Six Nations of The Grand River Territory

Child Welfare Designation

Discussion Session Interim Report

February 27, 2012

Introduction

In late 2011, Six Nations of the Grand River Territory mandated a committee to facilitate a process of community consultation to assess the level of community interest in, support for, and readiness to pursue child protection designation under the Ontario Child and Family Services Act (CFSA).

This action is being taken following many years of criticism of the delivery of Child Protection by the Brant County Children's Aid Society (CAS) through its Native Services Branch (NSB) and the recent submission of a petition signed by approximately 1,300 community members asking a) that the CAS Native Services Branch be removed from the territory, and b) asking that the necessary steps be taken to establish a Six Nations' Child Protection Program.

The question posed in the resulting process of community consultation is:

> "Should Six Nations initiate the process of designing and establishing our own community-based protection program and negotiating a protection designation with Ontario?"

As of February 24, 2012, a total of 20 sessions have been held. An additional 5 discussion sessions have been scheduled for the next few weeks; plus a radio phone-in show.

Attendance at these meetings as been low:

Mt'g	Date	Location	Type	#
1.	21-Dec	SSGym	Public	50
2.	26-Jan	SSGym	Public	0
3.	27-Jan	SSGym	Public	0
4.	08-Feb	Stoneridge	Public	6
5.	10-Feb	SSGym	Public	3
6.	13-Feb	Welfare	SA staff	15
7.	14-Feb	Stoneridge	Staff	0
8.	15-Feb	Stoneridge	Staff	0
9.	15-Feb	Stoneridge	Staff	3
10.	16-Feb	Stoneridge	Staff	0
11.	16-Feb	Stoneridge	Staff	0
12.	16-Feb	SS Boardroom	Pubic	2
13.	17-Feb	Polytech	Staff	8
14.	17-Feb	SS Boardroom	Pubic	2
15.	21-Feb	Health Brdrm	Health Staff	8
16.	22-Feb	SS Boardroom	Pubic	1
17.	22-Feb	Stoneridge	Public	1
18.	23-Feb	Niagara	Off Reserve	19
19.	23-Feb	SS Boardroom	Public	1
20.	24-Feb	Gan	Gan Staff	21
21.	28-Feb	Brantford		
22.	29-Feb	Hamilton		
23.	01-Mar	Radio	??	
24.	01-Mar	Gan	Gan Clients	
25.	05-Mar	SS Brdrm	SCCFS Staff	
26.	07-Mar	GREAT	GREAT Staff	
			Total:	**140**

Input to Date

Despite the low turnout, the first thing to be said is that very, very little, if any, opposition has been expressed to the position reflected in the petition previously signed by some 1,300 community members – i.e. that Six Nations should take the necessary steps to re-assume direct responsibility for the protection of children.

Community members, including the staff of existing community-based health and social service programs express very specific concerns about the manner in which the legal mandate to protect children is being carried out by the Brant CAS. These concerns range from issues arising in the character of direct interaction between CAS staff and families (both nuclear and extended) in which protection issues have been identified, to the issues in the working relationships between Six Nations' and Brant CAS Programs in respect to these protection cases.

Examples of Concerns Expressed Re: CAS Delivery

- the number of children placed in foster care outside the community (rather than in homes of extended family members) and the number of children being adopted out.

- cases in which the CAS has not actively looked for a family placement opportunity for a child or has rejected the offer of a family placement on the basis of something that happened in the past (an apparent refusal to accept that a person can change over time)

- lack of financial support for those relatives who are accepted by the CAS to provide care to a child or children (compared to foster homes).

- cases in which the CAS has refused to involve extended family/clan members in discussion of what best to do about a situation in which a child protection issue is being investigated (citing confidentiality rules).

- cases in which CAS staff have apparently used threats to obtain client signatures (e.g. "sign or else you won't see your kids").

- the apparent focus of the CAS on the child and not on the child's family that is reflected in a failure to provide sufficient help to or advocacy for the family in overcoming whatever issues have led to the removal of their child or children.

- a lack of effort to identify and offer support services to address emerging family issues before they reach the protection intervention level.

- insufficient use of alternative dispute resolution (rather than the courts) by the CAS.

- a failure to ensure families and children are informed of their rights under the CFSA.

- a suspicion that, for the CAS, the number of protection case files opened is "all about the money".

- inadequate information sharing between the CAS and community-based programs involved with the same clients (a criticism also leveled by some participants at the relationships between the various Six Nations community-based programs – a lack of internal cooperation!).

- the degree to which many community members view the CAS as something to be feared rather than a source of needed help.

Most of the questions posed in the discussion sessions have been very largely about whether or not Six Nations will be able to design and implement a community-based, controlled and directed protection program that will be generally acceptable across the various interests in the community (including a place for traditional community roles and methods of intervention) within the constraints of applicable provincial law, regulations and standards. As one participant noted, "…a brown CAS is still a CAS…".

It has been noted repeatedly in the discussion sessions that the answer to this general question – "can we come up with a better way to protect children within the constraints of the CFSA" – has to be "YES" based on at least three considerations:

1. There are considerable differences between non-native CASs in the manner in which the protection function is executed on First Nation territories despite the constraints of the CFSA (the issues identified between the Brant CAS and the Six Nations characterize many but not all CAS/First Nation relationships).

2. Some, if not all First Nation Programs (Weechi-it-te-win and Akwesasne are good examples) have been able to ensure that children are protected in a manner which incorporates traditional roles and helping methods, significantly reduces apprehensions and the use of the courts and makes maximum use of locally-defined alternative dispute resolution and (subsidized) customary care arrangements.

3. The CFSA provides for First Nation programs to be exempted from any part of the Act or Regulations that make it difficult to implement a First Nation-specific Protection Model - in favour of alternatives that support delivery in a more culturally appropriate manner as long as the alternatives proposed adhere to the principle of meeting the best interests of the child.

Several participants have asked why, if it is the case that a First Nation can develop a culturally appropriate model for child protection that is acceptable under the CFSA, did Six Nations not take responsibility for protection after the effort to become designated in the early 1990's?

It has been pointed out in response to this question that Six Nations did develop and successfully completed negotiation of a protection services model that was acceptable to the community yet fell within the framework of the CFSA (involving several exemptions). It has also been pointed out that the various reasons Six Nations did not proceed to implement at the time (including an arbitrary 5% cut in the funding that had been negotiated) did not include an inability to negotiate acceptance of a community-based model for the delivery of protection services (which included for key exemptions at the time).

Another important question posed by several participants in the discussion sessions (especially by community-based program staff) is whether or not it will be possible to develop an accountability arrangement that will ensure that the staff of a Six Nations designed protection program are fully able to operate on the principle of meeting the best interests of the child – free of or with the means to deal with any political or extended family interventions in the day-to-day execution of the protection responsibility in specific cases.

In response to this concern, it has been noted that the fact that other First Nations (e.g. Akwesasne) and First Nations organizations (e.g. Weechi-it-te-win, Tikinagan, etc.) have been able to address this concern effectively should provide the confidence that this, potential issue, can be addressed effectively by Six Nations as well.

There have been other, very practical questions raised about assuming responsibility for protection, for example:

- will a Six Nations Protection Program deliver solely on the territory or will it have responsibility for member families living off reserve as well?

- will there be a recruitment and training plan for the staff handling the protection function so as to ensure that these staff members will deliver according to the Six Nations Protection Program Design?

- will there be a transition plan to ensure that responsibility for children currently in care of the CAS will not experience any negative impact as a result of Six Nations assuming responsibility for protection?

- how quickly can a program design be developed and acceptance by Ontario negotiated (and expression of concern about more children being taken into care by the CAS in the interim)?

- will there be enough funding to ensure effective delivery of the child protection function by Six Nations?

- will we be able to secure additional funds to support an enhanced primary and secondary prevention focus (to reduce the need for protection interventions)?

In response to these kinds of questions, it has been pointed out that they are all-important questions, and will have to be addressed in the “program design phase” of the designation process – as they were back in the early 1990’s. As to time frame, it has been suggested that the development and negotiation of an acceptable program design and implementation plan could be relatively fast given that Six Nations already has a design and operational policies and procedures that only requires updating in relation to changes that have been made to the CFSA since 1995 (and in relation to any changes in social structure and interests that have occurred in the past 15 years). It was also pointed out that there are now several successful First Nation models that could be helpful in ensuring the design process can be completed in a reasonably short period of time.

Interim Conclusion

While the discussion process initiated in December has not yet been completed, it is reasonable to conclude at this point:

1. that there continues to be general concern about how the CAS delivers on its protection responsibility on Six Nations' Territory,

2. that there is general support for moving into the second, design phase of the designation process,

3. that community members would prefer that a decision on entering into actual negotiations respecting designation be taken only after a program design has been developed and judged, through further community discussion, an acceptable community-based approach to ensuring the protection of children.