**Indigenous Futures Executive Memo**

Thursday, May 3rd 2018

**Summary**

* This memo contains also notes from interviews this week conducted with the following people.
  + Francie Ducros, Assistant Secretary for Social Programs at Treasury Board Secretariat
  + Jonathan Rudin, Aboriginal Legal Services.
* As we move ahead with this project, it will also be important that we have a strong team going forward. Hiring will remain open until June 1st but I recommend we complete this ASAP.
* Our next meeting will be scheduled for the week starting May 14th.
  + Please answer the Facebook Poll for the following days at 9:00PM or 9:30PM
    - Tuesday, May 15th | Thursday, May 17th | Friday, May 18th | Saturday, May 19th

Where We Are Going Now

* For the sake of gathering a diversity of opinions recognizing ALS’s hostility to both governments and even native child welfare agencies, I am expanding the scope of my research. In coming weeks, meetings will be set up with Native Toronto, Indigenous Services Canada, Economic Development Canada, and hopefully Band Council leaders.
* Saba – further research on Saskatchewan, Manitoba, and British Columbia especially establishing contacts would be great.
* Katie & Naomi: any research you could do on AFN positions great. Metrics not currently needed.

We need to discuss organizational structure overall – and finding a way to get the Munk Undergraduate Think Tank underway. Possibly see Adam Sheikh for website assistance etc.

**Francie Ducros (Treasury Board of Canada)**

Comments on Short Project Brief Document

1. When speaking about jurisprudence and the HR Tribunal, be careful about legal language such as 'ruled against' etc. which can seem hostile to federal governments which we are working on.
2. Both in executive summary and throughout, make sure to address issues of baseline data (current LII rates) and address how metrics change the way that health overall works.
3. Deal with short-term progress but also in the long-term what kind of changes you would be supportive of.
4. Federal, provincial, and territorial issues are moving towards recognising a context that actors are moving towards a "nation-to-nation relationship" from Trudeau government.
5. Page 2 - 4th Paragraph

Have timeline for dealing with things over the long-term and short-term

1. Page 4 - "found guilty of discrimination re: indigenous services" is hostile language, politically incorrect and does not accurately describe the workings of an administrative council.

Change "slow to respond" to "federal government did not challenge findings"

1. Page 9 - decisions on provincial v. federal funding should be mentioned in the context of how you get people to work together. Jonathan Rudin could help with further development. There is currently a significant divide in how Ottawa and the provinces vs. First Nations groups view this issue.

Federal-Provincial Authority Split

* Federal governments have funded foster care on-reserve as a matter of practice, despite the fact that provinces are responsible for non-status Indians.
* "As a matter of law, social services and child services are the responsibility of provinces. As a matter of policy and honouring treaties, federal government has tended to fund these services on reserve. Lately, federal and provincial authorities have had difficulties working together."

On the "51% suspicion issue..."

* agencies have moved quickly to move children from homes where there is even remote suspicion of neglect in-general.
* The specific issue in the indigenous context is how fare they are brought from their home: child must have access to all four food groups.
* burden of proof which goes to interest of the child instead of provide supports for children in-home or in the community. needs to be co-developed with indigenous leaders.

\*\*\*Customary care section [from full Project Brief] is great\*\*\*

On Social Impact Bonds

1. A lot of interest from Employment Canada & Heritage Canada in social impact bonds and will want to move the bar as much as possible before the next election
2. SIBs there is a lot of interest in these kinds of projects but implementation just isn't there yet
3. If you watch what's happening with the AFN - First Nations have said that operating autonomously would lead to better services. And they are right. But when kids move on and off reserve, they will still need to be part of the provincial infrastructure.
4. In Urban Areas, these kids have fled reserves but special. In Rural Areas, money issue is also for non-Indigenous peoples.

Canadian Human Rights Tribunal Landmark Ruling

* Canadian Human Tribunal ruling "not an issue of unequal funding but rather that First Nations' have a greater need - this is a cultural sensitivity not monetary issue"
* Francie’s comments here are particularly insightful. She says we should read the landmark hearing because the government’s funding formula is per capita and therefore does fund equally. That is to say that for every $100 that goes to typical child welfare providers, there is also $100 that goes towards First Nations Care.
* A greater issue is the need. Aboriginals live on reserves where there is less capacity to provide services (i.e. less social workers in the North etc.). As an impact, while funding is equal the CHRT ruling argued that *greater funding* was needed to compensate this difficulty – this point has been a divide between governments and FN communities.
* Creation of independent (Native child welfare agencies) could be making this problem worst.

Things to Research

1. Might want to go back to Jane Philpott's statements to reflect upon scalability
2. BC Health Authority: First Nations' have established their own provisions to provide health for Indigenous peoples.

**Important Takeaways**

1. Francie is referring us to several contacts at the ADM level in Indigenous Services, Economic Development, and the Treasury Board. A great amount of interest has been generated in SIBs – especially given the way it grants First nations’ autonomy and Trudeau’s “nation-to-nation relationship” agenda. We must act on a pre-election timeline before 2019.
2. The need for creating multiple project briefs is incredible. It is very clear that governments, corporations, and self-identifying Indigenous view this issue differently. This is a project for me but the graphic design is hard. Assistance is appreciated.
3. I have asked Saba to explore the possibilities for implementation in SK, MB, BC, as these provinces may be friendlier in terms of timeline for doing this project.
4. Divide between Federal-Provincial jurisdiction for child welfare has two important implications for our project. If we are working on reserve, we should work with Fed. Ministries on the SIB not Mark Brown (Ontario). This is better for achieving support for SIBs.
5. On the other hand, ALS partnership and the additional costs of working on rural reserves where Galdue courts are less established creates benefits to working in Toronto.

**Jonathan Rudin (Aboriginal Legal Services)**

Please be aware that I did not record notes in this meeting, as its duration was more than 2.5hours and mostly informal in-nature. The paragraphs below are recorded mostly from memory but do contain valuable information for moving this project forward.

Customary Care as a Solution

* Jonathan expressed sever concerns that our documents seemed to hold-up customary care as a ‘golden ticket’ to solving the crisis in child welfare.
* When designed, customary care was intended to work as we had previously believed. A child lives on-reserve with an Auntie or Elder who lives just down the road from parents – kids remain on reserve with families and have continued contact with parents.
* This, however, is not how customary care has worked in practice. Customary care has been used as a ‘catch-all’ approach by Native child agencies since it *stops the clock* and allows children to live in temporary placements for more than 2 years (if more than 7 years old, 1 year if less than).
  + Native Child Family Services Toronto (hereafter Native Toronto) has admitted that customary care homes are **often non-Indigenous foster families.**
  + Further, these agreements are structured informally and therefore cannot be challenged in-court. The result is if a parent who is a recovering alcoholic is deemed unacceptable to customary care parents (who could very well be non-Indigenous) – these parents can **cut off access to the child at their discretion.**
* Parents are given only one recourse: to rip up the customary care agreement since it cannot be renegotiated. This usually sends the child back into Native Toronto for a new placement.
  + Ryan Walsh who handles the majority of these cases suggests even worst outcomes result
* [Naomi – your slide when we presented was entitled “customary care in-theory” and “customary care in-practice”, if this is what you were referring to the group thanks you for your efforts].

What is Aboriginal Legal Services?

* ALS is a group which provides a number of services to Aboriginal peoples of Toronto including healthcare access, employment services, anti-discrimination cases, and child welfare.
* Ryan Walsh is the main contact and only employeeworking on the child welfare file.
* In terms of funding and organizational structure:
  + ALS is funded by the Ontario Ministry for Child Services as an *alternative dispute resolution* mechanism. Functionally, this means that they hold talking circles which operate in a **likewise fashion to attorney-client privilege** wherein its clients can openly discuss concerns with Native child agency social workers and can produce agreements.
* Talking circles are orchestrated by volunteers and Elders whom can facilitate mediation – **trust is built because of the presence of Indigenous leaders** and because nothing said in a talking circle can be used in a court for affidavits against Parents

The Good News

* Customary care as-designed has sometimes been successful, especially in the North. Designing a program as was intended to occur could be very good in an urban centre; see Native Toronto.
* While it is extremely flawed in its current state, customary care is nevertheless better than traditional foster care: what Jonathan calls ‘the best of some very bad options’.
  + 1) it stops the clock on adoption, so kids can eventually return home
  + 2) even non-Indigenous homes *must* maintain culture which “keeps a child whole”.
* Indigenous Chiefs have the final say on customary care agreements (legal signing authority) **and will often sign while they will refuse adoption, foster care etc.** because they know it at least leaves the door open to children returning to the Band.
* As recognized by the Ontario government, customary care is an Indigenous-centered approach and is very loosely defined.
  + With a good service provider, we can practically design a new approach from the ground up and label it as customary care which makes it legally valid.

**Important Takeaways**

1. After an almost four-hour meeting with Ryan Walsh, he appreciated my interest and has agreed to take me on to ‘shadow’ him, attend talking circles and understand how ALS works. I will be working with Ryan for 4-6 hours each week. Saba – you are also able to shadow in Toronto.
2. The Six Nations’ tribe is extremely closed off and distrustful of outsiders; this makes it a very difficult group to approach for such close observation with investor-based funding.
   1. Counter-opinion: Francie says Six Nations’ is large and well-organized and applauded us for this choice but expressed the difficulty of scaling up to other groups.
   2. SIB: Ogwadeni:deo is a new agency with an unproven track record – it’s a hard sell.
3. It gives me tremendous pleasure to announce that Indigenous Futures has earned its first partner and is now officially partnered with Aboriginal Legal Services (Toronto).

**Advertising**

* Consider building a website for Indigenous Futures to make our mission statement, partners etc.
  + Find a way to pay for it on our own!