

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE
209 - 345 Chief Alex Thomas Way
Kamloops, B.C. V2H 1H1
Tel: 250-828-9746
Fax: 250-828-0319



VANCOUVER OFFICE
5th Floor, 342 Water Street
Vancouver, B.C. V6B 1B6
Tel: 604-684-0231
Fax: 604-684-5726
1-800-793-9701
Email: ubcic@ubcic.bc.ca
Web: www.ubcic.bc.ca

**UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL
JUNE 1ST-2ND, 2016
SEABIRD ISLAND BAND GYM, STÓ:LŌ TERRITORY, B.C.**

Resolution no. 2016-24

RE: Reform of Indigenous Child Welfare System in BC

WHEREAS Indigenous Peoples have the right of self-determination which embodies our own legal orders and jurisdictions related to children and families. Canada's constitutional framework recognizes and protects the continuity of Indigenous laws and traditions. Section 91(24) of the Constitution Act, 1867, which reflects the Royal Proclamation of 1763 reflects an enduring constitutional and solemn commitment for a lasting relationship between the Federal Government and Indigenous Peoples. Section 35 of the *Constitution Act, 1982* constitutionally enshrined Aboriginal Title, Rights and Treaty Rights;

WHEREAS Indigenous peoples' jurisdiction in the area of children and families is not recognized in British Columbia, and the current system is one in which the Province asserts jurisdiction and control in this area;

WHEREAS there continues to be a disproportionately high percentage of Aboriginal children in care in BC, and Indigenous child welfare is in a crisis in BC;

WHEREAS the UBCIC Chiefs Council has consistently passed resolutions upholding the self-determination of Indigenous Peoples with respect to their children, including Resolutions: 2001-08, 2003-14, 2004-10, 2006-02, 2006-13, 2006-14, 2007-52, 2011-42, 2012-03, 2012-34, 2013-06, 2013-40, 2013-58, 2014-02, 2014-03, 2015-06, 2015-07, 2015-08, 2015-17, 2015-18, 2015-19, 2016-04, and as set out in the *Tsawwassen Accord*, and will never give up;

WHEREAS the UBCIC prepared a paper analyzing Indigenous Peoples' inherent jurisdiction over child welfare and the impact of provincial delegation in this area (*Calling Forth our Future: Options for the Exercise of Indigenous Peoples Jurisdiction in the Area of Child Welfare*) which stated that "the federal government has the overarching fiduciary duty to protect and support our jurisdiction in this area, and

must be pressured to take up these responsibilities by fully funding and supporting our assertion of jurisdiction in the area of child and family services";

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* states:

Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions;

Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions;

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them;

WHEREAS the first five calls to action of the Truth and Reconciliation Commission 94 Calls to Action address child welfare and call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care and set out clear steps for this to take place;

WHEREAS the recent decision by the Canadian Human Rights Tribunal decision in *First Nations Caring for Our Children Society* determined that the federal government has been racially discriminating against 163,000 First Nations children and their families by providing flawed and inequitable child welfare services, and by failing to implement Jordan's Principle to ensure equitable access to government services available to other children;

WHEREAS on Dec 14, 2015, the BC Government publicly released *Plecas Review, Part One: Decision Time* ("the Plecas Report"), which presented a wide-ranging survey of child welfare and politics, including a unilateral public assessment of the value of independent oversight and the performance of the current Representative for Children and Youth (RCY);

WHEREAS the Plecas Report was criticized by the UBCIC, the First Nations Summit, and the BC Assembly of First Nations, working collectively as the First Nations Leadership Council, on the basis that Mr. Plecas presented a heavily biased review, which overreached the initial mandate and terms of reference of the report and was conducted with no engagement of First Nations or the RCY Office;

WHEREAS on May 19, 2016, the BC Provincial Government announced that a group of independent advisors will work with government to action the Plecas Report;

WHEREAS the RCY's April 2016 Special Report, *Implementation of the Plecas Review, Part One: Decision Time*, recommends "that the ministry pause any implementation of the Plecas report that may be occurring and provide an opportunity for Aboriginal groups, stakeholders, and other communities of interest to provide comments on the report and recommendations through a transparent consultation process";

WHEREAS the BC Minister of Justice sent a letter to the RCY on May 27, 2016, setting out that the Province “is committed to working collaboratively with First Nations in implementing new approaches to self-governance and delivery of child welfare services. As Canada’s participation is also necessary, BC will be having discussions on child welfare jurisdiction and services with First Nations and Canada and will not be developing an express policy [for negotiation of jurisdiction transfer and exercise of government powers over child welfare as recommended by the RCY]”;

WHEREAS at the two-day BC First Nations Children and Family Gathering (May 30-31, 2016), First Nations leadership and child-serving organizations called for an end to unilateral decision making by the Province and Canada with respect to planning and decision making around First Nations children and families, and called for a unity-seeking approach to Indigenous child welfare in BC; and

WHEREAS First Nations are frustrated that the Province of BC did not disclose its intent to begin discussion on child welfare jurisdiction and services with First Nations and Canada at the May 30-31 meeting.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council supports the call made by First Nations leadership for wholesale reform of the current Indigenous child welfare system that was born from colonial policies that have utterly failed our children and families;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls on the Province to pause implementation of Mr. Plecas’ December 2015 report, *Part One: Decision Time* (“the Plecas Report”) which was produced without involvement of First Nations, and by extension, disband the BC Government’s Advisory Council on Children and Families which is intended to action the Plecas Report;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive, working with the BC Assembly of First Nations (BCAFN) and the First Nations Summit (FNS) as the First Nations Leadership Council, to advance, with First Nations and willing partners, a BC First Nations Child and Family Action Plan; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive, working with the BCAFN and FNS as the First Nations Leadership Council, to extend an invitation to both Canada and British Columbia to honourably engage in a robust and meaningful Indigenous-driven process.

Moved: Chief Maureen Chapman, Skawahlook
Seconded: Chief Harvey McLeod, Upper Nicola Indian Band
Disposition: Carried
Date: June 2, 2016