Children’s Aid Society Tools
- Customary Care
- Relationships, Leadership and Formal Protocols
- Children’s Aid Society Worker Training
- Provincial Leadership
- First Nations Financial and Human Resource Capacity
- Children’s Aid Society Resources

#### **3. Additional Observations**

- Jurisdiction for Aboriginal Child Welfare
  - Social, Prevention, Health and Justice Systems
  - Children’s Aid Society Designation Process
  - Definition of Indian/Native Person in the CFSA
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<sup>1</sup> Indian and Native are defined terms in the CFSA. Indian refers to persons who are registered status Indians or are eligible to be registered as status Indians under the *Indian Act*. Native persons are persons who are members of a Native community that has been designated as a Native community by the minister.

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## **General Review of the Child and Family Services Act**

### **1. Better Outcomes**

- Outcome-based Service Delivery
- Outcomes for Aboriginal Children and Youth
- Collaboration
- Prevention and Early Intervention
- Stability, Consistency and Strong Relationships
- School Success
- Transitions

### **2. Improved Service Experience**

- Residential Services
- Child and Youth Voice
- Complaints and Review Processes

### **3. Modernization**

- Administrative Burden
- Diversity
- Accessibility
- Legislative Alignment

### **4. Additional Observations**

- Funding Models and Financial Reporting
- Outside Paid Resources

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## **The Child and Family Services Act**

The CFSA is the legislation that provides the Minister of Children and Youth Services with authority for many of the programs and services funded or provided by the Ministry of Children and Youth Services including:

- Child welfare
- Youth justice
- Some aspects of child development and child treatment services
- Community support services
- Adoption within Ontario

The Act also provides for the licensing of children's residential services and the rights of children while in residential care.

Other child and youth services are not governed by the CFSA including: adoption outside of Ontario, child care, and early child development programs such as Healthy Babies Healthy Children.

The CFSA requires the Minister to review the Act every five years and to report the results of the review to the public. There are two sections in the Act that address the requirements for review:

- **Section 224** requires the Minister to periodically conduct a review of the Act or those provisions of it specified by the Minister; inform the public when a review begins and what provisions of the Act are included in the review; and prepare a written report respecting the review and make that report available to the public.

- **Section 226**, added to the Act in 2006, states that every review of the Act must include a review of provisions imposing obligations on children's aid societies when providing services to a person who is an Indian or Native person, or in respect of children who are Indian or Native persons, with a view to ensuring compliance by societies with those provisions.

## METHODOLOGY

### Compliance with Indian and Native Provisions of the Act

This review examined the compliance of CASs with the Indian and Native provisions of the CFSA using four discussion questions about the extent of compliance and factors that affect compliance. The review process was comprised of the following elements:

- **General and Sector-specific Notification:** Information on the scope of this review, and how to participate, was made available to the public on the ministry website. In addition, formal notification was distributed province-wide to CASs, Aboriginal stakeholders and First Nations leadership informing them of the review and how they could participate.
- **Regional Discussions:** Six regional discussions were held in four locations across the province. Invited organizations included Political Territorial Organizations (PTOs) and First Nations (through their PTO), Aboriginal service providers and CASs (both Aboriginal and non-Aboriginal). A total of 96 individuals took part in the full-day discussions, which were facilitated by external consultants. The days began with a traditional opening led by an Elder. Throughout the day, participants had opportunities to contribute through group discussions and written comment.
- **Written Submissions:** Members of the public were invited to send written submissions to the ministry. The ministry website and letters of invitation to regional discussions provided instructions for submitting written comments. This information was also provided at each regional discussion. Four written submissions were received as part of the section 226 review. In addition, submissions to the General Review that made comments regarding section 226 were analyzed for this report.
- **Case File Review:** In order to provide an objective analysis of compliance with the Indian and Native provisions, a ministry review of randomly selected case files was conducted at a sample of CASs from across the province. To obtain an adequate sample of relevant case files, 14 CASs were selected for the case file review. Of the 11 participating CASs, three were Aboriginal CASs. Selection of these CASs was based on an over-sampling of CASs with larger Aboriginal child and youth populations. A minimum of 27 children and youth with Indian status<sup>2</sup> was set as a requirement for a CAS to be included in the review. Reviewers responded to a series of standardized questions that were designed to measure various dimensions of compliance. A total of 319 files were reviewed.
- **Meeting with the Chiefs of Ontario:** At the request of the ministry, the Chiefs of Ontario (COO) identified First Nations leaders and technicians to meet with ministry staff to discuss the review. The group met with the ministry at the culmination of the review.
- **Capacity Funding:** To assist Aboriginal organizations and their members to participate in the review, the ministry made available grant funding of up to \$20,000 per approved applicant. Organizations eligible to apply for this funding included those that represent a group of First Nations or other Aboriginal communities, those that act as a professional

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<sup>2</sup> As determined by data from the 2007-08 Multi-Year Results Based Plan, reports to Indian and Northern Affairs Canada, and 2008 Crown Ward Review data.

or volunteer association comprised of Aboriginal service providers with responsibilities in child welfare, and those that advocate for Aboriginal child welfare clients. Nine organizations applied for and received funding.

## **General Review of the *Child and Family Services Act***

The General Review of the CFSA included the following components:

- **General and Sector-specific Notification:** Information on the scope of this review, and how to participate, was made available to the public on the ministry website. In addition, formal notification of the review was sent to over 1,000 transfer payment organizations, licensed providers and other stakeholders.
- **Written and Multimedia Submissions:** A discussion document for the General Review, which could be completed electronically and submitted to the ministry, was made available on the ministry website. There were 148 written submissions received during the review period.
- **Local Engagement Sessions:** Focused local engagement sessions were held in 11 communities across the province including Hamilton, Kingston, London, Markham, Mississauga, North Bay, Ottawa, Sudbury, Thunder Bay, Timmins, and Toronto. These sessions were organized for service providers and for families, caregivers and youth. In some communities, youth participated in sessions separate from family members and caregivers. In other locations, these client groups participated together. There were 201 representatives from service provider organizations who attended the local discussion sessions for service providers, while 70 individuals attended the local discussion sessions for family members, caregivers and young people.

Clients (youth, family members and/or caregivers) were invited to participate in local engagement sessions by their service providers, rather than the ministry, in order to respect their privacy. The ministry did not invite or collect personal information about these participants.

Participants from service provider organizations represented the broad spectrum of programs provided for in the CFSA, as well as other programs in the child and youth service sector. In addition to their involvement in the section 226 review, Aboriginal service providers and clients were invited to participate in the General Review, and participated in significant numbers.

## COMPLIANCE WITH INDIAN AND NATIVE PROVISIONS OF THE ACT

One of the purposes of the CFSA is “to recognize that Indian and Native people should be entitled to provide, wherever possible, their own child and family services, and that all services to Indian and Native children and families should be provided in a manner that recognizes their culture, heritage, traditions and the concept of the extended family”.

The Indian and Native provisions of the CFSA that impose obligations on CASs include provisions that provide opportunities for representatives from Bands and designated Native communities to be involved in the delivery of child protection services and case planning for individual Indian/Native children<sup>3</sup>. Within these provisions, CASs are required to:

- Regularly consult with a child’s Band or Native community about the provision of services, exercise of powers, and matters affecting the child including matters related to apprehension, residential placement, status review, adoption placement and temporary care agreements.
- Provide notice and request consultation where the CAS has determined that a specific Indian/Native child is in need of protection and there is a plan for ongoing service, and in matters related to apprehension, residential placement change, or adoption.
- Give notice of a protection application or application for a status review regarding a specific Indian/Native child to a representative of the child’s Band or Native community who may participate in the court proceedings.
- Consult with the child’s Band or Native community, where an Indian/Native child is or may be in need of protection, to determine whether an alternative dispute resolution process or another specified process will assist in resolving the matter.

Participants in the review commented on compliance, and on the factors they thought had the greatest influence on compliance. Common themes emerged that generally related to more than one topic. For example, it was noted that lack of training affects understanding of the provisions and is also a barrier to compliance. The following summarizes the content of the regional discussions, written submissions, and results of the file review. Participant input is presented in three major groupings: the extent of compliance, factors that are seen to influence compliance, and additional issues raised by participants.

Additional insights and suggestions related to outcomes for Aboriginal children and youth that were raised in the General Review are presented later in the report.

### 1. Current Status of Compliance

#### 1.1 VARIATION IN COMPLIANCE

Many participants, particularly non-Aboriginal CASs, suggested that amendments to the CFSA in 2006 have contributed to positive changes in compliance practices and also noted that more work remains to be done. All groups emphasized their view that compliance

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<sup>3</sup> The CFSA defines the terms “Indian or Native person” and “Native community” to mean that the Indian/Native provisions apply to children who are registered status Indians or are eligible to be registered as status Indians under the *Indian Act* or to children who are members of a Native community that has been designated as a Native community by the Minister.

varies both between CASs and within individual CASs, adding that practices among CASs may be subject to interpretation. They stressed the importance of increased consistency, suggesting that this would be particularly helpful in reducing confusion for First Nations communities that work with more than one CAS.

Participants identified an opportunity to increase compliance through greater clarity about what the provisions mean in practice. For example, they suggested that all groups would benefit from more precise information about the meaning of consultation, greater clarity about its expected outcomes and a concrete description of what consultation should look like. Some review participants suggested that a definition of “consultation” be included in the legislation.

Both Aboriginal and non-Aboriginal participants were emphatic that compliance alone does not necessarily lead to positive outcomes. Most suggested that in cases where CASs “commit to the spirit of the provisions” in addition to “the letter of the law” there is far greater potential for a child to be placed in a culturally appropriate setting and greater opportunities for that child to develop and/or strengthen cultural relationships.

The case file review examined compliance with a number of provisions and services, and indicated that there are opportunities to further increase compliance and consistency of practice.

- During the period covered by the review, overall compliance with the Indian and Native provisions for all aspects of the files reviewed<sup>4</sup> was 79%.
- Aboriginal and non-Aboriginal CASs showed no significant differences in compliance with consultation and notification provisions, with an overall compliance rate of 73%.

Compliance with specific aspects of the Indian and Native provisions broken down by service type (see footnote) indicates that:

- Compliance in relation to Children’s Services, at 84%, was higher than compliance in relation to Protection Services at 75% and Kinship Service, which was far lower, at 57%.
- Within Children’s Services, the lowest overall rate of compliance (at 55%) was with the requirement to explore culturally appropriate permanency options for Crown wards (section 63.1 of the CFSA). In this area, compliance rates of Aboriginal CASs were much higher (at 79%) than those of non-Aboriginal CASs (at 42%).

The results may be influenced by the fact that the review included CASs with larger populations of Aboriginal children and youth that may have more experience working with the provisions.

### ***Alternative Dispute Resolution***

Both participants and the file review results indicated that there was limited use of Alternative Dispute Resolution (ADR). The majority of Aboriginal and non-Aboriginal participants

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<sup>4</sup> The file review studied three service types: Children’s Services includes Crown Ward, Crown Ward Adoption Probation, Children/Youth in Care, Children/Youth in Care Adoption Probation. Protection Services includes Referral and Investigation, Ongoing Service and Closed Following Ongoing Service.

expressed the view that the use of ADR may differ between Aboriginal and non-Aboriginal CASs. While some Aboriginal CASs indicated that they may make use of traditional ADR approaches, it was suggested that non-Aboriginal CASs generally are not using Aboriginal approaches to ADR. Some organizations also noted that they face challenges in finding Aboriginal ADR practitioners.

## **2. Factors Affecting Compliance**

Participants made a number of observations about issues that can either impede or foster compliance.

### **2.1 CAS TOOLS**

Feedback from some participants indicated that there is a belief that some of the tools used by CASs do not adequately reflect Aboriginal realities and cultures, and may therefore limit compliance with the Indian and Native provisions. The Structured Analysis Family Evaluation (SAFE) home study and Parent Resources for Information, Development and Education (PRIDE), two of the tools in the mandatory framework for recruiting, preparing and selecting and training foster and adoptive parents, were cited in this regard.

Some Aboriginal participants emphasized that “harmonizing” tools to fit First Nations and Aboriginal cultures could be beneficial to increasing the availability of Aboriginal foster homes and customary care homes and, accordingly, opportunities for children to live in culturally appropriate homes and communities. Flexible practices were also seen as essential (for example, using Aboriginal workers and Aboriginal terms or language, asking questions in a culturally appropriate manner, and allowing more flexibility when doing home studies).

### **2.2 CUSTOMARY CARE**

A key element of child welfare transformation is a focus on enhancing and expanding long-term planning and permanency options for children receiving services from child welfare agencies in Ontario. Two options for permanency are kinship care and customary care.

When a child is admitted to the care of a child welfare agency through a court order and placed with kin, this type of placement is called kinship care. Kinship care families are assessed and supervised in accordance with provincial foster care standards (SAFE and PRIDE) and regulations. Kinship care homes receive the same level of financial support as foster care homes.

Customary care is a model of Aboriginal child welfare service that is seen as culturally relevant to Aboriginal children and youth. Incorporating the unique traditions and customs of each First Nation, it is a traditional method of caring for children, premised on the belief that a child is the collective responsibility of the community.

The CFSA recognizes customary care as the care and supervision of an Indian or Native child by a person who is not the child’s parent, and according to the custom of the child’s Band or Native community. The provisions recognize that customary care practices may vary from Band to Band and change over time.

Customary care placements are used when protection concerns in a family require out-of-home placement. All CASs, whether Aboriginal or non-Aboriginal, can work with families and First Nations to enter into customary care placements, and are required to apply the SAFE home study. A customary care home must comply with all requirements of foster care licensing after 60 days, if the home is willing and able to continue providing a safe place for the child. Customary care homes receive the same level of financial support as foster care homes when specific requirements are met<sup>5</sup>.

The following types of comments about customary care were raised throughout the review:

- All stakeholder groups noted that many non-Aboriginal CASs use kinship care instead of customary care because they are more familiar with the kinship care model.
- Non-Aboriginal CASs expressed their need for greater understanding of customary care, its intent and how to implement it.
- First Nations emphasized the importance of each community defining what is meant by customary care in its own community.

Aboriginal participants emphasized that they see customary care as a way of avoiding cultural displacement using an approach that involves extended family members and community caring for the child, in ways that are grounded in the traditions, values and customs of the community. They stressed that customary care is not a formal arrangement or activity and that there can be no “standard” definition because customs vary from community to community. With an emphasis on flexibility, guidelines are viewed as incongruent with the historical tradition of customary care.

Of significance is the difference in perspectives between many non-Aboriginal CASs and First Nations. The former are seeking a clear definition of customary care and tools to support implementation, while the latter are seeking flexible responses and the development of trusting relationships.

The case file review indicates that overall compliance with the requirement to have a customary care agreement on file was 84% for Aboriginal CASs and 20% for non-Aboriginal CASs. However, of the 37 files where there was a customary care agreement on file, only five of these instances were from non-Aboriginal CASs. In order to increase customary care utilization, some participants suggested that section 212 of the CFSA should be revised to make the granting of subsidies by CASs mandatory, rather than discretionary. In addition, participants recommended strengthening the obligations in the CFSA regarding the use of customary care by CASs.

The requirement to use SAFE and PRIDE to qualify as a formal customary care provider is seen by many Aboriginal participants to run counter to the concept of customary care, and undermine its viability.

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<sup>5</sup> Requirements are: the Band has a customary care declaration signed by the Chief and quorum of Council supporting the placement within their First Nation; the child is supervised by a CAS; the customary care home meets foster care licensing requirements and standards (including the requirements of undergoing the SAFE home study and PRIDE, and training case management through Ontario Looking After Children, OnLAC, a case management, planning and outcome monitoring tool).

For the most part, non-Aboriginal CASs indicated that they would value increased clarity about customary care, as well as practice guidelines and tools. Lack of clarity about how to implement customary care, along with First Nations' desire for flexibility, results in fewer non-Aboriginal CASs undertaking customary care, opting instead for kinship care.

### **2.3 RELATIONSHIPS, LEADERSHIP AND FORMAL PROTOCOLS**

The majority of Aboriginal and non-Aboriginal participants agreed that the commitment of CAS leaders and staff to engage with Aboriginal organizations and First Nations communities makes a substantial difference to compliance. They also emphasized that formal protocols and memoranda of understanding are a valuable means of reinforcing the gains made through relationship-building.

#### ***Relationships***

Some participants spoke about their processes of relationship-building. They referred to the value of meaningful “engagement” and “collaboration” rather than consultation and notification. Relationship-building was described as a slow process but one that cannot be bypassed. Many emphasized that relationships can be strengthened when organizations commit to working through differences by staying focused on the well being of the child.

#### ***Commitment by CAS Leadership***

Active leadership by CAS senior management was consistently identified as critical to the development and nurturing of these relationships and to meaningful compliance. It was noted that commitment to full collaboration and relationship-building must come from the top and be reinforced through training, modelling of desired behaviours by direct supervisors, practical guidelines and performance reporting at all organizational levels.

#### ***Formal Agreements***

Participants also emphasized the value of reinforcing relationships with formal protocols and memoranda of understanding between CASs and First Nations. Joint work on these formal agreements provides a focus for relationship-building and the agreements themselves can provide clarity about expectations, roles and preferred practices. In addition, they may help mitigate effects of turnover in CAS and Band staff and changes in leadership.

### **2.4 CAS WORKER TRAINING**

A widely held view was that ongoing training of all CAS staff (both non-Aboriginal and Aboriginal) plays an essential role in increasing compliance. Up-to-date resource materials were also seen as highly beneficial to sustaining knowledge gained through training sessions. The two particular training streams that were identified were training on the provisions of the CFSA, and training to enhance the cultural responsiveness and sensitivity of non-Aboriginal CASs.

### **2.5 PROVINCIAL LEADERSHIP**

There was general agreement that ministry leadership can play a significant role in facilitating understanding and implementation of the Indian and Native provisions. Two distinct views emerged in relation to the scope of this leadership role. One view emphasized leadership in areas such as supporting training initiatives and providing practical tools and agreement frameworks that could be locally adapted. The alternate view,

primarily expressed by Aboriginal stakeholders, also recognized the value of this approach and suggested the introduction of ministry-imposed sanctions for non-compliance. They also suggested that the ministry consider setting out expectations that all stakeholders work together.

In addition, some participants noted the valuable roles that can be played by the ministry's regional offices in supporting the development of local agreements and protocols.

Some Aboriginal and non-Aboriginal groups noted the importance of ministry participation in inter-jurisdictional and inter-ministerial processes:

- Working with First Nations leadership and the federal government (for example, to advocate for funding to support Band Representatives).
- Maintaining effective relationships with other Ontario ministries (such as Education, Health and Long-Term Care, and the Attorney General) to provide information about the Indian and Native provisions and child welfare issues as they affect Aboriginal and First Nations communities.

## **2.6 FIRST NATIONS FINANCIAL AND HUMAN RESOURCE CAPACITY**

The financial and human resource capacity of many First Nations to represent their communities in child protection matters was raised by all participants as a major factor limiting effective planning for Aboriginal children and youth. Participants from all sectors shared the view that there is a need to increase Band capacity to exercise the roles and responsibilities set out in the CFSA. Limited Band capacity can result in a lack of timely responses by the Band, which may be interpreted by a CAS as a lack of interest in the welfare of the child. This, in turn, may affect opportunities for a child to be placed in an Aboriginal setting and compromise her or his opportunities to develop or sustain a cultural connection. The challenges are compounded when a First Nation community works with more than one CAS. The imbalance that exists because of significant differences in resources can be particularly challenging when conflicts arise between a Band and a CAS.

### ***Role of the Band***

Three key elements were identified as important to foster participation of the Band in child protection matters:

- Funded capacity to represent the Band in child welfare matters.
- Training opportunities for First Nations staff.
- Strategies for addressing logistical and resource challenges associated with participation in court and other processes faced by remote and isolated communities.

### ***Band Representatives***

Participants noted that withdrawal of federal funding for Band Representatives in 2003-2004 reduced Band capacity to participate in child welfare matters. Some Bands continue to be able to fund capacity while many others cannot. Bands have employed a variety of strategies to sustain this capacity – in some communities, child and family service providers have taken on some of the roles that were formally played by Band Representatives. Chiefs are also called upon to act as a representative for the Band in child welfare situations. Both

Aboriginal and non-Aboriginal participants suggested efforts should be made to secure funding to support Band capacity to participate in child welfare matters.

A related point was raised concerning Aboriginal children and youth in urban areas. It was noted that while the CFSA does not impose obligations on CASs regarding matters such as notice and consultation for children who do not meet the definition of Indian/Native within the CFSA, all Aboriginal children would benefit from placement with Aboriginal families and planning that would support the child to establish or retain his or her Aboriginal cultural connections.

### ***Training***

Participants emphasized that training for First Nations workers about the compliance provisions and their roles in relation to the provisions and the CFSA more broadly would facilitate Band capacity to exercise those rights and responsibilities in child protection matters. Some participants suggested that First Nations prevention workers should be encouraged to take training such as the Ontario Association of Children's Aid Societies' Foundations of Child Welfare Practice Training (formerly referred to as the New CAS Worker Training) or an Aboriginal-specific equivalent.

### ***Logistical Challenges Faced By Remote and Isolated Communities***

Most Aboriginal and some non-Aboriginal participants noted that the realities of significant geographic distance, lack of physical access during winter months, limited and costly transportation options, limited formal services (ADR providers and prevention services, for example), language barriers and poverty can limit parental involvement in legal proceedings and Band participation on behalf of the community.

## **2.7 CAS RESOURCES**

Both Aboriginal and non-Aboriginal CASs suggested that there are administrative and financial costs associated with determining a child or youth's status with Indian and Northern Affairs Canada (INAC) and conferring with a child's Band or Native community, particularly when that community is in another part of the province or country, or in the United States. CASs believe dedicated funding is needed for the purposes of supporting compliance with the provisions and for developing meaningful relationships and protocols with First Nations.

## **3. Additional Observations**

While beyond the formal scope of this review, the following discussion topics were raised consistently for consideration during the review process.

### **3.1 JURISDICTION FOR ABORIGINAL CHILD WELFARE**

Many First Nations participants emphasized that historical and current experiences of individual and systemic discrimination provide the lens through which they view current CAS practice. They indicated that while prepared to participate in discussions related to system improvements, their commitment above all is to fundamental change in the way that child welfare for Aboriginal children and youth is legislated and provided in Ontario.

Both Aboriginal and non-Aboriginal participants expressed the view that Aboriginal people should exercise jurisdiction for their own children.

They see the further development of Aboriginal legislation as fundamental to addressing the disproportionate representation of Aboriginal children and youth in CAS care and for improving their outcomes.

### **3.2 SOCIAL, PREVENTION, HEALTH AND JUSTICE SYSTEMS**

Aboriginal participants in particular identified the importance of health and social services in supporting children, youth and family healing. Most notably, they underscored the key role played by Indian Friendship Centres in providing support to children and families in urban settings. Some suggested that the definition of Native community should be expanded to include Indian Friendship Centres and other urban Aboriginal service provider organizations.

Examples of critical services included mental health, substance use, anger management, domestic violence support, and education, training and employment support programs. The need to use culturally appropriate and traditional services was also emphasized.

The important role of the judiciary in child welfare matters was also noted by many participants who emphasized the importance of continued engagement of justice partners to support the intentions of the CFSA provisions.

### **3.3 CAS DESIGNATION PROCESS**

Aboriginal service providers and First Nations noted their desire for a shorter and more consistent process for designation of Aboriginal CASs across the province.

### **3.4 DEFINITION OF INDIAN/NATIVE PERSON IN THE CFSA**

One of the most frequently identified topics throughout the review was the definition of Indian/Native person in the CFSA. All stakeholder groups suggested that the definition should be amended to include all children of Aboriginal descent, consistent with the definition of “Aboriginal” in section 35 of the *Constitution Act*. In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada. In addition, it was noted that the CFSA obligation for regular consultation should be expanded to include all Aboriginal families rather than for status/eligible-for-status children only.

## **GENERAL REVIEW OF THE *CHILD AND FAMILY SERVICES ACT***

In May 2008 the ministry released its first strategic framework, *Realizing Potential – Our Children, Our Youth, Our Future*. Based on the findings of research and best practice, the ministry's objectives are to achieve better outcomes for clients and improve the experiences of children, youth and their families as they use services funded or provided by MCYS.

Since the release of the strategic framework the ministry has engaged its partners in a discussion on how to move forward together so that these objectives can be achieved. The 2010 review provided the opportunity to continue this conversation with a focus on the role and impact of legislation and the CFSA. Accordingly, the review sought input on barriers or challenges posed by the Act and/or its regulations and policies, as well as changes that could be made to improve outcomes of children and youth, enhance the experiences of clients in accessing services, and modernize the legislation.

### **1. Better Outcomes**

The review provided an opportunity to discuss the role of legislation and the impact of the CFSA on outcome-based service delivery for children and youth in Ontario.

#### **1.1 OUTCOME-BASED SERVICE DELIVERY**

There was broad-based support from participants for the ministry's intention to focus service improvements on the achievement of better outcomes for young people.

There were differing viewpoints on whether the identification of "common" outcomes for child and youth services was appropriate. Many participants felt that a "one-size fits all" approach will not work and that the emphasis should be on individualized goals. Others felt that common outcomes for all services as well as program-specific outcomes are helpful in focusing efforts and resources as well as in reporting to the public. Still others suggested identifying a series of high level outcomes that would focus activities but would allow for specific client-level outcomes to be individualized.

Participants also discussed whether or not to embed further, specific outcomes in the CFSA. Some felt that specific outcomes should not be included in the Act, and noted that outcomes change over time as evidence evolves. Others supported including specific outcomes in the Act to assist in developing a common understanding of what service providers should be working toward, and indicated that common outcomes should be reinforced through all pieces of legislation governing services for children and youth.

#### ***Graduation from Secondary School and Building Resilience***

The ministry's strategic framework identifies two priority outcomes for children and youth: "every child and youth is resilient" and "every young person graduates from secondary school".

Many participants agreed that the outcomes identified in the ministry's strategic framework are important to young people and, particularly, young people in ministry programs. However, they were often described as "long-term" outcomes and participants suggested there is a need for "short- and medium-term" outcomes linked to these objectives. For instance, as sentences can be quite short in the youth justice sector, participants suggested

identifying realistic short-term goals for this population (for example, completing a school term).

Many participants felt that these outcomes were not applicable to certain populations, including children and youth with complex special needs.

Developing clear definitions for specific outcomes was also seen as important. For example, it was noted that “resilience” is defined in many different ways within research and in fields of practice.

### ***Examining Additional Outcomes***

Participants identified specific outcomes, beyond those included in the strategic framework, that are important to young people in all ministry programs. These included:

- healthy development, including physical and mental health
- lasting connections with caring adults
- involvement with one’s culture, family and community
- school success
- social and community engagement
- social inclusion

Many participants focused on outcomes specific to children and youth receiving child protection services, including:

- safety and security
- peace, stability and consistency
- a sense of identity and belonging
- transition to independence and adulthood
- ability to advocate for one’s self or having a voice

Many programs funded by the ministry involve the provision of supports to families. Participants suggested that identifying specific outcomes for caregivers and families was important. Outcomes cited as important for parents, families and caregivers included:

- increased parenting confidence
- increased knowledge, skills and problem-solving ability
- decreased parental stress and improved mental health
- increased parental support
- decreased family isolation

## **1.2 OUTCOMES FOR ABORIGINAL CHILDREN AND YOUTH**

Both Aboriginal and non-Aboriginal participants noted the overrepresentation of Aboriginal children and youth in the child welfare and youth justice systems and identified a need to improve outcomes for these young people. Aboriginal participants stressed the importance of culturally relevant services and outcomes. Some participants raised concerns about governance and accountability issues, which they feel have impeded effective action to address problems.

In discussing solutions, topics raised by stakeholders included the importance of cultural resilience and cultural competency, keeping children and youth connected to their families

and communities, working in partnership with First Nations, developing a plan to address jurisdictional issues, and devolving responsibility for Aboriginal child welfare to First Nations and Aboriginal communities.

### ***Culturally Appropriate Outcomes***

The following priority outcomes were identified for Aboriginal children and youth:

- good mental health
- awareness of one's culture, Aboriginal rights and heritage
- sense of identity, self-esteem, self-worth and belonging
- strong connections to families and communities
- feeling safe, able to trust others and be trustworthy

Participants stressed the importance of “cultural resilience” and suggested that:

- The varied cultures and languages of Aboriginal people should be considered when placing Aboriginal children in care.
- Wherever possible, the CFSA should reinforce the existence and use of Aboriginal organizations as a source of culturally appropriate programs and services (for example, Indian Friendship Centres in urban settings).

### ***Keeping Aboriginal Children and Youth Connected***

Additional suggestions were aimed at keeping Aboriginal young people connected to their families and communities. These included:

- Providing supports to families to keep their children at home.
- Allowing flexibility in standards for licensing foster homes so that Aboriginal children can live in their communities or with other Aboriginal families.
- Establishing long-term strategies to support transitions back home.

### ***Working in Partnership with First Nations***

Aboriginal participants suggested involving Aboriginal organizations and front line workers in meaningful ways when developing policies and guidelines related to child welfare.

### ***Overall Review of Services Provided to Aboriginal Children and Youth***

Several provincial organizations called for a dedicated review of services to Aboriginal children and youth. They suggested that in conducting the review the province should engage Aboriginal children, youth and families as well as First Nations and Aboriginal communities and service providers.

Several participants identified the split in jurisdictional responsibilities for services to Aboriginal children and youth living on reserves between federal and provincial governments and Band councils as a barrier to positive outcomes. Some Aboriginal stakeholders felt that Jordan's Principle is not applied consistently<sup>6</sup>.

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<sup>6</sup> Under this principle, where a jurisdictional dispute arises between two government parties (provincial/territorial or federal) regarding payment for services for a Status Indian child, which are otherwise available to other Canadian children, the government or ministry/department of first contact must pay for the services without delay or disruption. The paying government party can then refer the matter to jurisdictional dispute mechanisms.

One suggestion was that a structured service delivery plan be developed with clear lines of accountability.

### **1.3 COLLABORATION**

In discussing the achievement of better outcomes, most participants suggested that a key factor involved the ability of service providers to work in partnership. Participants suggested that in key areas the Act, its regulations and policies could more effectively foster collaboration.

#### ***Information Sharing***

Part VIII of the CFSA, *Confidentiality and Access to Records*, sets out requirements for service providers with respect to the collection, use and disclosure of personal information including requirements for consent. This part of the Act has largely not been proclaimed.

Most participants indicated that information sharing both within and across sectors was important in providing timely, effective services to young people and helped providers to develop better plans for young people. Some participants suggested when providers do not share information, clients often have to “tell their story” multiple times, leading to delays and, in some cases, contributing to a poorer service experience.

In the absence of a legislated framework, service providers indicated that they must establish protocols for sharing information through a process of negotiation with a range of other providers, leading to significant administrative burden. Beyond administrative burdens, basing information sharing on policies and protocols (rather than within a legislative framework) was seen as insufficient and some providers suggested that it exposed them to legal risks.

A number of young people cautioned that their consent to share their personal information should be required and that a new information sharing regime should reflect their right to determine who can read their files, and what sections of their files can be shared.

It was noted that Part VIII, as currently drafted, is out of date and has been superseded by more recent legislation in other sectors. Many suggested that this section be updated to reflect the current overall legislative, social and technological context.

In addition, participants identified a range of processes and technological solutions to facilitate information sharing, such as electronic records and the development of common consent, intake and assessment forms.

#### ***Embedding Collaboration in Legislation***

In contemplating additional measures for supporting and fostering collaboration, participants suggested reviewing and updating the range of existing statutes, regulations and policies that direct the provision of services to children and youth toward establishing a common, shared responsibility for supporting young people that transcends individual sectors. Here, one suggestion involved establishing legislative provisions that would specifically permit and enable providers from across sectors to collaborate in the best interests of young people.

Some participants also felt that it was important that providers be obligated to collaborate. A specific proposal involved adding a requirement to the Act for partner agencies working with families (for example, public health agencies) to be advised by the child protection worker in a timely manner when a child is apprehended by a CAS.

#### **1.4 PREVENTION AND EARLY INTERVENTION**

A commonly held view among participants was that for outcomes to improve, the overall service system should be refocused toward prevention and early intervention. The important role played by families in this regard was emphasized.

Positive relationships, family attachment and bonding, nurturing and parenting skills were identified as key protective factors in the development of resilience. Most participants felt that providing supports to families could prevent problems from escalating.

In situations where children are taken into care, the importance of preserving family and community connections was stressed. Some participants thought that if children must be removed from the home, the removal should be temporary and with the explicit aim of reuniting the children with their families. There were also suggestions that parents should be more involved in developing plans of care and setting goals for their children.

With regard to youth justice services, some participants suggested that these services should not just focus on the youth but include families, guardians and community members.

A specific proposal involved revisiting the provision included in section 70.1 of the Act that sets out the time limits for time in the care of a CAS before a CAS must seek Crown wardship. Some participants felt that current timelines (a maximum of 12 months for children under six and 24 months for children over six) were too short and, given the reality of waiting lists for services, should be extended to allow time for families to access and benefit from services and supports.

Some participants discussed the role envisioned by the Act for CASs in prevention and early intervention. Some felt that the eligibility criteria contained in section 37 (2) of the Act that are used to determine when a young person is in need of protection should be expanded to allow societies to intervene earlier and support families, which could help to keep families intact. Others suggested that other sectors would be more appropriate providers for prevention and early intervention supports (for example, mental health services) and that increased capacity in these service areas would reduce the need for more serious interventions. There were general suggestions that further clarity was needed, including in the Act, regarding the role of CASs in providing these types of supports.

Some participants observed that families that have children with developmental disabilities, complex special needs, or difficult behavioural issues may become involved in child protection services because they don't have the resources or supports to manage these children at home, or because they cannot access alternative supports. Participants agreed that where there are no protection concerns, children with special needs should receive the ongoing supports they need in the community. Here, there was some discussion on whether the use of special needs agreements under the CFSA should be reinstated.

To address what was seen as insufficient capacity in mental health services and services for children and youth with special needs, some participants suggested that these areas should be mandated within an overall legislative framework.

Additionally, several participants highlighted gaps in special needs and mental health services for adults and the challenges in transitioning youth to adult services.

### **1.5 STABILITY, CONSISTENCY AND STRONG RELATIONSHIPS**

Many participants identified links between the strength and consistency of young people's relationships and the level of stability in their lives with the achievement of good outcomes. They observed that children and youth in care often experience several worker, residential placement and school changes during their time in care.

Participants noted that frequent moves can be very disruptive to young people's lives, making it difficult for them to form strong bonds and relationships with caring adults or their peers, or to achieve a sense of belonging and acceptance. Some of the young people who participated in the review noted that sometimes changes were important if they were not experiencing a good "fit". Here, participants suggested allowing young people to have a greater voice in the process.

Suggestions for increasing placement stability and preventing placement breakdown included:

- Better matching of young people and placements at the outset.
- Holding foster parents and guardians more "accountable" for decisions to move children and youth in their care (for example, youth suggested a requirement to justify requests for placement changes).
- Building and monitoring the capacity of providers and foster parents to support young people's development (for example, through training on how to manage the various types of conditions and special needs the children have).

Participants provided a number of suggestions regarding the role, mandate and activities of Residential Placement and Advisory Committees.

Many youth participants suggested that, to the extent possible, young people in care should have a consistent worker and lasting relationships throughout their time in care and potentially even as they transition from care. "A good fit" with their worker was also seen as important.

There was a further suggestion from several participants that timelines for home visits by workers to children and youth in foster care should be revised from a minimum of once every 90 days to once every 30 days as a strategy for maintaining personal contact and more effectively monitoring young people's progress.

Increasing the opportunities for adoption of Crown wards was seen as an important way to achieve greater stability and strong relationships.

A number of participants expressed general support for the recommendations on adoption included in the report of the Ontario Expert Panel on Infertility and Adoption, *Raising Expectations* (2009), including addressing gaps between the CFSA and the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention)*. Specific suggestions for increasing adoptions for Crown wards included:

- Provisions for Crown wardship with access should be removed from the Act and replaced with a provision for openness agreements to accompany an order of Crown wardship and that agreements become part of an adoption order when an adoption is finalized.
- Pre- and post-adoption supports and subsidies (for example, for children with special needs).

## **1.6 SCHOOL SUCCESS**

In discussing the importance of school success as an outcome, participants cited a number of factors that prevent some young people receiving ministry services from attending school consistently, receiving needed supports, experiencing smooth transitions, and succeeding in school. Examples included:

- frequent moves for children in care, including school moves
- situations where a young person has to miss class in order to participate in services
- insufficient and untimely information sharing between systems

Suggestions for addressing school stability and supporting smoother transitions included:

- providing the stability of one school
- aligning residential placement moves with school terms to avoid the loss of credits
- allowing youth to stay in their placements until they finish high school (which could occur after age 18)
- strengthening transition planning when young people receiving youth justice services return to their families, schools and communities

Many participants also suggested several alternative service delivery models aimed at supporting young people with special needs, mental health problems and those in youth justice services to attend and succeed in school. In addition, participants suggested that it was important to build capacity within schools to serve young people involved in child and youth services.

## **1.7 TRANSITIONS**

### ***Age of Protection***

Currently, young people are not eligible to receive child protection services if they are 16 years of age or older unless they are already the subject of a child protection order. Most participants noted the lack of consistency between the CFSA and other statutes. For example, individuals noted that the *Education Act* requires youth to stay in school until age 18. Most participants also suggested that youth aged 16 to 18 have very limited access to support from adult programs. They also noted that in cases where younger siblings are taken into care, CASs are unable to provide services to youth aged 16 to 18.

Most participants suggested increasing the age of protection in the CFSA from 16 to 18 years of age. They felt youth aged 16 and 17 should be able to receive child protection services if they are eligible, and consent, and that youth who had their child protection order terminated before age 18 should be allowed to receive child protection services. Some participants suggested youth were too young to understand the long-term implications of seeking termination of court orders at 16 and 17 and should not have a choice to seek termination until age 18.

### ***Transitions to Independence and Adulthood***

Participants identified gaps in supports aimed at helping youth in care transition to independence and adulthood. Extended Care and Maintenance provides financial and other supports to age 21 for former Crown wards, youth in legal custody or formal customary care transitioning to independence. Most youth participants who had aged out at 21 reported feeling an abrupt loss of supports at a critical transitional period (before entering or completing post-secondary education). Many participants also raised concerns with the level of financial support provided through the program and that CASs have discretion in providing support.

Most participants suggested increasing the age limit of the Extended Care and Maintenance program from 21 to 25. Some participants suggested increasing the level of financial support and making the program mandatory when specific outcomes have not yet been attained or where outcomes have been obtained but other reasons exist for continuing care with this support.

Most youth in care felt they needed more preparation for independence and that transition planning should start much sooner. Some suggested that this requirement should be included in the Act. They also discussed the importance of supportive relationships with adults for a successful transition to independence, and voiced the need to continue to be connected to their social worker and a family for ongoing support and guidance. They noted a need for services that gradually reduce structure and teach skills for independent living.

Youth participants felt that transitions happened too early and they should continue to have access to supports beyond age 18 or 21.

Some youth justice stakeholders felt that more aftercare should be provided for youth leaving the youth justice system to support better outcomes for these youth.

## **2. Improved Service Experience**

In addition to focusing on improving outcomes, the ministry is committed to helping to improve the experiences people have as they use services provided or funded by the ministry.

### **2.1 RESIDENTIAL SERVICES**

Many participants indicated that the quality of programming in group residential settings, rather than just the amount or level of service provided, was important to a good service experience. Participants also suggested that keeping children and youth close to their families and communities, maintaining residences in good repair, improving the accessibility

of residences, and extending the standards for residential care in the CFSA to Violence Against Women shelters would contribute to positive outcomes.

Some participants suggested that the ministry develop quality standards for programming that would supplement what were seen as the “minimum standards for health and safety” currently included in the Act and its regulations. Some participants felt that it was important to link quality standards to existing licensing processes whereas others proposed that a system of third-party accreditation would be more appropriate and responsive while reducing administrative burden.

There were a number of suggestions aimed at helping to ensure that frontline staff have the capacity and skills to deliver quality programming. A number of participants suggested that the CFSA and its regulations should stipulate minimum qualifications for staff working in residential settings. Some participants suggested establishing a regulatory body specific to child and youth workers, similar to those for early childhood educators, social workers and social service workers.

Other strategies were also discussed, including the professional development of frontline staff. Priorities for training included but were not limited to behaviour management, medications management, cultural competency and special needs, including Fetal Alcohol Spectrum Disorder (FASD) and Autism Spectrum Disorders (ASD).

Participants pointed to the importance of the geographic distribution of licensed residences so that children can be placed near their families and communities.

In addition, there was discussion of the use of open temporary detention as a place of safety for children and youth in need of protection. The view was expressed that this option in the Act could be used more often but others felt this was no longer appropriate and should be removed from the Act. There were also differing views on the use of hotels and hostels as residential placements.

## **2.2 CHILD AND YOUTH VOICE**

A number of participants, including young people, identified the importance of allowing children and youth to have a say in the services they are receiving.

In general, participants suggested that the Act, its regulations and policies should require that young people in all services directed by the CFSA have opportunities to meaningfully shape the services and supports they receive. A number of youth participants identified that they would like to be more involved in setting their plans of care and individualized plans.

Some participants discussed the existing age requirement for adoption consents but there was a lack of consensus on the solution. One suggestion was to raise the age of consent from seven to twelve to be consistent with the age used throughout the Act when youth are the subject of protection proceedings (for example, attendance at court and receipt of notice hearings). Another view was to remove age distinctions within the CFSA regarding legal processes to ensure that young people had a “voice” regardless of their age.

Noting that the legal process makes it difficult for children and youth to initiate a status review on their own, it was suggested the Act be revised to state that a child initiating a status review is entitled to legal representation. A further suggestion involved amending sections 64 (2) and 65.1 (2) to add that a society “shall” apply to the court for a review of the child’s status when the child has stated that they wish to review their status, even when the society is not in agreement with this review.

## **2.3 COMPLAINTS AND REVIEW PROCESSES**

Clear and effective methods for reviewing decisions and complaints are an important element in a good service experience for children, youth and families.

Some participants suggested that criteria for bringing a case forward to the Child and Family Services Review Board were not clear in the Act. Participants also indicated that families and caregivers often have unrealistic expectations about what the Board is able to accomplish within its legislated mandate. Suggestions involved clarifying the Act and making information on processes more accessible.

Some participants also indicated that young people were often not fully aware of the processes available to them and that, as a result, they miss out on key opportunities.

Some participants suggested that, as in the following example, some processes lack clarity and accountability with respect to decision making. It was suggested that should a Provincial Director decide not to accept the recommendation of the Custody Review Board, a requirement be introduced in the Act to provide reasons for declining the recommendation to the Board and young person. It was also suggested that a requirement be introduced for CASs to report back to the Child and Family Services Review Board on their compliance with orders from the Board.

## **3. Modernization**

The CFSA was proclaimed in 1985 and, over the past 25 years, has been changed or amended a number of times. The ministry took advantage of the opportunity presented by the General Review to explore ways in which the legislation might be updated to better reflect Ontario’s current service delivery, social and legislative environments.

### **3.1 ADMINISTRATIVE BURDEN**

A majority of participants, including young people and caregivers, established a clear link between reducing administrative burden, improved outcomes and better service experiences for clients.

#### ***Timelines***

Many participants indicated while the best interests of children and youth are paramount, it is important that the Act take into account local capacity and the availability of services, particularly in rural and northern areas.

Responses from many providers indicated that, in attempting to meet many of the timelines in the CFSA, they had to engage in inefficient practices (for example, transferring young people to societies in other jurisdictions where services are available and going to emergency rooms for medical assessments). A recommendation from many participants

involved amending section 46 (1) of the Act – which specifies that following an apprehension, if a child is not returned to the parent, the matter must be brought before the court within five days – so that it allowed five “business” days or up to ten days.

### ***Modernizing Licensing***

Some participants also identified a number of measures to update the residential services licensing regime that they felt would reduce unnecessary administrative burdens including:

- Taking into account the different features and purposes of alternative residential settings (for example, some standards for full-time group care may not be appropriate for respite care, where stays are shorter).
- Extending licenses beyond one year (for example, for up to two or three years) based on a provider’s performance.

### ***Duplication***

Most participants also identified a number of processes and requirements that they felt were duplicative. Two main requirements were the focal points of these discussions:

- **Plans of Care:** Most participants, including youth, indicated that children and youth in care, and particularly those receiving other services, often have multiple plans of care. Many participants said that plans are required to be completed before workers have had enough time to get to know the child or youth, and that the time taken to meet the requirements for these plans takes away from building relationships with young people. A number of participants advocated for a single plan of care and also suggested that it would foster collaboration between providers.
- **Medical Assessments:** Many participants indicated that every time a child or youth moves to a new residential placement, a very recent or new medical assessment is required. As some young people experience frequent changes in residential placements, they often undergo multiple assessments. Participants suggested finding ways to rationalize this process.

### ***Clarification, Streamlining and Accessibility of Requirements***

Many participants also made the general suggestion that the ministry better clarify and streamline requirements related to the CFSA and its regulations and policies. In particular, the Early Alerts and Serious Occurrence Reporting processes were seen as confusing and administratively burdensome. The requirements for reporting the use of physical restraints were seen as especially time-consuming.

In addition, there were many requests that the ministry compile, and update as necessary, all relevant documents (including legislation, regulations, standards, licensing manuals, policy guidelines, memos/directives) and make them available online, or otherwise accessible, to service providers.

Most service providers suggested that their operations would be more efficient and cost-effective if reporting requirements and processes were better coordinated within the ministry, clearer and more consistent. Participants also indicated that they were unclear as to how some of the information they provide is being used by the ministry to improve service delivery or ensure accountability.

The identification of outcomes for services was seen as an important step in helping to rationalize accountability processes but participants also identified the need for short-term strategies. For example, a suggestion was made to add a provision to the CFSA that would require the ministry to review and report on the administrative requirements it places on providers, similar to sections 224 and 226 of the Act.

Finally, in identifying the large volume of administrative and service data that the ministry collects, a number of participants suggested making this information more readily available to agencies and the public, as a means to achieve greater transparency and accountability.

### **3.2 DIVERSITY**

The ministry's strategic framework identifies as a strategic goal the provision of personalized services tailored to young people's needs, preferences, potential and evolving lives. The achievement of this goal will depend on innovative ways to respond to Ontario's diversity.

#### ***Language in the Act***

A number of participants suggested that the language included in the Act is outdated. Aboriginal participants suggested revisiting and changing the use of terms like "Native" in the Act. Some participants suggested that there were opportunities to update key terms in the Act (for example, "apprehension" and "mental disorder") to make them more consistent with terms in common usage and less stigmatizing (for example, "being brought into care" and "mental health issues"). It was further suggested that young people be engaged in updating the language.

#### ***Service Provision***

A range of participants offered a general observation that the CFSA and its regulations did not seem to promote the provision of specific culturally appropriate services in practice. For example, services tailored to African-Canadian young people were recommended as a means to improve outcomes for these youth. A number of participants indicated that the cultural competency guidelines recently introduced by the ministry for residential services provided a good model for work in this area.

There were also specific recommendations to provide gender-specific residences, residences for 12 to 13 year-olds separate from those for older adolescents, and services that respond to the needs of young people who are lesbian, gay, bisexual, transgendered or queer.

### **3.3 ACCESSIBILITY**

A number of participants suggested changes to licensing standards for residential care to make residences accessible to children, youth and non-residents who may have disabilities, including parents, other family members, and/or service providers. Specific examples included the use of visual safety alarms and appropriate communications technology (such as teletypewriter devices).

### **3.4 LEGISLATIVE ALIGNMENT**

Many participants indicated that the legislative framework for services provided under the CFSA is complex, and that providers are also governed by a range of requirements

contained in other federal and provincial statutes as well as municipal by-laws. Participants suggested that their obligations are not always clear as some sections of the Act have not been proclaimed and some provisions in the CFSA seem to be inconsistent with, or superseded by, other statutes. Given this complexity, a number of participants indicated they had to seek legal counsel to be sure of their legal requirements/responsibilities.

In situations where multiple pieces of legislation seemed to address similar matters, participants indicated that they were unsure about which legislation prevailed and suggested that they needed clear direction. Examples of areas where participants felt that clarity was needed included:

- Consent to psychotropic medications: participants highlighted that the *Health Care Consent Act* seemed to address procedures that are also included in CFSA.
- French language services: participants highlighted that requirements for the provision of French language services were more extensive in the *French Language Services Act* than in the CFSA.

As a general comment, participants suggested a number of tools that could be developed to enhance understanding of the Act and the overall legislative context. Participants also suggested amending outdated sections of the Act or moving to address key gaps between pieces of legislation.

## **4. Additional Observations**

Given the broad scope of the General Review, a number of contributions included topics and suggestions that were not necessarily linked to the Act, its regulations or policies. These contributions provide valuable input into the larger discussion of how to improve child and youth services in Ontario.

### **4.1 FUNDING MODELS AND FINANCIAL REPORTING**

Participants identified a number of challenges in regard to the funding of services. Many participants made suggestions including:

- provide funding incentives for achieving results
- move to multi-year planning and allocations
- allow flexibility to encourage providers to work collaboratively (for example, through pooled funding or by empowering groups of agencies to make investment recommendations)

Participants suggested that another important consideration for capacity building is the need for a review of funding formulas so that agencies operating in remote, high growth, and/or areas with ethno-culturally diverse populations have access to the resources needed to support service delivery and improve outcomes for children and families.

A concern was also raised that the frequency of financial reports and the level of detail required can be quite onerous for small agencies. It was suggested that consideration be given to streamlining this reporting.

## **4.2 OUTSIDE PAID RESOURCES**

Some participants identified a number of issues associated with Outside Paid Resources (OPRs) including those associated with:

- rates and the rate setting process
- the quality of programming provided
- accountability

In light of these issues, and the observation that they are a major cost driver for the child protection system, some participants suggested a review of OPRs.

## **CONCLUSION**

Based on the thoughtful contributions of a broad range of participants, the input received through written submissions and numerous discussion sessions represents a rich, and often varied, collection of perspectives on delivering high quality services to Ontario's children and youth.

Given the diversity of voices and variety of perspectives, the complexity of the topics under review, and the detail of many responses received during the review process, it is important to acknowledge that this report provided an overview of main topics, rather than an exhaustive examination of the contributions made by participants. The richness and detail of these contributions, however, represents an important resource that will continue to guide the province's work for the benefit of children and youth.

In particular, this first review of compliance with Indian and Native provisions of the Act underscored the importance of improving outcomes for Aboriginal children and youth, and strengthening partnerships with First Nations leadership, Aboriginal service provider agencies and Aboriginal communities.