

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada K1A 1J4

BETWEEN/ENTRE:

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA
and ASSEMBLY OF FIRST NATIONS

Complainant

Plaignant

and/et

CANADIAN HUMAN RIGHTS COMMISSION

Commission

Commission

and/et

ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous Services Canada)

Respondent

Intimée

and/et

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION

Interested Parties

Parties intéressées

BEFORE/DEVANT:

Sophie Machildon
Edward Lustig

CHAIR
PANEL MEMBER

Judy Dubois

REGISTRY OFFICER

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APPEARANCES:

Dayna Anderson
Kevin Staska
Samantha Gergely

for the Attorney General of Canada

Stuart Wuttke
Lacey Kassis

for Assembly of First Nations

David Taylor
Sarah Clarke
Kevin Droz

for First Nations Child and Family
Caring Society of Canada

Michael Hyer

for Nishnawbe Aski Nation

Darian Baskatawang

for Chiefs of Ontario

Also Present:

Dr. Cindy Blackstock
Brittany Matthews

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1 Via Zoom Videoconference

2 --- Upon commencing on Wednesday, April 3, 2024

3 MS. DUBOIS: Today is April 3rd,
4 2024. This is day two of the motion hearing of the
5 First Nations Child and Family Caring Society of
6 Canada and the Assembly of First Nations and the
7 Canadian Human Rights Commission and the Attorney
8 General of Canada, and the interested parties,
9 Chiefs of Ontario, Amnesty International and
10 Nishnawbe Aski Nation.

11 And I would like to call court
12 appearances, please, starting with the complainant
13 and then the respondent.

14 MR. TAYLOR: Good morning for the
15 First Nations Child and Family Caring Society of
16 Canada. It is David Taylor, Sarah Clarke, Kevin
17 Droz. And with us this morning as well, we have
18 Dr. Cindy Blackstock and Brittany Matthews.

19 MS. ANDERSON: Good morning. For
20 the Attorney General of Canada, Dayna Anderson,
21 Kevin Staska and Samantha Gergely.

22 MR. WUTTKE: Good morning. Stuart
23 Wuttke and Lacey Kassis for the complainant,
24 Assembly of First Nations.

25 MR. BASKATAWANG: For the Chiefs

Arbitration Place

(613) 564-2727

(416) 861-8720

1 of Ontario, Darian Baskatawang.

2 MS. WALSH: Good morning. For the
3 Canadian Human Rights Commission, Jessica Walsh and
4 Brian Smith.

5 THE CHAIR: Nishnawbe Aski Nation,
6 please.

7 MR. HYER: Good morning, all. I'm
8 Michael Hyer for Nishnawbe Aski Nation.

9 THE CHAIR: Thank you. Good
10 morning, everyone. Day two. Today we're going to
11 hear from another witness, affiant -- witness, for
12 people that are not lawyers. Before we start, Ms.
13 Dubois is going to affirm you again just for these
14 proceedings.

15 So thank you for coming and I want
16 to let you know that if at any point you're tired
17 or you need a break, just let me know. That's my
18 job, to make sure that you're comfortable. Okay?

19 MS. DUBOIS: Do you affirm that
20 the evidence you are about to give to this tribunal
21 is the truth, the whole truth, and nothing but the
22 truth?

23 THE WITNESS: Yes, I do.

24 MS. DUBOIS: Can you state your
25 full name for the record?

1 THE WITNESS: Candice

2 (Indiscernible) St-Aubin.

3 AFFIRMED: CANDICE ST-AUBIN

4 THE CHAIR: Thank you. I don't
5 know if you still have your clerical point to
6 address, and I would ask like I asked yesterday
7 that you would lead the witness in a few
8 introductory questions and then it will be the
9 Caring Society's turn.

10 MS. ANDERSON: Absolutely. And I
11 understand the Caring Society may have preliminary
12 housekeeping matters --

13 THE CHAIR: I have asked -- thank
14 you.

15 MS. ANDERSON: Thank you. In
16 terms of the housekeeping for the correction to the
17 affidavit, the corrected evidence is something that
18 is subject to the interim confidentiality order.
19 So I have spoken with my friends at the Caring
20 Society and we're proposing that rather than going
21 in camera, we perhaps just present an updated
22 supplementary affidavit to correct the evidence on
23 the record, and for now all the parties are aware
24 of what the change is. Would that be to your
25 satisfaction?

1 THE CHAIR: Absolutely. Thank
2 you.

3 MS. ANDERSON: Thank you.

4 THE WITNESS: Good morning, Ms.
5 Anderson.

6 EXAMINATION-IN-CHIEF BY MS. ANDERSON:

7 Q. Can you please state your
8 current position?

9 A. I am a senior assistant deputy
10 minister at First Nations (indiscernible).

11 Q. Okay. And what do you do in
12 that position?

13 A. I lead a mandate that we
14 support, provide and include the health and well-
15 being of First Nations and Inuit across the
16 country.

17 Q. How long have you been in that
18 position?

19 A. It has been 11 months.

20 Q. And what did you do prior to
21 that?

22 A. Prior to that I was the vice
23 president of the health promotion (indiscernible)
24 branch at the Public Health Agency of Canada.

25 Q. What is your education

1 background?

2 A. I have a master's degree in
3 Canadian studies with a focus on Indigenous issues,
4 as well as a bachelor degree in psychology and
5 diploma of education on completion in early
6 learning and child care.

7 MS. ANDERSON: Thank you. Those
8 are my questions.

9 THE CHAIR: Thank you. Mr. Taylor
10 or Ms. Clarke?

11 MR. TAYLOR: Thanks very much,
12 Madam Chair.

13 CROSS-EXAMINATION BY MR. TAYLOR:

14 Q. Good morning, Ms. St-Aubin.

15 A. Good morning.

16 Q. I'm going to ask you some
17 questions today. My name is David Taylor. I'm one
18 of the Caring Society's counsel on this matter.
19 You've got some documents in front of you which we
20 will be going to to ask questions. There's a few
21 of them and many of them look the same. So if
22 there's any point you're not sure what I'm
23 referring to, just stop me and I will clarify.
24 Like the Chair said, if you need a break, just let
25 me know and then we will do that.

1 So my friend has asked a couple of
2 my preliminary questions about your professional
3 background, but just to confirm, so you joined
4 Indigenous Services as a senior assistant deputy
5 minister and that would have been in April 2023?

6 A. Yes.

7 Q. (Simultaneous speaking) --

8 A. That's okay. It's end of
9 April, beginning of May.

10 Q. May. Yeah, you said 11 months
11 --

12 A. Yes.

13 Q. -- so it's about that time.
14 So it's been less than a year?

15 A. Yes.

16 Q. And then you noted you were at
17 the Public Health Agency of Canada prior to that.
18 And prior to that, I believe you were a director
19 general at ISC?

20 A. I was briefly, yes.

21 Q. And that was in September 2020
22 to February 2021?

23 A. Yes, right before I was
24 appointed as vice president.

25 Q. Was that a role related to

1 Jordan's Principle?

2 A. It was the role of leading the
3 education branch.

4 Q. So just moving on to --
5 actually, moving on to the start of my substantial
6 questions. So I want to ask you some questions
7 about the backlogs in Jordan's Principle, if I can
8 start there. But I'm wondering if you can kind of
9 start at a conceptual level as opposed to actual,
10 you know, details of how many cases or where right
11 now.

12 So there's kind of a few kind of
13 key contexts about that that I was hoping we could
14 kind of see if we agree on, and then we will kind
15 of get to some more detailed questions after that.

16 So in terms of thinking about the
17 places in the Jordan's Principle process where one
18 could find backlogs, would you agree that one point
19 where there could be a backlog is at the initial
20 stage when a case comes in, which is the email
21 intake stage?

22 A. Yes.

23 Q. So an email is essentially
24 unopened in an inbox and it's waiting to be
25 processed?

1 A. It could be, yes.

2 Q. And then a second possible
3 backlog point would be after the email has been
4 opened and intake has been completed and the
5 requestor is then waiting with a focal point to
6 make a recommendation about what to do?

7 A. I assume, yes, it could be.
8 Sorry, just to clarify, you mean to make
9 determinations?

10 Q. Yeah. Essentially, my
11 understanding of how the process works is someone
12 will email or do an intake with the email and then
13 it goes to a focal point for a determination.

14 A. Right.

15 Q. And so the focal point will
16 have to, you know, look at the intake, complete an
17 intake, make a recommendation, either to approve it
18 or send it for escalation. So while it's waiting
19 for that to happen, it would be another possible
20 backlog point?

21 A. If they're waiting for
22 information or back and forth with the requestor.

23 Q. Or if there's a queue. There
24 could be -- for instance, you know, if there's a --

25 A. There could be. I don't

1 necessarily see that queue, but --

2 Q. No, but just at a conceptual
3 level.

4 A. Okay.

5 Q. So if I'm a focal point and I
6 have arrived on Wednesday morning to work, I could
7 have, you know, 20 cases --

8 A. Waiting.

9 Q. -- waiting for me. 20 is not
10 the important number. A given number of cases.

11 Now, I understand if the focal
12 point approves the request, then it moves on for
13 payment. But if the focal point isn't able to
14 approve the request, it would then be escalated.
15 Is that right?

16 A. Not necessarily. It's just
17 dependent on the rationale. If there's a denial,
18 then that's communicated back. But if there is
19 something that is beyond, for a dollar value or for
20 a variety of reasons, it can be escalated.

21 Q. And are focal points able to
22 deny requests?

23 A. As far as I'm aware. However,
24 that said, I think, again, it depends on regions.
25 So focal points, if they're making a determination,

1 I would assume it's a recommendation or a denial.
2 That's the determination process.

3 Q. Are you aware -- is it your
4 understanding that, at least at some point in the
5 Jordan's Principle evolution of how the requests
6 are made, that denial authorities were within
7 regional executives or other folks above the focal
8 point?

9 A. I'm not aware. That's just --
10 I don't have experience quite yet at that level of
11 detail.

12 Q. So Dr. Gideon's evidence on
13 that would be (indiscernible) in her affidavit?

14 A. Yeah, if she's speaking more
15 to that. I'm not so comfortable to say.

16 Q. That's fine. So in the event
17 that it's in the escalation pathway, that's kind of
18 the next stop on the request journey after the
19 focal point looks at it. Would you agree that a
20 third possible backlog point could be while it's
21 waiting for consideration by the national review
22 team?

23 A. Yes. Yes. I'm just doing the
24 tracking.

25 Q. Yes. Yes. And then if the

1 national review team were to deny the request and
2 someone wanted to appeal the request, then a fourth
3 possible backlog point could be, you know, waiting
4 for the appeal committee to consider the request?

5 A. To date, as of the information
6 I have, there is no backlog, but I suppose it's
7 possible for sure --

8 Q. Yeah (Simultaneous speaking) -
9 -

10 A. (Simultaneous speaking.)

11 Q. And we will get into kind of
12 where the things are at, kind of, at this point.
13 I'm just now trying to set up -- you think of it
14 as, you know, the O-Train, one of the stops on the
15 rail.

16 And then if there's approval, then
17 there could be a potential backlog point waiting
18 for (indiscernible)?

19 A. Yes, that's possible.

20 Q. Now, that's kind of my
21 conceptual questions. So if you have your
22 affidavit handy.

23 A. Yes, I do. It's right here.

24 Q. Okay. Great. If you could
25 look at paragraph 10, please. It starts on page 3.

1 Paragraph 10, just at the bottom of the page, it
2 reads:

3 "Backlogs in email
4 correspondence and requests
5 awaiting determination vary
6 at any given time and across
7 regions. Overall,
8 approximately 55 percent of
9 backlogged correspondence in
10 Jordan's Principle general
11 request inboxes are new
12 requests, while approximately
13 45 percent are other
14 correspondence related to
15 existing requests."

16 So this ratio of kind of 55
17 percent backlog correspondence to 45 percent other
18 correspondence, is that something that's populated
19 in (indiscernible) affidavit?

20 A. That was something that was
21 discussed with the team about what the percentage
22 of (indiscernible) is because it, again, a
23 complexity of back and forth and the type. What
24 does it mean, request versus an existing one
25 (indiscernible)?

1 Q. So that could be --

2 A. It is an approximate.

3 Q. Approximate. And the word
4 "approximately" --

5 A. Yes.

6 Q. -- is right there in the
7 second line. So that would be a statistic or an
8 estimate that your team had provided to you?

9 A. Yes.

10 Q. And do you know how they
11 calculated it?

12 A. I don't have that level of
13 detail (inaudible).

14 Q. So you're not sure if it was a
15 matter of -- based on the stuff we have opened,
16 it's been 55-45 or if there's some other method
17 they have.

18 A. Yeah, I wouldn't be able to
19 speak to that, unfortunately, at this time. I
20 don't have the document.

21 Q. Do you know when they last
22 calculated that ratio?

23 A. I don't.

24 Q. So I have a couple of
25 questions about the overall volume. So your

1 affidavit doesn't really give much in the way of
2 statistics about kind of what we're looking at for
3 numbers right now. So I think you're aware of what
4 was, I guess, checked, that we had sent a request
5 to your counsel last week about some more precise
6 numbers. Are you aware of that?

7 A. Yes, I was made aware.

8 Q. Yeah. So have you got the
9 volume I brief? This is the Cerlox.

10 A. This one?

11 Q. Yes. It should have volume I
12 (indiscernible) that Roman numeral there.

13 A. Yes.

14 Q. So just to confirm, that's the
15 email from me to your counsel under tab A, just
16 making that request.

17 "As discussed last week,
18 please find correspondence
19 seeking information regarding
20 state of backlogged Jordan's
21 Principle requests at three
22 points in time..." (As read)

23 If then you turn over the tab to
24 tab B, there is a document titled "Status of
25 Jordan's Principle operational backlogs as of March

1 27, 2024". Do you see that?

2 A. Yes.

3 Q. Is this a document you have
4 seen before?

5 A. Yes.

6 Q. Did you review this document
7 prior to coming today for cross-examination?

8 A. Yes, briefly.

9 Q. So I have a few kind of
10 general questions about the document, but just
11 briefly, we have been talking about the emails. I
12 wanted to ask you specific questions about those.
13 So if you don't mind flipping to page 3 of the
14 document.

15 If you look in the second -- or, I
16 guess, the full paragraph here under "Intake
17 pending", it says "Intake pending (A)".

18 A. Okay.

19 Q. And then about halfway down
20 this paragraph there is a sentence that starts,
21 "The email count is restricted". Do you see that?

22 A. Yes.

23 Q. So the sentence reads:

24 "The email count is
25 restricted to specified inbox

1 folder(s) used by regions to
2 sort and triage emails
3 pending intake into the
4 Jordan's Principle case
5 management system to minimize
6 the risk of including emails
7 not directly associated with
8 new requests like follow-ups,
9 invoices, and general
10 inquiries." (As read)

11 I am wondering if it would be fair
12 to say that the statistics in this report kind of
13 avoid the 55-45 split problem because they're now
14 targeting more specific inboxes as opposed to
15 looking generally at what is in the correspondence
16 basket?

17 A. Yeah, I think it's fair to say
18 that when this was completed, it was a moment in
19 time with that information we had based on that
20 data. It's much more (indiscernible).

21 Q. Right. So then when we turn
22 over the page to table 2, when we're looking at the
23 estimated intake pending backlog by region for
24 emails, these numbers, we don't have to split them
25 55-45 because the data team has been able to be a

1 little bit more precise in their method for this
2 one. Would you agree with that?

3 A. Could you just rephrase that?
4 Sorry, I'm kind of --

5 Q. Sure. So just to take a step
6 back, in your affidavit, there's this kind of
7 discussion of a 55-45 split because it could be a
8 new request or it could be an email that's updating
9 an old request. And then in this document on page
10 3 they're telling us that they have targeted
11 specific inbox folders to sort and triage emails to
12 avoid including emails that aren't associated.

13 A. Right.

14 Q. So if we're looking at kind of
15 a -- we don't need to do this 55-45 discount with
16 table 2 because they have kind of come up with an
17 alternate method for that. We're not looking at --

18 A. Well, they seem to have done
19 it only in three of their --

20 Q. No, yeah, that's not what my
21 question was asking.

22 A. Okay.

23 Q. Is this the figures that we
24 have? Like, when they're saying 5,000, it's not --
25 okay, that's 25 --

1 A. For these particular issues --

2 Q. (Simultaneous speaking) this
3 is 5,000 emails.

4 A. Right.

5 Q. You agree with that?

6 A. With my limited familiarity
7 and ongoing discussion on it, I would say it looks
8 like that, yes.

9 Q. Okay. Just -- that helps to --
10 - at least we're reading the document the same.

11 A. Yes.

12 Q. Okay. And now -- that was
13 actually my next question. You noted that there
14 was some with no information. Do you know why
15 there's no data available for Alberta, Northern
16 Ontario, Quebec and Saskatchewan?

17 A. Only just based on the
18 asterisk below that there was data on emails not
19 available at the time of the report.

20 (Indiscernible.)

21 Q. Now, my email -- if you can
22 flip back to tab A, my email, admittedly came in at
23 4:56 p.m., which is, you know, close to the close
24 of business, a few minutes away. And if you look
25 at tab B, the document is March 27th. Is it

1 possible that those regions haven't responded by
2 the time this was prepared?

3 A. Again, I'm not aware of this -
4 - of what happened with the action of this request.

5 Q. No, that is fair enough. Ms.
6 Anderson, I'm wondering if we can have the
7 estimated intake pending backlog for all the
8 regions, including the five that aren't provided?
9 It doesn't have to be as of March 27th, I'm
10 guessing, based on the method. It's kind of hard
11 to go back in time and say, "How many unopened
12 emails did you have on this date?" So being aware
13 of the point in time (indiscernible) the data, just
14 to have it, would be helpful.

15 MS. ANDERSON: Sorry, just to
16 confirm, estimated intake for all regions?

17 MR. TAYLOR: For all regions. And
18 that's for table 2, just for table 2, because the
19 other tables have more complete information but if
20 it's possible to get those other five regions
21 sorted by -- or I guess I should say the picture of
22 the regions, including those five regions, that
23 would be appreciated.

24 MS. ANDERSON: Yes, we will ask
25 for that.

1 BY MR. TAYLOR:

2 Q. Thank you. Okay. So we will
3 take a couple of steps back, staying with this
4 document though, this time more generally.

5 A. Okay.

6 Q. So if we look at page 2 --
7 sorry, page 3. Am I right to think that the
8 methodology in the report essentially distinguishes
9 between cases that have intake pending? So they
10 are those emails that are in the inbox
11 (indiscernible), and then cases that are in
12 progress or requests that are in progress. Those
13 are kind of dealt with separately. But intake
14 pending under A and then requests in process under
15 B?

16 A. Yes. I just want to read
17 that. I reread the document.

18 Q. And we get back to kind of my
19 -- I could have set this up more strongly, perhaps,
20 but analogy of my stops on the O-Train line of
21 different spots where there could be a backlog.

22 Would you agree with me that the
23 intake pending cases that are referred to in A,
24 that would correspond with the first backlog point
25 we discussed, which was getting the emails opened

1 so that the requests gets into the system?

2 A. Yes. So it says -- yes, based
3 on the definition that's been provided in the
4 document, that appears to be how they --

5 Q. And if we look at the second
6 category, would you agree with me that that's kind
7 of like the second O-Train stop, which are those
8 cases that are in the process of getting to a focal
9 point to make the recommendation?

10 A. Yes, it appears to be those
11 that have been entered into the case management
12 system (indiscernible).

13 Q. Now, in terms of -- you know,
14 one of the kind of steps in the process that the
15 Caring Society has been concerned about, would you
16 agree that it's fair to say the Caring Society has
17 been concerned about when cases are triaged or
18 whether cases are triaged for urgency?

19 A. Yes.

20 Q. So would you agree with me
21 that if you're a case that's in the intake pending
22 category, you wouldn't get into triage urgency
23 because the email hasn't been opened?

24 A. I am not sure how to say with
25 a clear "yes" or "no" just because I'm not fully

1 clear on when the email is sent in there is an
2 option to flag if it's an urgent.

3 Q. Right.

4 A. So it's hard for me to say
5 "yes" or "no".

6 Q. Right.

7 A. I could see that it could be
8 both.

9 Q. But if it's -- assuming --
10 we'll just assume just for the sake of the question
11 --

12 A. Just to clarify, because --
13 and this is, again, part of how it is viewed here.
14 These items, it doesn't say if they have been
15 opened. It says that it just has not been entered.

16 Q. Entered.

17 A. So if the individual opens it
18 and sees it and says, okay, this has been deemed as
19 a non-urgent --

20 Q. I see.

21 A. -- then perhaps -- but this
22 would be at an individual region, individual case.
23 So it's hard for me just to say fully "yes" or "no"
24 on that. Sorry.

25 Q. That's not -- that's fair

1 enough. I don't know how familiar you are with the
2 Outlook software, but are you familiar that Outlook
3 could have automatic sorting into inboxes as well?
4 "No" is a fine answer.

5 A. I'm -- I don't know.

6 Q. Yeah, I think --

7 A. (Simultaneous speaking.)

8 Q. I just want to get your
9 evidence --

10 A. Yes, for sure.

11 Q. I don't know want to put you -
12 -

13 A. Yeah.

14 Q. But in terms of the cases that
15 would be in the system but waiting for a
16 determination but from a focal point, those would
17 have been triaged for urgency if they have been
18 through the intake process at that point?

19 A. Ideally, yes.

20 Q. Okay. So looking at the
21 tables in the document, going over to page 5 and 6.
22 And just again kind of going back to the idea of
23 the O-Train stops. So we talked about the intake
24 pending kind of being the first stop where there
25 could be a backlog, and that would be table 2

1 that's representing that data? Do you agree with
2 that?

3 A. These are the ones that are --

4 Q. Yeah, I just wanted to
5 clarify. I'm asking and not telling. So the
6 evidence is your statement here, so I just want to
7 see if you agree with how I'm reading the document.
8 So my interpretation of table 2 is that this is
9 giving statistics that the data team has pulled
10 about this kind of -- cases that are waiting, kind
11 of at -- getting through that first stage. You
12 write that.

13 A. Yes.

14 Q. And then if we look at table
15 3, that would be kind of the second stop on the O-
16 train line, being the ones that are, you know, in
17 the focal point process but haven't yet been
18 determined. Would you agree with that?

19 A. (Indiscernible.)

20 Q. And then table 4, this is the
21 third potential stop, which would be with the
22 national review team. They have been escalated but
23 not decided yet. Would you agree with that?

24 A. Yes.

25 Q. And then you mentioned earlier

1 that there are no appeal backlogs, and that's the
2 fourth point, that there's no --

3 A. Just that I'm not aware of,
4 but I think it all changes day to day --

5 Q. And just in fairness to you,
6 these are as of March 27th. Page 1 is telling us
7 no requests in the appeal backlog when considering
8 the 30-day service level standard. So if there are
9 cases pending, they have been pending for less than
10 30 days. That's my reading of that. So just in
11 fairness to you there.

12 And then we don't have data on
13 backlog (indiscernible). Is that fair? We just
14 know that 43 percent, just based on page 1, are --

15 A. Correct. I don't see any
16 further detail.

17 Q. So if we can go back to page
18 4, there is a heading here called "Considerations".
19 Now this is the only spot, I think, today where I'm
20 going to have a little bit of math, so just bear
21 with me and let me know if you're not following.

22 So if you could take out Dr.
23 Gideon's affidavit, which we went through with her
24 yesterday. It says Valerie Gideon on the front, so
25 that's the right spot. And if you go to page 3,

1 there's a table there under paragraph 6. Do you
2 see that?

3 A. Yes, I do.

4 Q. Have you seen this table
5 before?

6 A. Briefly, when (indiscernible).

7 Q. I just want to spend a minute
8 on it just so we're on the same page about how it
9 works. So the way I read this table is if you look
10 at the column here, "Requests approved", there are
11 a bunch of rows, and those rows correspond with
12 fiscal year. Am I right about that?

13 A. Yes.

14 Q. And essentially, each row is
15 giving kind of three data points about each fiscal
16 year. So you have got -- just looking at '18-'19
17 fiscal on top, you have got 14,765. And I'm taking
18 (indiscernible) requests, that's how many requests
19 came in, individual requests in '18-'19. Do you
20 agree with that?

21 A. That was the requests
22 approved.

23 Q. I'm sorry, yes, requests
24 approved, not came in. That's -- thank you for
25 correcting that.

1 A. Yes.

2 Q. Yes. Yes. And now the table
3 says, "representing 140,332 products, services and
4 supports", which would be essentially if you took -
5 - my understanding, and just confirm if I'm right
6 about this, you can have a case that has one
7 request, you have a case that has ten requests, and
8 between those two, you have a total of 11. So this
9 140,332, am I right that that is essentially the --
10 that's the (indiscernible) that was approved for
11 all cases in 2018-'19?

12 A. Yes, based on that definition.

13 Q. Yes. And then the last little
14 data point there is the 311.3 million, which I'm
15 taking that as kind of the funds expended in '18-
16 '19 on these product, services and supports?

17 A. I think that's a fair
18 assumption. I don't know.

19 Q. Okay. Hold on one moment
20 here. Put your finger on this one. We're going to
21 turn back to the considerations here.

22 So the first bullet says:

23 "The backlog volumes
24 presented in this report are
25 at the request level, not at

1 the cases or requestor level.
2 For example, it is possible
3 that one requestor might have
4 three cases, and each case
5 might have three items
6 requested. The backlog
7 associated with this
8 requestor would appear as
9 nine requests, not the three
10 cases or one requestor."

11 Do you follow that?

12 A. Mm-hmm.

13 Q. So when we're looking at this
14 kind of number nine, nine requests, that would be -
15 - you know, thinking about it in the terms we were
16 just discussing with the table, that's that bigger
17 number, the total of the product, services and
18 supports requested. Do you agree with that?

19 A. Yes, that's how I understood
20 it.

21 Q. So if we look at table 3,
22 that's the estimated request in progress backlog by
23 region as of March 27, 2024. So when we're looking
24 at these numbers, do you see at the bottom there
25 where it says "National" and then on the left-hand

1 side there's 34,116 and then on the right-hand
2 side, 75,397?

3 A. Mm-hmm. Yes.

4 Q. Am I right, based on the
5 considerations note, that when we're looking at
6 those raw numbers, you know, just a bit more than
7 34,000 and almost 75,500, that that's the total of
8 all requested products, services and supports that
9 would be kind of in the queue and it's not the
10 number of cases or the number of requestors?

11 A. Yeah, that's the range of
12 requests itself, and individual --

13 Q. Individual. So kind of all
14 the points, you know, somebody might come in at
15 four things they're asking for and someone might
16 have seven, so that's the total number of
17 everything (indiscernible)?

18 A. That's how I understand it,
19 yes.

20 Q. That's helpful. Thank you.
21 Am I right that this number includes -- this number
22 of total requested products, services and supports
23 at the bottom there, the national, that that
24 includes both individual and group cases?

25 A. I'm not sure. I don't know.

1 Q. Ms. Anderson, if it's
2 possible, could we have confirmation of whether
3 that number is both individual and group cases or
4 if it's just one of them? And if it is both
5 individual, group cases, part B of the request
6 would be if it's possible to break them down
7 between individual and group. And then if it is,
8 to have the breakdown between the two.

9 MS. ANDERSON: Just to confirm,
10 which table is that?

11 MR. TAYLOR: Table 3, which is
12 estimated request in progress backlog by region as
13 of March 27, 2024. And so part one would be -- or
14 request of 2A would be, you know, are these figures
15 in the national, is it individual and group or only
16 individual or only group?

17 And then if it is blended, if it's
18 individual and blended, is it possible to separate
19 them? And if it's not possible -- sorry, if it is
20 -- if it's not possible to separate them, kind of
21 stop there. And if it is possible to separate, if
22 we could have the separated numbers.

23 And again, with that one, to the
24 extent the method doesn't allow, we go back to
25 March 27th. It would be just, you know, whatever

1 is the current calculation of that.

2 MS. ANDERSON: Sure, yes, we will
3 check in with the data team and see if we can do
4 that.

5 MR. TAYLOR: And I should just
6 say, for everyone's purposes, I understand that the
7 data system may not be built to extract it this
8 way. If it's not, that's fine. We're not asking
9 for any (indiscernible).

10 BY MR. TAYLOR:

11 Q. Okay. So if you can have sort
12 of before you both table 3 from the report your
13 data team pulled together and then the table in Dr.
14 Gideon's affidavit. So if we look at '23-'24, at
15 the bottom. So at the bottom it says there were,
16 in the first three quarters of '23-'24 -- so that
17 would be the first nine months of the fiscal year,
18 am I right, from April to December?

19 A. Yes.

20 Q. So it says there was 100,520
21 requests approved, representing 1,593,787 products,
22 services and supports. So if we're looking kind of
23 for the analog of that kind of almost 1.6 million
24 figure in table 3, would you agree with me that
25 we're kind of comparing apples to apples? It's the

1 34,000, 75,000 number at the bottom, that that's
2 kind of the corresponding -- like, those two
3 numbers, 1.6 million products, services and
4 supports approved in the first nine months of the
5 fiscal is the same kind of number as, you know, 35
6 to 75,000 in the queue?

7 A. I'm not sure I understand --

8 Q. Sorry, I'll --

9 A. -- your question, just because
10 this is in Valerie Gideon's -- it's already been
11 approved.

12 Q. Yes.

13 A. That means there are still
14 pending --

15 Q. Pending. So they're at
16 different points --

17 A. On the O-Train.

18 Q. -- on the O-Train but they're
19 the same passengers, if you will. These are
20 essentially the aggregate of all the items that
21 have been asked for that were approved in '23-'24 -
22 -

23 A. Okay. Correct. Okay. Thank
24 you --

25 Q. And then this is the aggregate

1 of all those, you know, items that have been asked
2 for that are in --

3 A. So it's the same type of
4 thing. Yes, thank you for that clarification.

5 Q. And this is the math component
6 here. So if we're looking at having approved about
7 1.6 million requests in nine months, would you
8 follow me if I said that you would have to be
9 approving somewhere around 180,000 requests per
10 month to get to 1.6 million in nine months?

11 A. I don't think that we can
12 average it out over months because of the level of
13 volume coming in at different paces throughout the
14 years. There's times in the year where we get a
15 lot more of -- like, prior to school starting or
16 certainly around the holiday season, Christmas.

17 Q. For sure. But if we're kind
18 of operating more with the law of large numbers,
19 like if you're going to approve -- in my books, 1.6
20 million is a lot of requests. Then at any given
21 time you're likely to have a lot of requests
22 heading towards approval; is that right?

23 A. Yes.

24 Q. So would it be fair to say or
25 would you agree that having roughly 35,000 to

1 70,000 requests pending at any given time would be
2 proportional to the volume of requests and
3 approvals we're seeing right now?

4 A. I think -- again, I can't
5 really speak to that --

6 Q. Subject to the caveats about
7 peaks and valleys.

8 A. Yeah, and we have search
9 teams, as well, that come in to help triage, to
10 help reduce backlogs and those that are pending any
11 decision.

12 Q. But would it be fair to say --
13 just taking a more abstract level -- if you have
14 got a lot of approvals in a year, you're likely to
15 have a lot of cases in the system a year?

16 A. Yes, that's -- yes, I
17 (indiscernible).

18 Q. Okay. We can put those
19 documents aside for now. I would like to move on
20 to talk about timelines, the timelines for
21 approving requests that are in the tribunal's
22 order.

23 You're aware, then, that the
24 tribunal has essentially set four timelines for
25 processing or approving requests for -- you're

1 aware that for individual cases it's 12 hours for
2 an urgent case and 48 hours for non-urgent cases?

3 A. Yes.

4 Q. And for group requests, 48
5 hours for an urgent case and a week for non-urgent
6 cases?

7 A. Yes.

8 Q. So if we can look at your
9 affidavit, which I'm trying to find here.
10 Paragraph 11, please. You say -- and this is just
11 kind of picking it up in the second line here, the
12 second sentence:

13 "ISC's timeline compliance
14 rate has been negatively
15 affected by the increase in
16 volume of requests (both
17 urgent and non-urgent) and
18 increase in the rate of
19 urgent requests."

20 Do you see that?

21 A. Yes, I do.

22 Q. Is your comment regarding --
23 with your term here, the negative impact of the
24 increased rate of urgent requests, that negative
25 impact, is it about ISC's ability to meet the CHRT

1 timeline for urgent requests? Or are you talking
2 about a negative impact on timelines overall?

3 A. I would say it's a negative
4 impact overall on timeline compliance.

5 Q. Can you help me understand, is
6 there anything special about urgent requests that
7 take longer to determine?

8 A. I don't think it's the fact
9 that it's urgent that takes longer. I think it
10 depends on the complexity of the request, but also
11 the amount of information that we have at the time.
12 So if we need more information about where to send
13 it, what else do you need, for example, additional
14 supports if we can help, that requires a phone call
15 and some time spent with the requestor.

16 Q. Do those same factors not
17 arise in a non-urgent case?

18 A. Well, they do arise. Same
19 with non-urgent. We always want to make sure if
20 there's any needs for interim supports in the
21 interim, if you're waiting for a decision to be
22 made. Often just speaking with the person, there
23 may come other needs that are not necessarily
24 flagged immediately, their comfort level or maybe
25 trust them to speak -- the person that they're

1 speaking with on the other line, the ISC staff
2 member.

3 Q. So you would agree with me
4 that the characteristic is common in both urgent
5 and non-urgent?

6 A. I think that's fair to say,
7 yes.

8 Q. So would the issue in kind of
9 dealing with urgency, is it more of a sequencing,
10 you know, which cases get considered first as
11 opposed to how long they take to be considered?

12 A. Urgency -- urgent cases always
13 get considered first.

14 Q. Yes. Yes. In --

15 A. Sorry --

16 Q. Let's say you had -- let's say
17 there's ten cases and there's four that are urgent
18 and six that aren't urgent. You know, if two of
19 those cases were not urgent as opposed to urgent,
20 the basket of ten cases would take, you know, all
21 things being equal, the same time to work through?

22 A. So these are all a mix of
23 urgent and non-urgent?

24 Q. Yes.

25 A. I don't -- I'm sorry. I

1 apologize. I don't understand exactly your
2 question. (Inaudible.)

3 Q. No, of course you do, but I
4 guess what I'm wondering is if you have a queue of
5 ten cases to work through, and the point you made
6 about urgency was that there's follow-ups to be
7 made and there are documents that need to be
8 confirmed about. And then I had asked if that was
9 common in both kinds of cases. My understanding is
10 it is common to both cases.

11 So it's more a question about if
12 it's -- the order in which those ten cases are
13 processed, would you agree it doesn't necessarily
14 affect the total time it takes to assess the ten
15 cases?

16 A. Okay. Thank you for that.
17 Yeah. No, you're correct, because, again, we will
18 only focus our energies on all resources on those
19 urgent cases and then move through the system for
20 the other requests.

21 Q. So for the last non-urgent
22 case in the queue, whether there's nine urgent
23 cases or two urgent cases in front of them, the
24 resources to kind of deal with those ten cases will
25 work through them in the same amount of time?

1 A. I would -- well, I would say
2 historically, I think that would just change region
3 to region. So if a department did a
4 (indiscernible) search to free up those folks to
5 just focus on urgent matters, other people could
6 look at the non-urgents.

7 Q. Right. So you would have to
8 have targeted teams on --

9 A. Yes, we did.

10 Q. So if you look at paragraph 11
11 again, a little bit further down the paragraph, you
12 cite in kind of the third-last line here, you say
13 the number of -- this is with respect to the first
14 -- sorry, for the third -- sorry, I will take it
15 back to the beginning of the sentence. You say:

16 "For example, between the
17 first quarter of the 2022-'23
18 fiscal year and the third
19 quarter of the 2023-'24
20 fiscal year, the number of
21 determined requests increased
22 from 21,918 to 34,877 and the
23 rate of urgent requests
24 increased from 2 percent to
25 26 percent."

1 And then you say:

2 "During that same time frame,
3 ISC's compliance rate
4 decreased from 41 percent to
5 29 percent." (As read)

6 So just another kind of method of
7 calculation or basis of calculation question, did
8 you calculate these figures yourself?

9 A. No, I did not. I relied on my
10 data team.

11 Q. Did you know, when your data
12 team calculated the rates of urgency, the 2 percent
13 and the 26 percent, were time-sensitive requests
14 included in the calculation of what was urgent?

15 A. I cannot (indiscernible). I
16 don't know.

17 Q. Do you know if anyone on your
18 data team tracks information on non-urgent requests
19 that become urgent because of the passage of time?

20 A. Again, I don't have that
21 (indiscernible).

22 Q. And would you know, the 41
23 percent to 29 percent increase that is there, is
24 that for individual requests or group requests or
25 urgent or non-urgent? You talk about there were

1 those four different kind of standards. Is that
2 applicable to any one of those four --

3 A. I don't have -- again, I don't
4 have access to that level of detail. It's only
5 what's there in my affidavit.

6 Q. Now looking at paragraph 12,
7 the next one down, you say that:

8 "...ISC determines the
9 majority of requests without
10 unreasonable delay. For the
11 first three quarters of the
12 '23-'24 fiscal year, 62
13 percent of all requests were
14 determined in a 15-day time
15 frame, while 70 percent of
16 all requests were determined
17 within 30 days." (As read)

18 Do you see that?

19 A. Mm-hmm. Yes.

20 Q. Do you know when they're
21 starting the clock on that? When does the day
22 count start?

23 A. So when does the clock start
24 and when the request begins to --

25 Q. Yes.

1 A. -- process, for lack of a
2 better word?

3 Q. For the purpose of this, you
4 know, how old a request is --

5 A. Right. So it's when the file
6 is completely entered into the case management
7 system with the relevant information
8 (indiscernible).

9 Q. And that would be the end of
10 the intake process?

11 A. Yes.

12 Q. So if a file is in the email
13 queue, the time that's spent in the email queue
14 isn't counted towards that 15 or 30-day standard?

15 A. As far as I know it's not.
16 However, I'm (indiscernible). That's the
17 information I --

18 Q. Okay. I said I was done with
19 the backlog point but I have skipped over a point
20 when we were discussing the table, so if you could
21 just give me a moment. Okay. So we can go back to
22 page 2. That's in the volume I there of your
23 exhibits brief. That's the March 27th document
24 your data team prepared.

25 A. Yes. Page 2?

1 Q. I'm sorry. It's actually
2 going to be page 4. This is the considerations.

3 So we looked earlier at this first
4 bullet here:

5 "The backlog volumes
6 presented in this report are
7 at the request level, not at
8 the cases or requestor level.
9 For example, it is possible
10 that one requestor might have
11 three cases, and each case
12 might have three items. The
13 backlog associated appear as
14 nine requests, not the three
15 cases..." (As read)

16 This is kind of (indiscernible)
17 everything that is being asked for as opposed to
18 who is doing the asking.

19 Now I just want to ask you a
20 question about table 2, and I wanted to know if you
21 know whether that caveat applies to email intake
22 pending backlog as well.

23 A. Based on what I'm reading
24 here, my assumption of that, no, it does not,
25 because it was email-specific, as opposed to

1 request --

2 Q. So you wouldn't know, not
3 having kind of done the intake on the email, how
4 many requests the email contains?

5 A. Correct.

6 Q. That was my assumption. So
7 that is helpful --

8 A. Yes, the numbers are the
9 emails, not the requests.

10 Q. That's my assumption. It's
11 just helpful to have that -- that's your
12 understanding as well.

13 Okay. If we could go over to --
14 sorry, going over to paragraph 13 of your
15 affidavit. We can set that exhibit brief to the
16 side again. Here you say that the tribunal's
17 timelines -- I'm sorry.

18 A. Where?

19 Q. Paragraph 13.

20 A. Thirteen? Okay. Thank you.

21 Q. Here you say:

22 "The tribunal's timelines,
23 imposed in 2017, were not
24 based on objective evidence
25 such as standardized child

1 welfare service timelines or
2 standard claims processing
3 industry timelines." (As
4 read)

5 I'm wondering, did you review the
6 proceedings that led up to the May 2017 order that
7 set the timelines?

8 A. I read the orders themselves -
9 -

10 Q. But you didn't read --

11 A. Not the proceedings.

12 Q. -- kind of the evidence or the
13 --

14 A. Correct.

15 Q. -- exchanges and cross-
16 examinations that led up to them?

17 A. Correct.

18 Q. Okay. So if you can go to tab
19 C of the -- back to the exhibits brief again, the
20 one that has volume I on the front.

21 A. Volume I. Okay. Thank you.

22 Q. Fair enough. If that is
23 helpful nomenclature, I will try and remember that.

24 This is the transcript of the
25 cross-examination of Robin Buckland from February

1 6, 2017. Am I right that Ms. Buckland -- I wonder
2 if I should say, is Ms. Buckland somebody you know?

3 A. Yes, she's a director general
4 at the branch.

5 Q. My understanding -- if you're
6 aware of this -- I know you weren't in the
7 department at the time -- she's been at that
8 director general level for quite some time?

9 A. Yes. As far as I'm aware,
10 yes.

11 Q. Certainly her -- I don't think
12 I have that part of the transcript, but her
13 evidence is at the time she was an executive
14 director at Health Canada at the time. At least
15 that was the evidence before the tribunal. Does
16 Ms. Buckland report to you now?

17 A. She does.

18 Q. If you look at page 67, you
19 see I ask her a question. I say:

20 "Okay. And just to step back
21 from that, you mentioned when
22 it's urgent you try and deal
23 with that in short order."

24 And she answers, "Right." And
25 then I ask her:

1 "Can you give me a sense of
2 the time frame on that?"

3 And she says:

4 "Yeah, our -- we try to deal
5 with it within the first 12
6 hours."

7 Do you see that?

8 A. Yes.

9 Q. So were you aware that Ms.
10 Buckland's evidence at the time was that was Health
11 Canada's practice to try to deal with these urgent
12 cases in 12 hours?

13 A. No, I'm not aware.

14 Q. And then looking over the page
15 to page 69 -- and feel free to take your time and
16 read the documents and let me know. So I'm looking
17 at question 186 here. So it says:

18 "So for urgent, short-order,
19 that's about the first 12
20 hours is the time frame there
21 and for the remaining cases,
22 the non-urgent cases, what's
23 the typical timeline?"

24 And the answer is:

25 "So our service standards are

1 five days to process and
2 obtain approval for a case
3 coming in. If it is above
4 normative standard, for
5 example, we try to get that
6 processed within about seven
7 days." (As read)

8 So were aware that her evidence in
9 2017 was the non-urgent standard was five to seven
10 days?

11 A. I wasn't aware but I'm also
12 not aware of these service standards being written
13 somewhere in a policy document or something that
14 would have been followed maybe by Health Canada at
15 the time. So this is --

16 Q. (Simultaneous speaking.)

17 A. Her evidence was, yes.

18 Q. Okay. Now, you said you
19 reviewed the ruling in preparing for this case.
20 Did you see in the ruling that the 48-hour timeline
21 for non-urgent requests was based on the evidence
22 that it was possible (indiscernible) adjudicate
23 cases within 12 hours?

24 A. Yes, I think that was
25 mentioned.

1 Q. So I want to look now back to
2 paragraph 13 of your affidavit. So you're talking
3 here about -- you say the standard timelines
4 weren't based on objective evidence such as
5 standardized child welfare service timelines or
6 standard claims processing industry timelines.

7 Now, would you agree that in its
8 cross-motion, so this is the relief Canada is
9 seeking in this proceeding, Canada is asking to
10 move the time frame for determining urgent
11 individual requests from 12-hours to 48 hours?

12 A. Yes.

13 Q. And for urgent group requests
14 from 48 hours to one week?

15 A. Yes.

16 Q. And do you know if those
17 proposed timelines were set with reference to
18 standardized child welfare service timelines?

19 A. Those proposed timelines were
20 in reference to a (indiscernible) systems changed
21 their Canada (indiscernible) relief fund, including
22 the definition of urgent that is co-developed by
23 partners. So this would be one piece of a bigger
24 system change (indiscernible) like to make.

25 Q. But in looking at that bigger

1 system change you would like to make, was the
2 reference point for those timelines the
3 standardized child welfare timelines?

4 A. It was from looking at the
5 standard claims processing that happens in
6 (indiscernible). This is one of our potential --
7 not data point, but --

8 Q. Benchmark?

9 A. Yes. For lack of a better --

10 Q. For lack of a better word,
11 benchmarking to NIHB as opposed to child welfare
12 standards.

13 Now there is a second volume you
14 have with you. It's got volume II written on the
15 front. So this is -- just to kind of let you know
16 what it is, it's a brief we put together from
17 excerpts from the various child welfare and
18 protection standards in the provinces -- across
19 provinces and one territory. We have got BC at tab
20 1, Alberta at tab 2, Saskatchewan at tab 3;
21 Manitoba at tab 4 and so on. And then Yukon is at
22 tab 10.

23 So are you aware of the child
24 welfare service timelines generally being found in
25 protection standards and child protection manuals?

1 A. No.

2 Q. That is not in your bailiwick?

3 A. No, it's not.

4 Q. Would it be fair to say that
5 standards or manuals for child protection workers
6 give them their guidance and direction on the
7 timing they should be applying in their jobs?

8 A. I would assume, but again, I'm
9 not familiar with the systems and (indiscernible).

10 Q. So when you're referring in
11 paragraph 13 to those standardized child welfare
12 service timelines, that was to a general content
13 and not anything specific?

14 A. It was more around just the
15 uses to -- standards within and timelines within
16 the systems related to children.

17 Q. Were you aware that the
18 majority of child protection standards for
19 responses on urgent referrals, which they call
20 immediate harm sometimes, is 24 hours?

21 A. No.

22 Q. Just go through a few of
23 these. For illustrative purposes, I understand
24 that you're not so familiar with these documents.
25 But if you look at the first tab, this is the BC

1 policy for child protection response timelines. Go
2 over to page 2. There's kind of a big square
3 around the heading that says "Standards".

4 So if you look at 3.1(5), it says:

5 "Complete a screening
6 assessment on every new
7 report as follows:

8 "Immediately if the
9 child/youth appears to be in
10 a life-threatening or
11 dangerous situation;

12 "In all other cases, within
13 24 hours of receiving the
14 report." (As read)

15 Do you see that?

16 A. Yes, I do.

17 Q. And then if we were to flip to
18 tab 2, go over a couple of pages to page 10 of 14,
19 the top right of that page, and under the heading
20 "Investigation required", it says:

21 "If the intake provides
22 reasonable and probable
23 grounds to believe that the
24 child or youth may be in need
25 of intervention services, and

1 brief services or emergency
2 care will not be sufficient
3 in alleviating the need..."

4 There is a sub-bullet:

5 "Forward the intake template
6 for assessment."

7 Another sub-bullet:

8 "Indicate whether the
9 assessment requires an
10 immediate response, a one-day
11 response or a standard
12 response."

13 And then it says an immediate
14 response -- it's under a sub-list here:

15 "An immediate response is to
16 be initiated within an hour
17 of the notification of need
18 for assessment;

19 "A one-day response is to be
20 initiated within 24 hours;

21 "A standard response is to be
22 initiated within five days of
23 the notification of need for
24 assessment." (As read)

25 Do you see that?

1 A. Yes, I do.

2 Q. Now we will go to tab 3. This
3 is for Saskatchewan. Don't worry, I'm not going to
4 read the whole book.

5 A. Okay.

6 Q. Over to page 43 in the bottom
7 right. There's a heading. Do you see it says,
8 "When a report is received the following procedures
9 apply"?

10 A. Yes.

11 Q. So number 1 is:

12 "At the time of the report,
13 the case worker will complete
14 the SDM intake assessment and
15 the screener narrative to
16 assist in determining whether
17 the information in the report
18 meets the criteria for abuse
19 and neglect pursuant to
20 Section 11 of The Child and
21 Family Services Act and to
22 determine how quickly to
23 respond. If screened in for
24 investigation, an 'immediate'
25 response (within the same

1 working day or within 24
2 hours of receipt of referral)
3 or a 'non-immediate' response
4 (within five calendar days of
5 screening decision) is
6 required." (As read)

7 Do you see that?

8 A. Yes, I do.

9 Q. And over to tab 4, which is
10 Manitoba. Here, we're looking at intake, 1.1.1.
11 If we look at page 4 of 6, bottom left, the intake
12 response at the bottom 20 percent of the page
13 there, number 9, do you see that?

14 A. Yes.

15 Q. It says:

16 "Intake response time --
17 Upon receiving a referral for
18 services and identifying the
19 presenting issues, the intake
20 worker responds:

21 "Immediately and within 24
22 hours when a child may be at
23 high risk of being in need of
24 protection;

25 "Within 48 hours when a child

1 may be at medium risk of
2 being in need of protection;
3 "Within five working days
4 when a child appears to be at
5 low risk of being in need of
6 protection;
7 "Within ten working days when
8 there are no apparent child
9 protection concerns." (As
10 read)

11 Do you see that?

12 A. Yes.

13 Q. Last one. Ontario. Page 24,
14 which is the third page in the tab. It's a table
15 under "Standard number 1 intake: Receiving a
16 referral and determining the appropriate response".
17 It says in the paragraph under the bulleted list
18 here:

19 "When a child protection
20 investigation is the most
21 appropriate response, a
22 decision about when the
23 investigation is to be
24 initiated is made by the
25 worker receiving the

1 referral. The response time
2 is determined by the level of
3 urgency or the assessed level
4 of present or imminent threat
5 to the safety of a child. An
6 investigation is
7 initiated..."

8 And then sub-bullet one:

9 "Within 12 hours for families
10 in the community, as well as
11 family-based and
12 institutional community
13 caregiver investigations if
14 there is an imminent threat
15 to the safety of a child or
16 when physical evidence is at
17 risk of being lost due to a
18 delay;

19 "Within seven days for
20 family-based investigations
21 where no immediate safety
22 threats are identified; or
23 "Within 48 hours for
24 community caregiver
25 institutional investigations

1 where no immediate safety
2 threats are identified." (As
3 read)

4 Do you see that?

5 A. Yes, I do.

6 Q. And just for purposes of
7 completeness, we've got Quebec, steps taken by the
8 DYP. I take it the French are talking about --

9 A. (Indiscernible.)

10 Q. So here in English, read it as
11 director of youth protection?

12 A. Yes.

13 Q. And then under tab 7 we have
14 got the Newfoundland and Labrador Department of
15 Children, Seniors and Social Development's Policy
16 and Procedures Manual. There are some excerpts
17 there. Do you see that?

18 A. Mm-hmm.

19 Q. And then tab 8, we've got the
20 PEI document here, Child Protection Act. "Subject:
21 Intake". Do you see that?

22 A. Yes.

23 Q. And then under tab 9, you have
24 got New Brunswick's Child Victims of Abuse and
25 Neglect Protocols. Do you see that?

1 A. Yes, I do.

2 Q. And then under tab 10, we have
3 got the Child and Family Services Act for Yukon.
4 Do you see that?

5 A. Yes.

6 Q. So would you agree with me,
7 just having reviewed that, that we can generally
8 take it that depending on the urgency involved,
9 when we're looking from a child welfare services
10 perspective, immediacy response is looking at
11 either immediately or up to the first 24 hours?

12 A. To initiate, yes. To look, to
13 open and initiate a response, if it's within --
14 that's what's here.

15 Q. Well, they would be looking at
16 initiations -- in other cases like, for instance,
17 Alberta, we're talking about the evaluation --
18 sorry, tab 2, page 10. So they're evaluating and
19 they're saying when you have to deploy the
20 response. So you have got to do it within an hour
21 -- an immediate response within one day for --
22 within 24 hours for a one-day response. A standard
23 response is within five days. Do you see that
24 there?

25 A. Yes. (Inaudible.)

1 Q. Do you agree that kind of the
2 acting (indiscernible) standard in the child
3 welfare world is 24 hours?

4 A. Yes.

5 Q. Immediately is 24 hours,
6 depending on the level of harm a child is in?

7 A. Correct.

8 Q. And would you agree with me
9 that nothing we looked at just now talked about
10 "without unreasonable delays" being the service
11 standard?

12 A. Having only seen just that one
13 little part?

14 Q. Just what we looked at.

15 A. Yeah, I don't know enough
16 about that.

17 Q. Fair enough. Just the parts
18 we looked through about those (indiscernible). We
19 weren't talking -- on the -- no immediate concerns
20 would have been a five to ten-day range; is that
21 fair?

22 A. Yes.

23 Q. We can set the volume II aside
24 and we can go back to volume I, please. Look at
25 tab D. This is a document titled "Guideline on

1 service and digital". Is it a guideline you're
2 familiar with?

3 A. No. I mean, not in detail.

4 Q. Right. But you know this a
5 Treasury Board --

6 A. Exists.

7 Q. Treasury Board document.

8 Right?

9 A. Sorry. Yes. Sorry. Yes.

10 Q. That's a "yes", you're
11 familiar it's a Treasury Board document? Yes.

12 Okay. That's fine. Do you know if this guideline
13 applies to ISC?

14 A. This policy applies to the
15 whole government and all departments.

16 Q. So if we look over to page 2,
17 there is a table of contents here. Do you see item
18 number 2 says, "Client-centric service design and
19 delivery"?

20 A. Yes.

21 Q. This is, I should say, just --
22 I searched the whole outline --

23 A. Yes.

24 Q. (Indiscernible.)

25 A. Yes.

1 Q. And do you see on the next
2 page here where it says 65 of 233 at the bottom,
3 there is a heading at the top that says, "2.7
4 Service standards"?

5 A. Yes.

6 Q. So would you agree that the
7 Treasury Board guideline's advice on service
8 standards should inform ISC's approach on this
9 cross-motion?

10 A. Yes.

11 Q. If we can go over two pages --

12 A. You mean in the changes to the
13 system?

14 Q. Yes.

15 A. Yes. Sorry.

16 Q. Yes. Not -- sorry, not in
17 litigation. The cross-motion. (Indiscernible) to
18 the changes that Indigenous Services Canada is
19 seeking in the cross-motion.

20 If we can go over two pages to
21 where it says 67 out of 233 at the bottom.

22 A. Yes.

23 Q. And do you see the heading,
24 kind of a third of the way down the page, it says
25 "Service standards typically have three key

1 components"?

2 A. Yes.

3 Q. You see the first bullet which
4 says:

5 "Service standard: A clear
6 and measurable statement on
7 the level of service a client
8 can expect (for example,
9 answer calls within 20
10 seconds or process
11 applications within five
12 business days)"

13 A. Yes.

14 Q. I take it those are
15 illustrative examples? You're not saying phone
16 calls in 20 seconds --

17 A. Mm-hmm.

18 Q. It's just illustrating
19 clarity, right?

20 A. Yes.

21 Q. Would you agree that the
22 service standard ISC is proposing for non-urgent
23 cases, "without unreasonable delay" isn't clear?

24 A. I think the challenge is that
25 the proposals we're making on our cross-motion is

1 based on a model that was imposed upon the tribunal
2 order. These service standards, from my
3 interpretation of the policy, is ones where we have
4 determined a program in partnership with the co-
5 development partners where we can work together to
6 set standards that meet their needs and our needs.

7 So it's a little -- it's not quite
8 the same. Ideally, we always want to hit our
9 compliance timelines. We are challenged in doing
10 that. I agree. But I don't know if I would say
11 that these service standards can correlate to what
12 we're trying to modify in an existing model that
13 just clearly isn't working as well as everybody
14 would like it to.

15 Q. That wasn't my question, and
16 we'll talk about the challenges. My question was:
17 Is "without unreasonable delay", is that a clear
18 service standard?

19 A. It's not referenced as a
20 standard. That was just my interpretation.

21 Q. If we were to take it as a
22 service standard, if it's the time that the
23 (indiscernible) Indigenous Services should be
24 processing Jordan's Principle (indiscernible),
25 would you agree that that would be --

1 A. Without unreasonable delay?

2 Q. I guess I will back up. Would
3 you agree with me that if we're setting a time
4 within which a request should be processed, that
5 that would be a service standard? Put the
6 tribunal's orders aside. Just the concept of cases
7 should be dealt with within X amount of time, is
8 that a service standard?

9 A. In my opinion, yes, it is,
10 yes.

11 Q. So would you agree that if
12 we're looking at it as a service standard, saying
13 "without unreasonable delay" isn't particularly
14 clear?

15 A. I would never use that as a
16 standard.

17 Q. Would you agree it is not
18 measurable either?

19 A. Agreed, yes.

20 Q. Now, at the bottom of the
21 page, just the heading that says -- so we're back a
22 page. We're at 67 out of 233 here. Do you see
23 where it says, "Characteristics of a good service
24 standard"?

25 A. Yes.

1 Q. Now, if we turn over the page
2 -- so the way this document is printed, the stuff
3 I'm going to ask you about is under that page. So
4 this is a list of a number of characteristics, and
5 one of them is "Measurable", which is the third
6 bullet. It says:

7 "Service standards are
8 quantifiable and linked to
9 monitoring activities."

10 Would you agree with me that
11 "without unreasonable delay" is not a particularly
12 quantifiable standard.

13 A. (Indiscernible.)

14 Q. And do you see where it says:

15 "Ambitious but realistic:
16 Service standards are
17 sufficiently challenging to
18 service providers yet are
19 realistic in terms of
20 capacity."

21 Do you agree that "without
22 unreasonable delays" is the standard that's
23 generally expected of government by the public?

24 A. (Indiscernible.)

25 Q. What do you think of the

1 public's expectation is when they make a service
2 request to the government?

3 A. Our perspective, and certainly
4 what we try to achieve as the public service, is to
5 meet it as quickly as possible (indiscernible).

6 Q. So you're say that the general
7 expectation would be higher than --

8 A. We always try to
9 (indiscernible).

10 Q. So you agree that the standard
11 here, "without unreasonable delay", that is not a
12 particularly ambitious standard?

13 A. Yeah, and I don't know -- did
14 you already point to where it was a standard,
15 written as a standard? Or --

16 Q. If we take any program --

17 A. Sorry.

18 Q. So just in the abstract
19 (indiscernible) --

20 A. Sorry, just because you went
21 to the cross, are we still talking about the cross-
22 motion or my affidavit --

23 Q. We are. I mean, the whole --

24 A. The whole package? Okay.

25 Thank you.

1 Q. -- cross-examination is about
2 all the points --

3 A. Sorry --

4 Q. If we can take it as -- the
5 exercise is to set a service standard --

6 A. Correct.

7 Q. ISC (indiscernible) a
8 different service standard. It's not -- the
9 tribunal order is not a Treasury Board-developed or
10 an ISC-developed or government guideline service
11 standard. It's a legal order that has been made.
12 But if we're taking the exercise as a service
13 standard setting exercise --

14 A. Correct.

15 Q. -- the questions I'm asking
16 about, this guideline (indiscernible) where we
17 should be heading. So your evidence was that the
18 public's expectation is higher than "without
19 unreasonable delay" and that the public services'
20 effort is to do things as quickly as possible. So
21 when we're looking at -- you know, under the
22 heading "Characteristics of a good service
23 standard" --

24 A. Right.

25 Q. -- and ambition, "without

1 unreasonable delay" is not particularly ambitious
2 is my question.

3 A. Correct. I would agree with
4 that.

5 Q. Now, in terms of thinking
6 about the other part of that hallmark of a good
7 service standard which is realistic in terms of
8 capacity -- and I have heard some of your earlier
9 answer, some of your concerns around that. Would
10 you agree that if we're assessing ISC's capacity to
11 meet the service standard, any service standard,
12 then we should be looking at more than just
13 staffing?

14 A. As part of our way forward on
15 the work we're doing on operability, like the
16 (indiscernible) case, yes.

17 Q. Some of that but also just in
18 terms of thinking about, you know, the ability to
19 meet -- staffing is one way to meet a service
20 standard. Would you agree with that?

21 A. An attempt to meet a service
22 standard is how --

23 Q. (Simultaneous speaking) tool -
24 -

25 A. Yeah, a tool.

1 Q. Would other initiatives to
2 ease pressures on ISC's request system, would that
3 be another tool (indiscernible) in a different way?

4 A. Well, it's certainly that --
5 because (indiscernible) on the way forward around
6 the digital and (indiscernible) and making things
7 more online for folks to be able to look at their
8 requests, yeah.

9 Q. But as a general perspective,
10 if you have got a basket of eggs to work through
11 and your goal is to work through them in a certain
12 time, if you can change the way the system works so
13 there are fewer eggs in the basket, that is another
14 way of helping meet a service standard. Would you
15 agree with that?

16 A. Yes.

17 Q. So, for instance, if there was
18 an initiative to ease pressures on ISC's request
19 system under Jordan's Principle by funding more
20 comprehensive community-based programs, that would
21 need to be considered in assessing ISC's capacity
22 to (indiscernible) service standard?

23 A. It's hard to say exactly if
24 funding more programming would alleviate Jordan's
25 Principle because the requests in the backlog --

1 because we're not able to really triage them into
2 the programs where they would be a better fit, just
3 by the way the orders are laid out. So it's hard
4 to assume that it might because I don't know if
5 folks will not still use the Jordan's Principle
6 avenue as opposed to going through existing,
7 because there are existing programs in the
8 community. So I can't really make that assumption.

9 Q. Is your view that existing
10 programming in the community is sufficient to meet
11 all the needs that are out there?

12 A. I can't speak for all of the
13 community programming, but my opinion is we always
14 like to have more robust programming where the
15 leadership is (indiscernible).

16 Q. If those programs are working
17 well and if folks are going there as opposed to
18 Jordan's Principle, that would be a measure to ease
19 the burden on the request system; is that right?

20 A. I think it's one of many, as
21 folks know that they exist, because many don't
22 know, even know the programming does exist within
23 their communities, if they're in urban centres, et
24 cetera. I think that there are a bunch of things
25 that could hopefully support moms and babies.

1 Q. And if there was another
2 initiative such as closing gaps in federal
3 programs, that might also inform (indiscernible) --

4 A. I think that there's always
5 this good opportunity to close gaps (indiscernible)
6 programming.

7 Q. And if those gaps are closed,
8 that's something that could (indiscernible) to what
9 the capacity --

10 A. Again, I can't speak
11 necessarily to that because I don't know what type
12 of programming the gaps would need to be closed in.
13 Is it the capacity of the community? Is it
14 leadership? Is it direct community-based
15 programming? There's a range of programs that are
16 being offered, so --

17 Q. Let's take medical
18 transportation. Medical. You're going to be an
19 expert on this and I'm not, or at least more of an
20 expert than me. My understanding is there might be
21 certain thresholds within medical transportation,
22 right? Any NIHB program where there is a
23 threshold, there is a need -- benefit, I should
24 say, not program. If there is a need that
25 surpasses that threshold, then Jordan's Principle

1 might be a recourse to lead that. Is that right?

2 A. I can't speak on -- I'm not an
3 actual expert on (indiscernible) benefits of
4 medical transportation. So I do know that we do
5 have the ability to fund medical transportation in
6 Jordan's Principle and that -- and I have seen
7 medical transportation, but I don't know if first
8 they go to NIHB. I would have to look at it case
9 by case specifically, but I know that it is an
10 eligibility --

11 Q. I'm grasping --

12 A. Sorry. Sorry --

13 Q. I don't want to get too in the
14 weeds on any one particular area, so I may try this
15 another way. You were director general in
16 education for a time?

17 A. Briefly.

18 Q. And there were a number of
19 programs managed under your portfolio; is that
20 right?

21 A. Yeah, three or four.

22 Q. Three or four. And some of
23 those programs would have had limits to them in
24 terms of coverage or what they could do?

25 A. Yes.

1 Q. And if those limits were
2 exceeded in terms of something that wasn't covered
3 or it was more than what was covered and there was
4 a First Nations child involved, Jordan's Principle
5 could be a backstop for that?

6 A. If the community chose or the
7 individual chose to go that way, they would go
8 through Jordan's Principle --

9 Q. It would be an option for
10 them, yeah. So if the coverage was expanded or the
11 levels were raised, that would be a possible avenue
12 for that individual not having to go and make the
13 request?

14 A. Again, it would go case by
15 case as to whether or not they're covered.
16 Sometimes they're not necessarily eligible for the
17 programming in, let's say, you know, education on
18 reserve versus (indiscernible) eligibility and
19 applicability, then some of the programs
20 (indiscernible) within ISC's mandate.

21 Q. Right. But if those -- again,
22 those were -- if those things -- you know, if they
23 were folks who weren't covered on day one and there
24 was a business case made based on Jordan's
25 Principle's data saying, "Hey, we've got a lot of

1 people here who are making the same kind of
2 request, so let's expand," that's a possible way of
3 resolving that kind of -- on that need?

4 A. Yeah, potentially. I wouldn't
5 necessarily see them, though, because they would
6 probably go directly to those who are
7 (indiscernible).

8 Q. So I guess to kind of take
9 three steps back, thinking about going back to the
10 guidelines there, you know, when we talk about
11 service standards and (indiscernible) challenging
12 to service providers that are realistic in terms of
13 capacity, I'm wondering if you would agree with me
14 that in evaluating ISC's capacity to meet a service
15 standard, it's a multifaceted exercise? It's not
16 just how many hard-working focal points do we have
17 working and how many cases can be processed in a
18 day. It's also the things that surround Jordan's
19 Principle, like what are the factors that are
20 leading those cases to get to their desks in the
21 first place.

22 A. The whole --

23 Q. The whole environment has to
24 be looked at and (indiscernible)?

25 A. I would agree with that. I

1 would agree that Jordan's Principles currently,
2 individual solution space as opposed to
3 (indiscernible).

4 Q. Third point on this page here
5 is -- actually now I'm at the top of the list, in
6 the second bullet. This says:

7 "Based on consultations:
8 Service standards are
9 developed or reviewed in
10 consultation with clients,
11 managers, staff and other
12 partners in service delivery
13 to ensure that they are
14 meaningful to clients and
15 match the organization's
16 mandate and capacity."

17 And then there's a note about the
18 Service Fees Act. I'm not sure if it applies, but
19 anyway, it's there.

20 "Note that the Service Fees
21 Act requires that mandatory
22 consultations be undertaken
23 before modifying a service
24 standard."

25 That's not a legal question on the

1 Service Fees Act because I don't want to go there.
2 It's not a legal test.

3 What I would like to ask you
4 about, though, is whether you would agree that ISC
5 is not, to this point, at least, engaged in
6 consultations about the proposed service standard
7 changes.

8 A. We have only gone with what
9 folks have come to us. Communities have said that
10 they can't meet the service standards
11 (indiscernible) and then frontline staff.

12 Q. But the proposal going from 12
13 hours to 48 hours on individual urgent cases, from
14 48 hours cases to a week for urgent group cases,
15 and from 48 hours to a week for non-urgent cases
16 (indiscernible) without unreasonable delay, that
17 proposal hasn't gone through a consultation process
18 at any point?

19 A. No, it's based on discussions
20 internally and then partners have proactively come
21 to us to say that they're also challenged to meet
22 the timelines.

23 Q. Those proactive conversations
24 would be informing what you put in the -- what
25 Canada has put in --

1 A. They're all taken into
2 consideration. But it's only a small portion of
3 the broader.

4 Q. But a broader consultation or
5 a consultation kind of as you see it up here as,
6 you know, the clients, manager, staff, other
7 partners, that hasn't been undertaken on
8 (indiscernible)?

9 A. No.

10 Q. And in terms of some of the
11 concepts we were talking about about the kind of --
12 the whole prism or the broader picture on capacity,
13 in those consultations, ISC's capacity would have
14 to be considered in that broader sense we just
15 talked about in terms of the whole environment
16 around requests?

17 A. To engage around the system in
18 its entirety?

19 Q. In terms of thinking through -
20 - you know, the point of consultation is what's a
21 good service standard, but it should be a
22 comprehensive consultation considering --

23 A. Can I just clarify? Are you
24 asking it as a hypothetical, if we were to consult?

25 Q. Yes. Yes.

1 A. I would agree to the entire
2 program or we would create a program, I think, to
3 better address the (indiscernible) beyond just the
4 current system. Is that --

5 Q. No, no, I think that's -- you
6 know, the question I'm trying to ask, is whether,
7 you know, the consultation should be essentially
8 focused only on how fast focal points can work or
9 if it's a broader picture that should be talked
10 about when we're looking at service standards. I
11 think the answer you're giving is that there's
12 actually a broader (indiscernible).

13 A. No, we don't want to do any
14 consultation currently because it's court ordered.
15 So the consultation that you're presenting here is
16 just a policy. So in policy, if we were to change,
17 we could consult and we should ideally. I would
18 love to consult everything if it were my world, but
19 that's not necessarily how government works. So
20 (indiscernible) there is an immediate look at -- at
21 least some key elements that now have been
22 informed, such as how to define "urgent" and co-
23 develop that with partners? And, you know, the
24 service standards (indiscernible) challenging the
25 communities who are also trying to do it on the

1 ground with us. So, I mean, again, that's -- so
2 I'm not saying that we -- I don't -- our cross-
3 motion doesn't (indiscernible) consultation
4 process.

5 Q. Is it your view that the
6 service standards apply to communities as well?

7 A. My view is if we're asking
8 communities to -- communities who want to take it
9 on, because it's court ordered, they're also bound
10 by those timelines and we try to provide them
11 capacity supports to meet them, but they're
12 challenged as well. But there is (indiscernible)
13 who want to take it on, so we want to support that
14 as well. There are some (indiscernible).

15 Q. Now, looking at the bottom of
16 page 69, which is -- I think it should just be the
17 next page over. You should already have it open.
18 It says:

19 "Some best practices when
20 developing service standards,
21 including..."

22 And then the second bullet there
23 is:

24 "For timeliness of service
25 standards, using number of

1 weeks, business days or
2 hours, as appropriate."

3 Do you see that?

4 A. Yes.

5 Q. Would you agree that without
6 unreasonable delay, (indiscernible) proposing on
7 this motion doesn't use any of those metrics?

8 A. I'm just -- can I just check
9 the cross-motion -- the point in the cross-motion
10 where you're saying where it's written?

11 Q. Absolutely.

12 A. Can you --

13 Q. Do you have a copy of that
14 with you?

15 A. I think so. I apologize. I
16 just --

17 Q. Perhaps your counsel has got
18 it. I don't think I had it in my --

19 A. Sorry, no, that's good.
20 That's good.

21 Q. 3A and 3B, page 2 and page 3.

22 A. Yeah, I'm just looking for the
23 -- okay. Sorry. It was the group requesting
24 (indiscernible) to without unreasonable delay.
25 Okay. Sorry. Thank you. I just wanted to clarify

1 if there was an hours in there, too. Yeah, that
2 will be a challenging one. I agree it's not ideal.

3 Q. Is there a reason that ISC is
4 proposing a non-ideal timeline on this?

5 A. That was my own personal
6 reflection on it, just as somebody who looks at
7 programs.

8 Q. That's fair. Now, just under
9 2.8, which is "Review of service standards". Do
10 you see that there?

11 A. Yes.

12 Q. Now, I know you have said your
13 view is that this -- this isn't an exercise
14 (indiscernible) process, but if we think at a
15 conceptual level, what Canada is really asking the
16 tribunal to allow is this (indiscernible) service
17 standard (indiscernible).

18 A. Okay. Correct.

19 Q. Do you see over on page 72?
20 There's that kind of table, question and answer?

21 A. Yes.

22 Q. Do you see that? The third
23 question -- the fourth question, which is the
24 second-last one on the page, says, "Are the service
25 standards based on consultations with various

1 stakeholders?" (Indiscernible) we were just
2 looking at:

3 "Service standards should be
4 developed and updated in
5 consultation with clients,
6 managers, staff and other
7 stakeholders in service
8 delivery."

9 Do you see that?

10 A. Yes.

11 Q. Do you see this cross-motion
12 as a good form for that kind of consultation?

13 A. I see it as cross-motion as an
14 immediate measure, remedial measure to try and
15 allow for better leading of community
16 (indiscernible). But not as --

17 Q. (Simultaneous speaking.)

18 A. As a new program in
19 development.

20 Q. The last question on this
21 document here is just over on page 75. It says --
22 the last paragraph here, just above the heading
23 "Performance results". It says:

24 "Determine whether the
25 variance between the service

1 standard and actual
2 performance is temporary or
3 long-standing. It may be
4 necessary to scan the
5 environment, internally and
6 externally, to determine
7 possible influences that
8 affect the attainment of
9 service standards."

10 So would you agree, in light of
11 that guidance as well, that kind of looking at the
12 whole board when it comes to performance against
13 the service standard (indiscernible)? The broader
14 environment, we kind of talk about it at times
15 along the way.

16 A. The bigger --

17 Q. The bigger --

18 A. The bigger systems? Can you
19 just repeat your question? Sorry, I just want to -

20 -

21 Q. Sure.

22 A. No, I have read that --

23 Q. The guidance here, it's just
24 to say -- again, considering the tribunal's
25 timeline, (indiscernible) the tribunal's timeline

1 is it will be consistent irrespective of whether
2 the guidelines apply to this or not. It would be
3 consistent with the guidelines if you take in this
4 broader perspective approach (indiscernible)
5 service standard?

6 A. I am only hesitating because I
7 thought that was already -- we already do that
8 through work with partners, looking at social
9 determinants. So it's not just in relevance to
10 Jordan's Principle, but it's something we're
11 looking at more proactively across all of our
12 programming.

13 Q. So you're saying it can
14 potentially be consistent, not just with the
15 guideline but just with what ISC --

16 A. Good practice and -- yes. For
17 example, the First Nations Health Council and the
18 First Nations Health Authority are doing work in
19 the area of social determinants and looking at the
20 broader systems as well. So that's -- I'm just not
21 -- so I don't think it's necessarily just to
22 Jordan's Principle, but I think something that is
23 happening currently.

24 Q. So there's a general --

25 A. As a general practice, it's

1 something that First Nations are taking on as well
2 and looking at the bigger systems to meet their
3 needs and certainly through health transformation
4 and other areas as well. That's...

5 Q. So if we just go back to your
6 affidavit again. If we look in paragraph 13 again.
7 Spent a bit of time on here. Now, we've made it
8 through the first sentence --

9 A. Sorry --

10 Q. I'm the one who brought all
11 the documents out, so it's fine. Looking at the
12 second sentence, you say:

13 "Given the significant
14 evolution and expansion in
15 the number and complexity of
16 requests stemming from the
17 tribunal's orders in relation
18 to Jordan's Principle, the
19 initial timelines are not
20 realistic." (As read)

21 And I want to focus on what you
22 say here about the evolution and expansion in the
23 number and complexity of requests moving forward.
24 Would you agree that those requests moving forward
25 reflect real needs in the community?

1 A. I would certainly know that
2 for the ones that I have seen, the sample of cases
3 where there's certainly urgent needs for food
4 supports and rent supports, et cetera, are needs in
5 the community.

6 Q. And then in the next
7 paragraph, paragraph 14, you say:

8 "It is unlikely that the
9 current Jordan's Principle
10 operational model, as per the
11 tribunal orders, can be
12 managed solely by a
13 continuous increase in human
14 resources..." (As read)

15 And then you give a summary of
16 some of the points that you're talking about just
17 being part of Canada's kind of long-term view, and
18 we'll have a number of questions on that a bit
19 later. But just as kind of a concept about this
20 exercise of kind of delaying the timelines, that
21 won't actually accelerate the speed that Canada is
22 making the decisions. The decisions would -- if
23 the FTEs remain the same, and I'm not saying
24 whether there should be more or less FTEs, but a
25 change in the timeline won't speed up the speed at

1 which decisions are being made.

2 A. I just -- again, I really
3 think that when I think about the change in
4 timeline, it's part of the bigger -- whole of
5 motion, including, you know, co-developing urgent
6 definitions. That's just a way to manage one area,
7 as well as the timelines, as well as being able to
8 bring in or redirecting to things that are within
9 communities. Just, you know, informing folks that
10 are in the community. That would alleviate the
11 pressure within the system, which I assume within
12 (indiscernible).

13 Q. I'm just wondering how you're
14 doing.

15 A. I'm okay.

16 Q. We've been going an hour and
17 20 minutes. I've kind of got a short item and then
18 maybe we can take the morning break.

19 A. Sure.

20 Q. Would that be fine for you?

21 A. Sure.

22 Q. So I have some questions now
23 about the next tab in volume I of the exhibit
24 document. Tab E, sorry. This is the document
25 titled "Child rights impact assessment, developed

1 by the Department of Justice Canada July 2023". Is
2 this a (indiscernible) tool that you're aware of?

3 A. I heard that one was being
4 developed but I hadn't seen it come to fruition.

5 Q. And I'm right in understanding
6 you were an executive director or a director
7 general in the Department of Justice at some point
8 in the 2010s for a few years?

9 A. A decade ago, yes.

10 Q. So this wasn't a
11 (indiscernible) that existed back then?

12 A. We were doing -- we weren't
13 doing this in the programs that I was working on.
14 Sorry, did that --

15 Q. I guess I should ask this: Do
16 you know whether or not it was?

17 A. I don't know if it was. I was
18 working with community on (indiscernible).

19 Q. Okay. So it would be fair to
20 say that maybe it was, maybe it wasn't --

21 A. It may be, yes.

22 Q. But it wasn't --

23 A. That's fair. Not in that
24 particular work that I was doing.

25 Q. So you mentioned you were

1 aware of the tool but you haven't -- this isn't the
2 tool you used?

3 A. No, I haven't used it. That's
4 right.

5 Q. Just turn the page over. Page
6 2 (indiscernible).

7 "The purpose of this Child
8 Rights Impact Assessment tool
9 is to assist officials in
10 assessing the potential
11 impact of a proposed
12 initiative on children."

13 So just with your kind of
14 awareness of this existing, is that consistent with
15 your awareness of what this tool was supposed to do
16 when it was around?

17 A. Its intention was to be able
18 to (inaudible).

19 Q. And then do you see page 4?
20 It says at the top of the page under "How to use"
21 that:

22 "An online training is
23 available to support
24 officials who are conducting
25 the CRIA --"

1 I take it that's the Child Rights
2 Impact Assessment

3 "-- for the first time. This
4 training takes approximately
5 2.5 hours to complete and
6 includes step-by-step
7 guidance on how to use the
8 CRIA tool."

9 And then just down the page it
10 says there are two stages. There's an initial
11 screening and what they call "A full CRIA stage if
12 it is determined that it is warranted."

13 The paragraph here at the bottom
14 says:

15 "A full CRIA should be
16 conducted if the initial
17 screening reveals possible
18 impacts on children and on
19 their rights (regardless of
20 whether those impacts are
21 direct, indirect, intended or
22 unintended)."

23 Do you see that?

24 A. Yes.

25 Q. Is that generally consistent

1 with your understanding of this tool?

2 A. Yes. Yes.

3 Q. Now you mentioned you hadn't
4 seen this one before. Do you know if ISC has done
5 any CRIA in relation to Jordan's Principle?

6 A. I'm not sure. I can't speak
7 to that.

8 Q. Would you know that, if it had
9 been done?

10 A. Not necessarily, no, because
11 training happens all over, and I do know that
12 children's -- message to the child is something
13 that we used just overall in our (indiscernible)
14 and stuff as executives, but for the training
15 specifically to Jordan's Principle staff
16 (inaudible) .

17 Q. And would you agree with me if
18 done using this tool, it might identify further
19 solutions or recommendations to assist with
20 complying with the tribunal's orders?

21 A. I can't -- I'm not sure.

22 MR. TAYLOR: Sorry, Madam Chair,
23 would it be a convenient point for the morning
24 break.

25 THE CHAIR: Yes. Before we leave,

1 I wanted to know if you're aware that the tribunal
2 repeatedly said -- cautioned Canada not to divide
3 the findings from the orders, that the orders had
4 to be read with the findings in our decisions. Are
5 you aware of that?

6 THE WITNESS: Oh, no, I apologize,
7 I wasn't aware. I mean, Just as my learning
8 progresses in this role, I'm picking up slowly more
9 and more information, but no, I chose --

10 THE CHAIR: No need to apologize.
11 I'm just asking --

12 THE WITNESS: No, I know, I read
13 the orders on my own. Just -- sorry. Oh.

14

15 THE CHAIR: It's okay. Thank you.
16 And are you aware that the tribunal's orders,
17 especially for reform in 2016, also addressed a
18 lack of coordination amongst federal programs? Are
19 you aware of that?

20 THE WITNESS: Yes, I have heard
21 that.

22 THE CHAIR: Okay. And are you
23 aware that there was a link between Jordan's
24 Principle and the lack of coordination in federal
25 programs and that the tribunal asked to reform

1 according to the findings in 2016's -- in the
2 Romera (ph) decision?

3 THE WITNESS: Yes, and I believe
4 that there was some work happening, and certainly -
5 - and I believe it was -- there was the inclusion
6 of the national expert (inaudible) as part of that
7 reform for ISC. Is that the same?

8 THE CHAIR: I'm just asking if
9 you're aware that we had made some findings about
10 lack of --

11 THE WITNESS: Yes --

12 THE CHAIR: -- coordination --

13 THE WITNESS: Just programming --

14 THE CHAIR: -- in federal programs
15 --

16 THE WITNESS: Yes.

17 THE CHAIR: -- and how it impacted
18 Jordan's Principle as well, and that we had made
19 orders to reform the entire systems according to
20 the findings in our decision --

21 THE WITNESS: Yes.

22 THE CHAIR: -- and that we've
23 cautioned to make sure that the orders are read
24 with the findings. I was wondering if --

25 THE WITNESS: No.

1 THE CHAIR: Okay.

2 THE WITNESS: I knew that there
3 was a discussion or mention of the need to reform
4 the systems and, like, the programming systems, but
5 I wasn't aware of the second part that you
6 mentioned about (indiscernible).

7 THE CHAIR: Yes. I would urge you
8 --

9 THE WITNESS: Yes.

10 THE CHAIR: So we're going to take
11 a break. Before we go to the break, I'm just
12 asking you to refrain from discussing your evidence
13 with anyone until you're free to go. It may be the
14 end of the day, maybe before the end. I don't
15 know. So I would appreciate that and we'll take --
16 we'll be back at 10:45. Thank you.

17 MS. DUBOIS: We're off the record.
18 --- (Recess taken)

19 MS. DUBOIS: We're back on the
20 record (indiscernible).

21 THE CHAIR: Ms. St-Aubin, are you
22 guys still good? Did you have a chance to take a
23 break?

24 THE WITNESS: I did. Thank you.

25 THE CHAIR: When we broke, I

1 forgot to also say that I wanted to ask you if
2 you're aware that some of the tribunal orders were
3 cease and desist the discriminatory practice
4 according to the findings in the decision, and that
5 included the lack of coordination in federal
6 programs --

7 THE WITNESS: Yes --

8 THE CHAIR: -- that pertain to
9 children.

10 THE WITNESS: No, and thank you
11 for that. And I just also want to correct, when
12 you said, was I aware of the orders and the
13 findings, I thought you meant the orders in the
14 transcripts, from when we were talking about the
15 transcripts previously from 2016, I think it was,
16 or when Robin Buckland was -- so when I reviewed
17 the orders, the findings were in there as well with
18 my package that I read. So I misspoke when I said
19 I hadn't read them together. I thought you meant
20 the transcripts of the proceedings.

21 THE CHAIR: Okay.

22 THE WITNESS: Sorry about that.
23 But yes, I do recall (inaudible).

24 THE CHAIR: And on another topic,
25 and then I'll let you ask your questions. Would

1 you agree with me that even ideally, if all
2 programs were First Nations community-driven,
3 designed and also delivered, there will still be a
4 need for them to develop -- some of them to develop
5 capacity and that some might not want to transition
6 right away and that there is also an in-between
7 solution that would be required?

8 THE WITNESS: Yes. Thank you for
9 that. I completely agree. I think that there's
10 levels of readiness and want to take it on, and I
11 think Canada still needs to be very much in it, in
12 Jordan's Principle, and to support those who do
13 want to take it on through capacity building.
14 Certainly we have a system that works and they can
15 -- because our whole mandate is to transfer systems
16 because we want them to be able to succeed in it,
17 too.

18 So, yeah, I think there's a
19 continuum of readiness where each community sees
20 themselves being a part of it in the way that they
21 feel they should be a part of it.

22 THE CHAIR: Okay. And are you
23 aware that in some of our findings we found that
24 even when First Nations communities were really
25 ready to go forward, they were told no or wait by

1 Canada? Are you aware of that, that it's part of
2 the findings?

3 THE WITNESS: It was -- yes, it
4 was part of the findings at the time. My wonder
5 is, though, when we make these types of wait-for-it
6 approaches, we are in a far different place now,
7 certainly with the efforts that have gone into
8 reconciliation and the desire and the want and the
9 need to continue to co-develop and (indiscernible).
10 My aspirations are that communities are -- will
11 want to come and take on (indiscernible) that they
12 come to us. But yes, I know at that time that was
13 (inaudible).

14 THE CHAIR: Thank you.

15 BY MR. TAYLOR:

16 Q. Thank you. So Ms. St-Aubin, I
17 have some questions now about the Caring Society's
18 interventions in cases. And so for these questions
19 it would be helpful if you had Dr. Blackstock's
20 first affidavit of January 2024.
21 I think I gave you a -- you may have it in Cerlox,
22 but I believe I gave you a (indiscernible) staples
23 along the side there. Yeah, so one should be the
24 affidavit of Ms. Matthews --

25 A. Yes.

1 Q. -- and the other one is Dr.
2 Blackstock. And you don't have the exhibits
3 (indiscernible) bottom of the affidavit but I
4 believe your counsel has the full ones if there's
5 ever anything you want to check.

6 A. Yeah.

7 Q. Now looking at your affidavit,
8 just to start, to landmark you in your evidence, so
9 paragraph about 15 of your affidavit, second
10 sentence. Sorry. You say:

11 "Canada recognizes that the
12 Caring Society's
13 interventions have brought
14 administrative and timeline
15 issues to ISC's attention and
16 have assisted families,
17 children."

18 So you say it's Canada's view. Is
19 that your view, too?

20 A. Yes, that is my view.

21 Q. And would you agree that in
22 addition to bringing administrative and timeline
23 issues forward, the Caring Society also brings
24 systemic issues to light that need to be addressed
25 in Canada's implementation of Jordan's Principle?

1 A. Can you give an example? When
2 you talk about systemic, is this the
3 (indiscernible) nature of other programs --

4 Q. No. More so issues in
5 Canada's approach (indiscernible) Jordan's
6 Principle that are affecting more than one case.
7 There might be a common problem or common issue
8 that needs to be resolved.

9 A. Okay.

10 Q. So rather than it being -- you
11 know, there's a bunch of one-offs that are
12 happening, the Caring Society is also talking about
13 the broader trends in areas where ISC should be
14 moving.

15 A. Yeah, I think that's fair.
16 Yeah.

17 Q. Now if we go down the page to
18 paragraph 19 of your affidavit. Here you're
19 responding to paragraphs 169 to 171 of Dr.
20 Blackstock's first affidavit and paragraph 23 of
21 Ms. Matthews' affidavit. And you're talking about
22 a meeting on December 1st in this paragraph.
23 You're saying -- and you attended that December 1st
24 meeting?

25 A. Yes, I did.

1 Q. And you're saying in this
2 paragraph -- it's a helpful summary -- that your
3 view is the meeting was about coverage for Jordan's
4 Principle requests over the holidays?

5 A. From what I can -- that was a
6 part of the conversation but I can't recall the
7 rest of it other than certain concerns over, you
8 know, the implementation of (inaudible).

9 Q. (Indiscernible) to try and
10 refresh your memory. If we can go to paragraphs
11 169 and 171 of Dr. Blackstock's affidavit. And
12 those are on page 54 -- they start on page 54. And
13 really, I will just be asking you questions about
14 paragraph 169 on page 54.

15 So Doctor Blackstock says here:

16 "On December 1st, I met with
17 senior ISC representatives to
18 discuss how families, service
19 coordinators, and First
20 Nations community
21 representatives contact the
22 Caring Society about the
23 difficulties they have faced
24 in accessing Jordan's
25 Principle and come to the

1 Caring Society for assistance
2 in navigating Jordan's
3 Principle." (As read)

4 So you would have been one of
5 those senior ISC representatives --

6 A. Yes.

7 Q. And then in the second
8 sentence, Dr. Blackstock says:

9 "During that meeting, ISC
10 made a commitment to me that
11 they would identify a staff
12 contact person at ISC to whom
13 the Caring Society could
14 direct folks who reach out to
15 the Caring Society in this
16 way such that their
17 difficulties could be
18 resolved in a tribunal-
19 compliant manner. In
20 essence, that commitment was
21 for ISC to establish a role
22 akin to that which the Caring
23 Society has been playing in
24 escalating and aiding to
25 resolve Jordan's Principle

1 implementation and non-
2 compliance issues."

3 So do you remember that being
4 discussed, about having that specific person within
5 ISC to deal with, you know, essentially bringing
6 forward any problematic cases that (indiscernible).

7 A. I don't recall the
8 identification of a specific staff contact. I did
9 remember discussions around setting up a triage or
10 a targeted team, similar to that we did with the
11 Indian residential schools process that happened
12 years back, and it was a smaller group of four or
13 five, as opposed to a particular staff named.
14 Although that's not to say it wasn't raised. I
15 just don't recall the whole scope of
16 (indiscernible).

17 Q. But your recollection is that
18 at that meeting perhaps holiday coverage was
19 discussed with --

20 A. Yeah.

21 Q. -- (simultaneous speaking)
22 topic would have been this idea of some kind of a
23 function within ISC to help with running these
24 cases?

25 A. Yeah, for sure, it may have

1 been raised. Yeah. Yeah.

2 Q. And you mentioned the idea of,
3 you know, a team of four or five people. Has
4 anything been done with this idea since that
5 meeting?

6 A. Yeah, we're still looking at
7 solutions to how we triage. We might need bigger
8 systems changes than I laid out in my affidavit.

9 Q. But those changes would still
10 be in a kind of final consideration stage?

11 A. They're underway. We're
12 already looking at opportunities and I did bring in
13 a dedicated senior executive to look at that,
14 including addressing some of the bigger First
15 Nations who want to take on increased control of
16 Jordan's Principle, so it's starting (inaudible).

17 Q. But specific to the -- I don't
18 want to in any way belittle the cases but, you
19 know, there's the expression, the squeaky wheel
20 gets the grease. You know, there's issues that
21 come to the fore because they have contacted the
22 service coordinator or the Caring Society, and for
23 whatever reason they're not -- those concerns
24 aren't public (indiscernible). Is that senior
25 executive you were mentioning, are they tasked with

1 dealing with those?

2 A. No. Well, that was supposed
3 to be the intention. However, the individual was
4 pulled over into a dedicated transfer
5 (indiscernible) discussions with regards to
6 Jordan's Principle in another region. There is
7 still work underway within my ADM colleague who
8 does regional operations for (indiscernible) to
9 look at solutions akin to the triage in a smaller
10 group of people (indiscernible).

11 Q. And are you aware of the
12 Caring Society's relatively new practice of sending
13 batches of non-urgent cases to ISC once a week?

14 A. Am I aware of -- sorry.

15 Q. Sorry, I will take two steps
16 back. So the Caring Society -- it would be fair to
17 say that the Caring Society for some time has been
18 raising, you know, on a case-by-case basis, the
19 (indiscernible) attention with ISC?

20 A. Yes, I have been included on
21 some of those.

22 Q. Are you aware or do you
23 understand that in May 2023 -- since May 2023,
24 urgent cases are being kind of raised as they pop
25 up but the non-urgent cases are being kind of

1 gathered and sent once a week?

2 A. I may have seen one come
3 through, in all honesty, but I wasn't sure of their
4 cadence or rhythm or (indiscernible).

5 Q. Right. But the idea that
6 there are kind of batches of cases being sent is
7 something you're generally aware of?

8 A. Not to that degree, no. I had
9 seen it happen once, but not that it was a
10 repeating (inaudible).

11 Q. So you've seen at least one
12 batch --

13 A. Yes. Yes.

14 Q. And when you saw that e-mail,
15 did you see any kind of charts attached to the
16 emails?

17 A. No, I didn't. I just saw it
18 come through and then I clicked on it and opened
19 it.

20 Q. And are you aware that someone
21 on your team responds from time to time who
22 (indiscernible)?

23 A. I wasn't aware of that.

24 Q. Is it fair to say that when
25 the Caring Society brings a case to the

1 (indiscernible) team's attention, that sometimes
2 it's resolved almost immediately? Like sometimes a
3 case is raised and then a determination may be made
4 the next day?

5 A. Potentially, unless I -- I
6 don't know exactly a case. I'm not directly
7 involved in those.

8 Q. I'm not asking for anything
9 you don't know.

10 A. Okay. So again --

11 Q. Just your -- even at a general
12 level -- I mean, you gave us some pretty detailed
13 evidence in your affidavit about (indiscernible) --

14 A. It tends to happen quickly
15 afterwards, but I don't think -- the number of
16 cases that it happens, et cetera, I don't.

17 Q. But as a general statement,
18 sometimes it's quickly?

19 A. Yes.

20 Q. You would agree with that?

21 A. Yes. Yes.

22 Q. And would you agree with me
23 that other times it might take weeks for a case to
24 be resolved?

25 A. If more information is needed

1 (indiscernible).

2 Q. And would you be aware that
3 there's approximately 40 outstanding cases right
4 now that the Caring Society is raising?

5 A. I'm not aware of that.

6 Q. I will just ask you a few
7 questions about the list -- there's a list of cases
8 in the affidavit. So this is over at paragraph 20.

9 And so in preparing these
10 responses, just as a -- if I can -- I'm looking at
11 the heading here, "B. Product, services" --
12 "Products, supports and services funded by Jordan's
13 Principle in Caring Society's individual
14 illustrative cases." Did you look at the records
15 yourself to compile these paragraphs in your
16 affidavit?

17 A. I reviewed synopses of the
18 responses and the actions taken on them, but the
19 actual cases themselves I did not spend excessive
20 amounts of time going through page by page because
21 they were very (indiscernible).

22 Q. So would it be fair to say --
23 we're starting at about paragraph twenty -- twenty-
24 nine, that's another section of your affidavit that
25 talks about (indiscernible). That's all second-

1 hand knowledge?

2 A. It's what I was made aware of
3 and then the synopses that I had read, yes. It's
4 not (indiscernible).

5 Q. And was there a team of people
6 kind of contributing knowledge to this part of the
7 affidavit?

8 A. It would have the regional
9 offices working with Jordan's Principle who fed
10 into the synopses and then (indiscernible).

11 Q. So in some cases it could be
12 firsthand information? The regions (indiscernible)
13 any information giving it to central
14 (indiscernible). Is that fair to say?

15 A. I think it's -- no, I think
16 that it's all still people with firsthand knowledge
17 that just send the document to my EA.

18 Q. There may be people with
19 firsthand knowledge at the bottom of the chain, but
20 by the time it comes to you, it's thirdhand
21 (inaudible).

22 A. Potentially. I can't answer
23 how many hands have touched any given document.

24 Q. So, in paragraph 20, in the
25 second sentence you say:

1 "Some of the information
2 found in those illustrative
3 cases are either incomplete
4 and/or do not reflect the
5 steps taken by ISC to respond
6 to those specific Jordan's
7 Principle requests."

8 Do you see that?

9 A. Yes.

10 Q. Would you agree with me that
11 the Caring Society can only provide information
12 they have access to?

13 A. Of course.

14 Q. And you would agree with me
15 the Caring society has no ability to go into ISC's
16 files to find out additional information?

17 A. Correct.

18 Q. So in paragraph 22 of your
19 affidavit, you talked about a number of cases
20 raised in Dr. Blackstock's and Ms. Matthews'
21 affidavits. Now, in those paragraphs you're
22 consistently noting an amount of money that has
23 been provided to families; Is that right?

24 A. Yes.

25 Q. And is there something in

1 particular the tribunal should take of the amount
2 of funding that the families have received?

3 A. No, the amount is moot. It's
4 more that the fact that these requests were
5 provided, that funding was provided.

6 Q. You have given the amount. Is
7 there a reason you included it?

8 A. I have no specific reason why
9 it's included other than that was provided in the
10 information, so it was marked.

11 Q. Did you ask for it to be
12 included?

13 A. No, I didn't. It was all of
14 it -- I wanted, like, the full information. So if
15 there was products, what products and supports, and
16 then that was just part of the (inaudible).

17 Q. And you've written and
18 reviewed the paragraphs in Dr. Blackstock and Ms.
19 Matthews' affidavit --

20 A. Briefly. I haven't memorized
21 them or anything.

22 Q. But just speaking kind of at a
23 level of generality, would you agree with me it's
24 fair to say the concerns that Dr. Blackstock and
25 Ms. Matthews are raising have more to do with the

1 difficulties that families (indiscernible) getting
2 to the approval or getting reimbursement after the
3 fact?

4 A. Yeah, I think that it varies
5 from case to case. What I will say, though, with
6 regards to the information -- and similar to the
7 role that the Caring Society's (indiscernible) --
8 often they will have more information than we have
9 access to, so it actually facilitates it happening
10 faster, which is why we appreciate when they do,
11 when they do come to us with more information.

12 Q. So you can say where there's a
13 vehicle for additional information to flow in for
14 problematic cases, that helps the department do its
15 job?

16 A. Certainly, because there's a
17 level of comfort, as anybody can appreciate with
18 regard to First Nations families and children in
19 particular (indiscernible). So there is an avenue
20 for them, either by their community or their
21 (indiscernible) service coordinator or the Caring
22 Society -- the Caring Society (indiscernible).

23 Q. So I just want to look at a
24 few examples. I'm going to look at those examples
25 not based on your affidavit, because there's some

1 information in there that's subject to a
2 confidentiality order, so we're just going to turn
3 to the other ones --

4 A. Okay.

5 Q. -- because those are not
6 subject to a confidentiality order. So if we can
7 turn to Ms. Matthews' affidavit.

8 A. Okay.

9 Q. And I would like to go to
10 paragraph 84. Now, just as general programming
11 note here, there are initial reports in the
12 affidavit. The initials are redacted in your
13 affidavit. So I'm just going to ask my questions
14 about (indiscernible) the initials.

15 A. Okay.

16 Q. So I'll read you the paragraph
17 numbers here and then I'll talk about them
18 (indiscernible) as an individual, just to kind of
19 help you out with where I'm coming from.

20 So in the paragraphs 84, and then
21 this case is picked up again in 87 and 88, Ms.
22 Matthews is talking about someone the Caring
23 Society assisted. And these paragraphs tell us
24 that this person had an approval in November 2023.
25 Came to the Caring Society in December 2023. So,

1 see that kind of in the fourth line there? And
2 then told the Caring Society they're experiencing
3 pressures after having arranged upfront payment for
4 a group of items. (Indiscernible) based on the
5 paragraphs (indiscernible) --

6 A. Yeah, I'm just --

7 Q. Take your time to read --

8 A. I'm going to read, yeah.

9 Thank you.

10 Q. And my understanding,
11 basically, of this paragraph is that the
12 reimbursement ultimately followed in January 2024;
13 is that right?

14 A. Yes.

15 Q. That's about two months after
16 approval?

17 A. That's the payment issuance?

18 Q. The payment issuance, yes.

19 There was approval (indiscernible) examined --

20 A. Right.

21 Q. -- (indiscernible) approval in
22 November. Early in January, the payment plan
23 (indiscernible)?

24 A. Yeah, (inaudible).

25 Q. And do you agree the concern

1 for this individual wasn't the approval itself but
2 the time it was taking to be reimbursed?

3 A. For the payment. That's where
4 I -- yes, that's how I -- yes.

5 Q. You agree that's a fair
6 characterization of the concern as reflected in Ms.
7 Matthews' affidavit? They weren't saying
8 (indiscernible) --

9 A. Delay on reimbursement, yes.

10 Q. -- or the wrong
11 (indiscernible). Sorry, I was talking while you
12 were talking. So you agree with my
13 characterization concerning how this delayed
14 payment --

15 A. Yeah, delayed reimbursement.

16 Q. Thank you. Now looking at
17 106, if you will just turn over a couple of pages
18 here. (Indiscernible) page 27. This is another
19 (indiscernible) individual the Caring Society
20 assisted. And take some time -- actually, read 106
21 to 111, if you don't mind, just so you're familiar
22 with the case. Again, not wanting to tread into
23 anything that's protected by confidentiality
24 (indiscernible). So, easier, I think, to
25 (indiscernible). And don't rush. There's all

1 (indiscernible).

2 So would you agree with me, having
3 reviewed those, that this is a case where an
4 individual contacted the Caring Society in
5 September of 2023. See that in 106? And they were
6 talking -- this is 107 -- about a request they made
7 in April 2023, and they haven't had a determination
8 yet. Would you agree? As it's told to her?

9 A. Yes.

10 Q. And then the Caring Society
11 followed up with ISC in early October. That's at
12 109. And the request was approved two days later.

13 MS. ANDERSON: I'm so sorry to
14 interrupt. I just wonder if it (indiscernible)
15 Exhibit 24, which was the e-mail exchange, just to
16 help refresh her memory on (indiscernible).

17 MR. TAYLOR: Sure, if she would
18 like. That's fine.

19 MS. ANDERSON: I think it would be
20 -- yeah, because I was trying to -- there's a
21 couple of letters that are referenced in there so,
22 I --

23 MR. TAYLOR: That's fine. Fine.
24 I mean, I guess where I'm going with this is just
25 that -- and maybe after you review the email you

1 can confirm with my characterization that the
2 concern here is with the timeliness of ISC's
3 determination process as opposed to what was or
4 wasn't (inaudible). Free to look at the e-mail.
5 That's fine. Your counsel (inaudible).

6 THE WITNESS: Yeah, just in the e-
7 mail where ISC offered to change the requested
8 version, but (indiscernible) declined the claim
9 because she wanted to jump the queue.

10 BY MR. TAYLOR:

11 Q. I think that's -- I think it's
12 fair to say what you're hoping people are doing
13 with their requests --

14 A. Well, I think that's what the
15 staff will proactively -- at this --

16 Q. Yeah.

17 A. Right?

18 Q. Yeah.

19 A. Do you feel that this is
20 working? And I only flag that just because you
21 mentioned here, back in the affidavit that the
22 requestor had flagged that it was impacting the
23 child's communication abilities.

24 Q. Right. There may be some
25 issue about --

1 A. So that's where I -- so that's
2 -- but I think that's a relevant point, though, to
3 draw, is that because -- this is why we would want
4 (indiscernible), not just (indiscernible). That
5 doesn't take time to think -- it reminds me of the
6 conversation that we were just having, the
7 questions you were asking about how do you -- the
8 bucket of 10 eggs.

9 Q. Yeah.

10 A. And the urgent versus non-
11 urgent.

12 Q. And certainly ISC veers back
13 into the family member's (indiscernible) position
14 on urgency. They can consider something more
15 quickly if they want to. The focal point can take
16 it upon themselves (indiscernible) this is part of
17 the queue.

18 A. And they have escalated --

19 Q. Yeah.

20 A. -- to be because there is
21 that, oh, we didn't -- we weren't aware of a
22 certain level of information. Then they'll want to
23 escalate.

24 Q. But taking a couple of steps
25 back, the concern here, you would agree, is that

1 irrespective of the reason, it's a timeliness
2 concern. It's not a concern about what was
3 approved or how long --

4 A. Yeah. Yeah. Which is -- you
5 know, compliance of timelines is something that --

6 Q. Yeah. Yeah, exactly?

7 A. -- (indiscernible).

8 Q. Thank you. I was looking to -
9 - there's some detail provided about, you know,
10 items and amounts, et cetera. And just to, again,
11 go to the processing --

12 A. To the issue.

13 Q. So you agree that the
14 complaint is about processing as opposed to what's
15 coming out of the process.

16 A. That's certainly how it's
17 captured in there.

18 Q. And my last example to go to,
19 if you just go over to Dr. Blackstock's affidavit.
20 And if you can go to page 28. And there's a couple
21 emails in this section as well, so I don't know if
22 Ms. Anderson wants to give you the page or PDF
23 reference. It's 38A to E.

24 A. Did you say a page number?

25 Q. Page 28, yeah. It's at

1 paragraph 85, is where it starts. I'm wondering if
2 you might be familiar with this one.

3 (Indiscernible) and concerns about -- well, a need
4 related to clean drinking water for the home. If
5 this a case that has been on your radar at all?

6 A. Just on the periphery. And I
7 know that there were a bunch of requests that were
8 made, if my memory serves me correctly and --

9 Q. Yeah, there's a number of
10 (indiscernible).

11 A. There was a few because there
12 were some that were approved and then one
13 (indiscernible).

14 Q. Yes, there was
15 (indiscernible). I think that's a fair statement.
16 But I guess the question I have is, the thrust of
17 this request, and just kind of going off your
18 recollection of it and feel free to review what you
19 like, is that there was -- you know, capital work
20 could be done so that the family could access safe
21 drinking water and that was denied because the
22 authorities of your capital (indiscernible) were
23 limited. Is that right?

24 A. Yes.

25 Q. And so you agree when you're

1 listing -- if any items you're listing to this
2 individual were approved don't actually address the
3 reason that the individual is (indiscernible).

4 A. From what I can recall, there
5 wasn't (indiscernible) on water as well as
6 (indiscernible) the other things as an immediate
7 supply, yeah.

8 Q. The home didn't have access to
9 (indiscernible) bottled water (indiscernible).

10 A. (Indiscernible.)

11 Q. So it goes (indiscernible)
12 does not address the underlying concern, which is
13 there's no clean water to the home. That's a
14 "yes"?

15 A. (Indiscernible) provide them
16 clean drinking water (indiscernible).

17 Q. But not (indiscernible).

18 A. I'm not sure about what
19 happened after we provided them that drinking
20 water, where it is in the process. I'm not sure if
21 this one has been raised for appeals or review --

22 Q. And I'm not trying to
23 (indiscernible) the case to avoid it on there. I'm
24 just -- the focus on (indiscernible) the Caring
25 Society was, you know, we need capital work to

1 access clean drinking water, and that denied
2 because (indiscernible). Is that a fair
3 characterization of this one?

4 A. Yeah, it's the scope in which
5 we can access (indiscernible).

6 Q. And so the complaint here
7 didn't have to do with what was approved, which is
8 (indiscernible) in your affidavit. It has to do
9 with what was denied? That's fair?

10 A. That's -- yeah, that's the...

11 Q. Just as a general point, and
12 we may have already covered this, would you agree
13 with me that just as important as the kind of
14 product, service or support a family received or
15 how much it costs, it's also important whether the
16 need that was being (indiscernible), that request
17 was met in a timely way?

18 A. That is -- yeah, that's the
19 (indiscernible).

20 Q. But beyond the orders, if
21 there's a need, it's important (indiscernible) in a
22 timely manner. Do you agree with that?

23 A. Yes.

24 Q. And would you agree with me
25 that having timely approvals and having timely

1 payment arrangements are key parts of meeting needs
2 in a timely way?

3 A. Yes. In fact, we strive to do
4 so, you know, as best as we possibly can without
5 challenges this way (indiscernible).

6 Q. And just kind of a couple of
7 questions on the scope of the department's
8 authorities. And there's another case, just back
9 over to Ms. Matthews' affidavit, and it's at
10 paragraph 65. And this is a case that's about an
11 accessible modular home on reserve. Are you
12 familiar with this case?

13 A. (Inaudible.)

14 Q. Yes, (indiscernible).

15 A. Yes. I am aware of the
16 request, that it came in and (inaudible).

17 Q. And in paragraph 66, Ms.
18 Matthews notes the request was denied on July 18th,
19 about five months after it was made. Is that fair?

20 A. Sorry, where did the date --

21 Q. I'm sorry. If you look in
22 paragraph -- I think I'm putting two things
23 together. So if you look in paragraph 65, you'll
24 see the request came in at the end of February.

25 A. Yes, February 28th.

1 Q. And then in 66, it's denied in
2 July. It's about a five-month period. Is that
3 fair?

4 A. Is -- yeah. Is there -- is it
5 possible to see the exhibit? Is there this one
6 where there was --

7 Q. There's a second --

8 A. It had gone to appeals and
9 then --

10 Q. Yes, there's a second -- I
11 mean, it's in -- in this particular case, there's
12 now a report, a final report, but there was a
13 second appeal. So maybe it would be helpful --

14 A. But there was some timeline
15 delay in that because it did go to -- there was a
16 process that was followed. It was overturned in
17 appeals, but then the requestor pulled their
18 request and submitted a new one for a purchase of a
19 new home.

20 Q. Yeah. I mean, this -- again,
21 this is one that's before the federal courts --

22 A. Sorry, yeah --

23 Q. -- so I have a general --- my
24 general position, that's in the -- all the records.
25 So this is the case -- or just to confirm your

1 understanding of the case. I don't want to give
2 the evidence about it.

3 A. Yeah.

4 Q. Do you recall that there was,
5 in this case, an approval for a renovation? And if
6 you don't -- think it would be helpful to look at
7 the emails, see if those refresh your memory.

8 MS. ANDERSON: I wonder if it
9 might be helpful just to refer her to the
10 paragraphs in her own affidavit, just reference
11 that.

12 MR. TAYLOR: That's fine. I mean,
13 again, I'm just trying to avoid (indiscernible).
14 So this would be paragraph -- if you go to your own
15 affidavit, Ms. St-Aubin, maybe you can just refresh
16 your memory, if you can, off the confidential
17 version. This is all described in paragraphs, I
18 would say, 26, 27, 28. And then you note the
19 approvals that were made in 29. So if you look at
20 26 to 29 --

21 MS. ANDERSON: Is it okay,
22 Counsel, if it's not the redacted version?

23 MR. TAYLOR: I think that's fine.

24 MS. ANDERSON: Okay. That's why I
25 wasn't sure if you wanted me just to go into the

1 redacted one --

2 MR. TAYLOR: No, I was just
3 looking for myself to see what is redacted. But
4 again, this is a concept of examining around
5 (indiscernible).

6 THE WITNESS: Yeah, that's the one
7 I was thinking about.

8 BY MR. TAYLOR:

9 Q. You have had a chance to
10 refresh your memory there?

11 A. Yeah, I don't remember exactly
12 what the -- (indiscernible) were being sought, but
13 I don't have that level of granularity at my
14 fingertips, unfortunately, but --

15 Q. That's okay. I don't want to
16 -- I don't want to make this a memory question --

17 A. No, no. Thank you.

18 Q. So just -- I guess the thrust
19 of my question here is -- well, there was an
20 approval for some major adaptations. We have some
21 documentation on that elsewhere that you'll accept
22 or it's consistent with your understanding of the
23 case that (indiscernible) position is that those
24 (indiscernible). I just wondered if that's
25 consistent with (indiscernible).

1 A. I don't -- I don't
2 (indiscernible).

3 Q. The other (indiscernible).
4 And between the two solutions, you have noted,
5 actually, the dollar value in your affidavit, which
6 I won't say out loud given that it's under
7 redaction. But do you recall that the solution
8 that was denied cost about \$70.00 more than the one
9 (indiscernible)?

10 A. Again, it's not (inaudible).

11 Q. And just, in fact, the main
12 thrust of the questions here is that the reason of
13 the denial in this case is potentially purchasing a
14 modular home is outside the authorities of Jordan's
15 Principle?

16 A. Yes.

17 Q. So if you look at paragraph 31
18 of your affidavit now. We'll move on from that
19 example and we're now also moving away from the
20 area where there's a confidentiality order in
21 place, so it will probably be a little more
22 efficient, be more helpful. So, paragraph 31.
23 That's on page 9 of your affidavit. Do you see it?

24 A. I do.

25 Q. So here you're addressing

1 concerns raised by the Ojibways of Onigaming First
2 Nation of Ontario. Are you aware of this case?

3 A. Not in great detail. My
4 colleague, like I mentioned prior, who was the
5 (indiscernible) regional operation officer, has
6 taken more proactive roles.

7 Q. At a general level, are you
8 aware this request is for a youth crisis centre in
9 the community?

10 A. Again, I don't have a level of
11 detail beyond knowing that there were some issues
12 raised and that (indiscernible).

13 Q. But the issues raised, are you
14 aware the general level -- it's a capital --

15 A. It's a building.

16 Q. Building and building issue?

17 A. Yes. Yes. Yes.

18 Q. And this is in ISC's
19 authorities because we have the 2021
20 (indiscernible) order; is that right?

21 A. My understanding of the order,
22 and again, I don't know the full details of the
23 case, but if it's -- I'm not sure --

24 Q. I'm only asking --

25 A. Okay. I don't know. I know

1 the order in relation to the area existing with the
2 structure for (indiscernible) services. That's
3 (indiscernible).

4 Q. No, I don't want to test the
5 order. That's okay.

6 A. Thank you.

7 Q. Now, you say in the paragraph
8 here, and I think you just mentioned that from some
9 of your answer, is -- sorry, just let me find
10 myself in that paragraph here. Do you see in the
11 fourth-last line, you say:

12 "...a team from ISC including
13 the assistant deputy minister
14 and regional directors
15 travelled to Onigaming to
16 meet directly with their
17 leadership."

18 So you wouldn't have any knowledge
19 or context of this conversation?

20 A. No, I was not there.

21 Q. And so this is -- essentially,
22 again, this 31, this is based on what folks are
23 telling you?

24 A. Yes, our direct -- the
25 assistant deputy minister who -- CHRT 41 and

1 capital (indiscernible) the structures within were
2 mandate-specific.

3 Q. So you wouldn't be aware that
4 part of the discussions with the (indiscernible),
5 you know, mapping on square foot by square foot,
6 the approved Jordan's Principle services
7 (indiscernible) provide?

8 A. I don't have any details
9 beyond that there was a commitment to meet and
10 discuss (inaudible).

11 Q. So if we can look at the
12 volume I brief. This is at tab F, please. See on
13 this note, it's an email from Chief Copenace to Dr.
14 Blackstock. Are you familiar with Chief Copenace?

15 A. Just by name.

16 Q. Just by name. You know that
17 he's the chief of (inaudible) First Nations.

18 A. Yeah, because of -- yeah.

19 Q. Fair enough. So you're aware
20 that that was the (indiscernible) --

21 A. Yes. Yes.

22 Q. Now, we sent a copy of this
23 email to your counsel yesterday afternoon. Did you
24 have a chance to review it before coming today?

25 A. Like, literally on the way in.

1 Q. It's a short e-mail, so just
2 feel free to take --

3 A. Yes.

4 Q. -- a minute to read it.

5 A. Okay.

6 Q. And do you see in the first
7 paragraph, the chief says:

8 "While I am grateful that we
9 are meeting monthly with
10 Canada and Ontario, we still
11 have no commitment from
12 Canada for the youth crisis
13 infrastructure that we
14 applied for and need to lift
15 our state of emergency for
16 suicide and mental wellness."

17 (As read)

18 So is that consistent with your
19 understanding that there still hasn't been a
20 solution to this yet?

21 A. Again, I have no level of
22 knowledge on those discussions or (indiscernible).

23 Q. If that's what Chief Copenace
24 has to say, would you have any reason to disagree
25 with it?

1 A. I have no reason to disagree
2 with -- although there's other -- I don't know --
3 because there's conversations in here that I'm a
4 little bit more aware of that aren't -- that's
5 certainly what my understanding is, so I ---

6 Q. Right. Fair enough. You can
7 only work on --

8 A. Yeah.

9 Q. -- what you've got. Paragraph
10 37 of your affidavit. Let's just go over to the
11 page on page 10. So here you're referring to
12 correspondence from Surrounded by Cedar Child and
13 Family Services included in Dr. Blackstock's
14 affidavit. And you say in the second line, kind of
15 partway through you say:

16 "...British Columbia region
17 has no record of the
18 temporary housing request.
19 In 2023, the region received
20 three requests from the
21 organization, none of which
22 related to temporary
23 housing."

24 Do you see that?

25 A. Yes.

1 Q. Am I right that you didn't
2 check this correspondence yourself?

3 A. I didn't check the --

4 Q. You didn't look in the BC
5 region box to see if there was any outstanding
6 request from Surrounded by Cedar?

7 A. No, that would have been done
8 by the regional team.

9 Q. By the regional team. Okay.
10 And the regional team would have done that and
11 (indiscernible).

12 A. Yes.

13 Q. Okay. I want to move on to
14 another related topic, I would say, which is the
15 idea of a complaints mechanism for Jordan
16 Principle. So we'll go a few pages forward in your
17 affidavit to paragraph 47, which is on page 13.

18 So at paragraph 47, do you see in
19 the first line it says:

20 "...the Caring Society's
21 proposal for a complaints
22 mechanism is duplicative and
23 conflicts with the appeals
24 process already established
25 by way of agreement with the

1 parties."

2 Do you see that?

3 A. Yes.

4 Q. Do you agree that the appeals
5 process can only address complaints that arise
6 after approval is made?

7 A. That's my understanding of
8 what it would be, but --

9 Q. So you don't have --

10 A. That's my interpretation.

11 Q. So you don't any understanding
12 that it does anything else than --

13 A. My interpretation of -- in
14 this context is once a decision is made then that
15 (indiscernible).

16 Q. So based on that understanding
17 (indiscernible) requests after they've been made,
18 would you agree with me, then, that something like
19 that is not dealing with problems that arise before
20 they get to approval?

21 A. I think, though -- I can't say
22 that because I would use the appeal's decision as a
23 lessons learned opportunity to adjust and, of
24 course, correct, you know, as much as possible.

25 Q. Fair enough. And it might be

1 a good practice. But in terms of it -- if I'm, you
2 know, Family "A" and I've got a reimbursement that
3 I've been waiting on, which is something that
4 arises after approval has happened, which isn't
5 something that would go through the appeals
6 mechanism we just talked about, or if I'm Family
7 "B" and I've been waiting for four or five months
8 for a determination, I'm not calling the appeals
9 committee to say, you know (Simultaneous speaking)
10 --

11 A. No, I understand.

12 Q. Would you agree with that?

13 A. Yeah, that would not go
14 through the appeals (inaudible).

15 Q. Do you agree, then, that
16 looking at that sentence, that wouldn't be
17 duplicating what the appeals process is doing,
18 having a function to do --

19 A. Right, in that context. Yeah,
20 that's correct. That's not how I interpret it.

21 Q. So if we could look now, this
22 is -- we're going to jump to a new book we haven't
23 touched yet, and this is the Cerlox -- it has on
24 the cover "NCFS exhibits vehicle 2-2024, cross-
25 examination of Valerie Gideon". Do you see that?

1 A. Yes.

2 Q. So if you go to tab H of that
3 brief, you will see a document that's titled
4 "Executive summary of agreement-in-principle on
5 long-term reform". Do you see that?

6 A. Yes.

7 Q. Okay. And have you seen this
8 document before?

9 A. Not in this format, but I have
10 seen it --

11 Q. (Indiscernible) seen this?

12 A. Possibly. The format is
13 messing me up a bit but --

14 Q. Yeah, this is printed --

15 A. Or a Word document, perhaps --

16 Q. It's printed off of the
17 internet.

18 A. Okay.

19 Q. But the idea of it, there's a
20 public executive summary --

21 A. A summary.

22 Q. -- to (indiscernible).

23 A. Correct.

24 UNKNOWN MALE SPEAKER: Excuse me
25 for a second. I don't think they even have that

1 document.

2 MR. TAYLOR: It's this -- it's the
3 PDF that Mr. Droz sent around yesterday morning. I
4 think (indiscernible).

5 UNKNOWN MALE SPEAKER: Okay. Yes.

6 BY MR. TAYLOR:

7 Q. So turn to Jordan's Principle,
8 which is on -- this one, unfortunately, doesn't
9 have page numbers. So it's on the third page. You
10 see a big heading, "Jordan's Principle"?

11 A. Yes.

12 Q. So it said:

13 "Canada will take urgent
14 steps to implement the
15 measures set out in a work
16 plan to improve outcomes
17 under Jordan's Principle,
18 based on ISC's compliance
19 with the Tribunal's orders.
20 The work plan specifically
21 includes commitments to..."

22 Is that consistent with your
23 awareness that there was a plan and certain
24 commitments that's reached as part of the process?

25 A. As an appendix to the AIP,

1 yes.

2 Q. Do you see the second bullet
3 under that heading:

4 "Develop and implement
5 Indigenous Services Canada
6 internal quality assurance
7 matters, including training
8 on various topics, a
9 complaint mechanism, and an
10 independent office to ensure
11 compliance."

12 Do you see that?

13 A. I do.

14 Q. Is your position that ISC's
15 commitment on this front was only to set up the
16 external review commitment?

17 A. I can't speak to the intent of
18 when this was done. It was pre my time and I'm not
19 involved in the negotiation conversations, but -- I
20 can't speak to what the vision was for that --

21 Q. Based on our exchange just now
22 --

23 A. (Indiscernible.)

24 Q. Yeah, based on what we were
25 talking about, what the appeals process does in

1 terms of the kind of cases it deals with, would you
2 agree with me that something described as a
3 complaint mechanism or an independent office for
4 ensuring compliance would be something more than
5 just an appeals function?

6 A. Again -- I'm sorry, can you
7 (inaudible) --

8 Q. Sure. I'm happy to take
9 another run at it. So in this commitment --

10 A. Yes.

11 Q. -- which is summarized
12 (indiscernible), we're talking about having a
13 complaint mechanism and an independent office to
14 ensure compliance. And I think we have reviewed
15 through some of the questioning that the appeals
16 committee will have an enforced role, have a
17 limited role, and then it's (indiscernible)
18 specific things. I think -- you know, I had said
19 to doing -- considering denials and whether they
20 were proper. Then you made the point that it can
21 also give lessons learned for a future basis.

22 A. Correct.

23 Q. Do you remember that exchange?

24 A. Yes. Yes. Yes. Yes, I do.

25 Q. And would you agree that if

1 we're thinking about a complaint mechanism or an
2 independent office for ensuring compliance or even
3 functions that go beyond those two --

4 A. (Indiscernible.)

5 Q. -- that they would be
6 important?

7 A. Yes. Yes.

8 Q. So, again, going back to 47,
9 there's a duplication with the appeals process of
10 the file with those other functions?

11 A. Yeah. So when this was
12 written and when I signed --

13 Q. You affirmed?

14 A. Affirmed. Thank you. Thank
15 you. When I affirmed it, certainly my thought with
16 regards to complaints was around (indiscernible)
17 type or, you know, escalation, and et cetera.

18 Q. And they're not necessarily
19 the kind of things that --

20 A. No, no, (indiscernible).

21 Q. Now if we can go over it tab -
22 - so we'll put the Dr. Gideon book aside. I might
23 come back to one or two more documents, but I don't
24 think (indiscernible).

25 Go back to volume I, please. So

1 this is exhibit -- sorry, tab G in volume I, which
2 is a record of decision of the JPOC meeting which
3 happened on May 9. Okay. And do you see the
4 second bullet in the first kind of -- it's the
5 first row. The second bullet says:

6 "Based on feedback that was
7 heard at the First Nations
8 caucus held by AFN, we are
9 beginning to develop a
10 forward agenda for JPOC based
11 on components of the Annex B
12 - Workplan to Improve
13 Outcomes Under Jordan's
14 Principle..."

15 Were you aware of that?

16 A. No, I don't participate in
17 JPOC. That would be the two -- Samantha Wilson-
18 Clark.

19 Q. And Ms. Wilson-Clark reports
20 to you?

21 A. Yes, she's the director
22 general.

23 Q. Do you know whether JPOC's
24 attendance is limited to the parties to the
25 complaint or is it a broader group --

1 A. I think it's a broader group -

2 -

3 Q. Just --

4 A. -- including (simultaneous
5 speaking).

6 Q. Just to see if it's consistent
7 with your understanding, page 7, tab G.
8 List of participants there.

9 A. Yes.

10 Q. Would you recognize the --

11 A. Yes.

12 Q. This is Ottawa, so I'm
13 assuming it's okay to put out a bunch of acronyms,
14 but would you recognize --

15 A. (Simultaneous speaking.)

16 Q. -- the parenthetical acronyms
17 after a number of the specific participants
18 (indiscernible)? So this (indiscernible). That's
19 (indiscernible) First Nation?

20 A. Yes.

21 Q. And looking at, for instance -

22 -

23 A. (Indiscernible.)

24 Q. So you (simultaneous speaking)

25 --

1 A. Yes, (simultaneous speaking).
2 Yes. Yes.

3 Q. And so just turning back to
4 the second bullet here. It says at the end -- it
5 says:

6 "...based on components of
7 the Annex B - Workplan to
8 Improve Outcomes Under
9 Jordan's Principle (included
10 an invite)".

11 Are you aware, was the work plan
12 then distributed to the folks who came to this
13 meeting?

14 A. I don't know.

15 Q. You don't know?

16 A. I wasn't there.

17 Q. So now if you go to page 2,
18 the following page, (indiscernible). The first
19 bullet says:

20 "Today's meeting is focused
21 on preliminary discussions
22 regarding a proposed
23 complaints mechanism for
24 Jordan's Principle."

25 Would you agree that by May of

1 2023, the external appeals committee was already in
2 place?

3 A. Yes.

4 Q. So would you also agree that
5 the complaints mechanism under discussion in May
6 2023 at JPOC would be signed by a separate appeals
7 committee? Or are these different or --

8 A. Well, certainly based on how
9 you would characterize it within this context, yes,
10 I would assume it would be something separate from
11 --

12 Q. A separate entity or at least
13 a more -- a broader function, just the two --

14 A. Than just those that have
15 already been determined. Yeah.

16 Q. And then on page 3, do you see
17 there's a bulleted list that goes through a series
18 of functions for a complaint mechanism? The second
19 bullet here, it says, "The complaints mechanism
20 must be established in a way that" and then it has
21 got sub-bullets.

22 "Ensures requestors and their
23 families will not fear
24 reprisal for submitting a
25 complaint, and instills,

1 trust, recognizing the power
2 dynamic individuals face when
3 interacting with the federal
4 government."

5 And I think that power dynamic is
6 what you're referencing (indiscernible) the level
7 of comfort balance.

8 A. (Inaudible.)

9 Q. I have:
10 "Clearly outlines how and
11 where to submit a complaint;
12 is easy to access and
13 navigate; results in a
14 resolution for the individual
15 submitting the complaint,
16 with a clear response from
17 ISC on how they intend to
18 address the individual's
19 complaint or concern; does
20 not result in another
21 administrative burden on the
22 child and families access
23 Jordan's Principle; and
24 tracks trends in complaints
25 to address systemic issues

1 families may be facing when
2 accessing Jordan's
3 Principle." (As read)

4 So would you agree these are good
5 starting points for building a complaint mechanism?

6 A. Yes.

7 Q. We can put this one aside. I
8 have one more question about JPOC, which you may or
9 may not have the answer to. Turn to paragraph 48
10 of your affidavit, which is just one down from what
11 we were looking at before.

12 A. Yes.

13 Q. Here you're noting two reports
14 in particular. 48(a) is the Jordan's Principle
15 monthly report and the Jordan's Principle monthly
16 compliance report. Are you aware of whether these
17 are primarily shared with the Caring Society
18 through JPOC?

19 A. I don't know if it's primarily
20 through JPOC.

21 Q. Do you remember how the
22 reports are shared with the Caring Society?

23 A. Other than publishing them and
24 sharing them after the fact?

25 Q. But they're sent and you're

1 not sure how --

2 A. I don't know about the
3 machinations.

4 Q. Are you aware the two most
5 recent JPOC meetings have been canceled due to
6 (indiscernible)?

7 A. Yes.

8 Q. And do you know whether the
9 reports have been distributed despite JPOC --

10 A. I'm not sure.

11 Q. Ms. Anderson, I'm wondering if
12 we could have the monthly reports noted for 48(a)
13 and 48(b) back to November 2023? That would be the
14 Jordan's Principle monthly report for November,
15 December, January, and then the Jordan's Principle
16 monthly compliance report -- sorry, I said January.
17 January, February, March, and the Jordan's
18 Principle monthly compliance report for November to
19 March as well, please.

20 MS. ANDERSON: Sorry, could you
21 just clarify again which ones --

22 MR. TAYLOR: No, I, for some
23 reason, thought it was February. Potentially, they
24 have (indiscernible) so I will take another run at
25 this.

1 So if we could please have, as a
2 request for information -- in 48(a) there's the
3 Jordan's Principle monthly report that's noted. If
4 we could have that edition for November 2023 up to
5 March 2024, assuming March of 2024 has been
6 prepared at this point. And if we could have
7 Jordan's Principle monthly compliance reports for
8 the period covering as well November 2023 to March
9 2024, again assuming the March report was prepared.
10 I don't know if there's a delay or if the March
11 (indiscernible) or how that works. But whatever
12 would have been sent monthly, in those months, if
13 we could have (indiscernible).

14 MS. ANDERSON: Okay. Thank you.

15 MR. TAYLOR: Thank you.

16 BY MR. TAYLOR:

17 Q. We'll move on to another theme
18 now. So we're going to talk a bit about
19 escalations, re-reviews and appeals. You can put
20 that away now. And we'll actually stick with the -
21 - actually, no, now we're going to turn to Dr.
22 Gideon's affidavit, please. And do take your time
23 to look at these paragraphs, please.

24 If you look at paragraph 48, which
25 is on page 15. So in paragraph 48, there's some

1 thresholds that are set out for focal point level
2 approval, and those are 100,000 for individual
3 requests and then 500,000 for requests. Do you see
4 that?

5 A. Yeah, number 48. Yes.

6 Q. Yeah, in the last sentence.

7 A. Right.

8 Q. And then go down to 49. You
9 will see in that paragraph that Dr. Gideon is
10 telling us that many of these amounts are --

11 "When individual or group
12 requests exceed these
13 amounts, the regional focal
14 point escalates the request
15 to the national review team
16 for determination."

17 And then I'm wondering if you
18 know, essentially, what it is an escalation to the
19 national review team (indiscernible), and I'll give
20 you a little more of a specific question. And I'm
21 wondering in terms of how the authorities are
22 structured from a practical perspective.

23 So a focal point has a request
24 that's over 100,000 for an individual or 500,000
25 for a group. Can they go to their regional

1 director or their regional director general to get
2 an approval? Or do they have to go to this kind of
3 broader team of people on the national review team
4 to get that approval?

5 A. In my time here, I've only
6 known it to work in this specific fashion where
7 there's formal process. I can't speak to where
8 there has been a chance that it would be
9 (indiscernible) in special circumstances. I think
10 that there is flexibility for unique -- in an
11 immediate circumstance when you address
12 (indiscernible) of the issue. But off the top of
13 my head, I can't think of a specific example where
14 that would have been applied. But, again --

15 Q. So is it fair to say that your
16 general understanding of how these kind of
17 thresholds worked, with the past 100,000 or 500,000
18 threshold, with the delegation or the authority it
19 has to be exercised collectively, it's this
20 national review team that's doing it as opposed to
21 individual executives that can do it, right?

22 A. Yes. However, I do believe
23 that there is --

24 Q. Subject to flexibility --

25 A. They're subject to flexibility

1 along the course of this process. Certainly, you
2 know, the urgency and best interest of the child,
3 the situation -- we need context in every case --
4 is critical. So while we can lay out processes, I
5 think it would be incumbent upon us to have
6 flexibilities for those situations.

7 Q. And then you can't recall any
8 particular (simultaneous speaking) --

9 A. Not off the top of my head.
10 No, again, but --

11 Q. But the typical path
12 (inaudible), the non-exceptional path would be for
13 -- to proceed on the individual focal point to the
14 team --

15 A. (Indiscernible.)

16 Q. Okay. Now, I asked Dr. Gideon
17 and she suggested I ask you, given the timing of --
18 you know, for -- for the timing of the department.
19 Do you know when these particular financial
20 thresholds were introduced?

21 A. There was a series of new
22 thresholds that were introduced, I want to say in
23 January of 2024. And I can't recall -- and I
24 apologize -- if it's specific to products and
25 services or the use of cards, acquisition cards.

1 But there was a change -- a series of changes in
2 regards to thresholds, not just this (inaudible)
3 right here.

4 Q. (Indiscernible) also remember
5 reading something January 2024 (indiscernible).
6 Okay. Do you know, whether they were part of the
7 January 2024 change or they may have been something
8 that were extant when you arrived at the
9 department, do you know if these thresholds have
10 been communicated out to the community?

11 A. I am sorry, I can't speak to
12 that. That's what I (inaudible).

13 Q. Do you agree it would be
14 something for -- important for a service
15 coordinator to know that they made a request for
16 95,000, the focal point (indiscernible) for an
17 individual, and it was for 105,000 (indiscernible)
18 national review team?

19 A. I would assume -- I can only
20 make assumptions at this point because I don't know
21 the level of communications that happens between
22 the regional office and (indiscernible) --

23 Q. Irrespective of whether
24 communications (simultaneous speaking) --

25 A. Yeah.

1 Q. That would be kind of
2 important information to know in terms of
3 structured requests?

4 A. I think so, yes.

5 Q. Do you know these thresholds
6 were discussed with JPOC?

7 A. I'm not sure.

8 Q. And do you know if they were
9 determined on a best interest of the child
10 framework? Or was it more to do with ISC's --

11 A. I can't speak to the level --
12 I don't recall how we came up with these numbers.

13 Q. That's fair. I would like to
14 ask you a few questions about re-reviews for a bit.

15 A. Okay.

16 Q. Are you aware of what re-
17 reviews are as a technique (indiscernible) Jordan's
18 Principle?

19 A. I have only been a part of one
20 myself that I have seen, so it's --

21 Q. You know it's a mechanism,
22 essentially, outside the appeal process to take a
23 second look at something that has been denied?

24 A. Yes. Yes.

25 Q. You would agree that that's

1 something that can happen before or during the
2 appeal stage?

3 A. I think -- yeah, I think it's
4 a part of (indiscernible) before it goes to appeal.
5 That's (indiscernible) an option.

6 Q. And I asked Dr. Gideon this
7 yesterday. This is another one where she suggested
8 asking you. Do you know if ISC tracks any
9 statistics on re-reviews?

10 A. I'm not sure on that level of
11 detail. And just because -- when I think about re-
12 reviews, because it's happening -- clearly, you
13 stated it happens at different points within that
14 time, so I'm not sure how or when they would check
15 them.

16 Q. Would you agree that if there
17 were lessons, particular lessons learned from the
18 other re-reviews in terms of their practices to
19 address their points of confusion and that might be
20 resulting in escalations, it might be an important
21 thing to have broadcast to the focal points?

22 A. I think we always have
23 opportunities to learn to do better.

24 Q. Ms. Anderson, I'm wondering --
25 I'm not asking for the creation of anything new

1 here. So I guess the first part of this would be,
2 you know, are there any statistics or reports that
3 are kind of tabulated on re-reviews, and whether
4 those cover who is asked or how many there have
5 been and what region, et cetera? And if they
6 exist, if we could have a copy of the most recent
7 version of that.

8 MS. ANDERSON: Yes, we'll check.

9 BY MR. TAYLOR:

10 Q. Now I would like to ask you a
11 few questions about the appeals committee. And in
12 this case, for some of these, again, I have asked
13 Dr. Gideon and she suggested asking you.

14 Do you know, does ISC
15 (indiscernible) appeals to the new parameters in
16 terms of certain kinds of categories for requests
17 it can't (inaudible)?

18 A. I'm not sure the full scope of
19 the information that they would have received once
20 they've come in. I apologize, I didn't
21 (indiscernible) the appeals committee. It's not
22 (indiscernible) guidelines they get.

23 Q. Fair enough --

24 A. But they're arms length, so we
25 try not to, in the essence of a government,

1 (indiscernible) direction.

2 Q. If we can go back to Dr.
3 Gideon's book -- not her book. It's a book
4 (indiscernible) of documents. And take a look,
5 please, at F. It's a document titled "Jordan's
6 Principle and Inuit Child First Initiative
7 Operational Bulletin", operational bulletin 004,
8 direction on housing and major renovation
9 (indiscernible) Jordan's Principle through
10 guidance.

11 Is this a document you're familiar
12 with?

13 A. I haven't seen it. I know
14 that there are bulletins but I don't recall seeing
15 this one specifically.

16 Q. Who would be the person within
17 ISC who would be, I guess, responsible for reading
18 bulletins if it's not you?

19 A. It would be the director
20 general of Jordan's Principle.

21 Q. (Indiscernible.)

22 A. I'm making an assumption.
23 Yes.

24 Q. So do you know whether this is
25 an example of a document that's provided

1 (indiscernible)?

2 A. Again, I'm (inaudible).

3 Q. No, it's fine.

4 (Indiscernible.)

5 A. I don't know.

6 Q. Not knowing is your evidence
7 and I only want your evidence. I don't want you to
8 speculate.

9 Ms. Anderson, I'm wondering if we
10 could have two -- two requests for information.
11 One would be if this operational bulletin 004 was
12 provided to the expert review committee. And then
13 the second would be -- I assume there are others
14 given that this is 004. Could we please have a
15 copy of all of the operational bullets as well? Of
16 course, (indiscernible) not privileged. If there's
17 any bulletins that contain solicitor-client
18 privileged information, obviously, we're not asking
19 for that.

20 MS. ANDERSON: Sorry, so you're --
21 are you asking for all operational bulletins from
22 all time?

23 MR. TAYLOR: Well, whatever is
24 currently in force. If there's -- assuming that --
25 depending on if they do -- this is a -- given that

1 it's effective November 22, 2023, so if there is an
2 operational bulletin, you know, 01, 02, 03, I would
3 like to see those. I don't know how high they
4 would go in terms of how active (indiscernible) the
5 last two months in creating these, but if there's a
6 suite of operational bulletins, have those
7 (indiscernible).

8 MS. ANDERSON: Okay. We'll look
9 for those, and to the extent they're not privileged
10 --

11 MR. TAYLOR: Yes.

12 MS. ANDERSON: -- (Indiscernible.)

13 BY MR. TAYLOR:

14 Q. So I think we can set this one
15 aside for now. We have -- somewhere in the paper
16 in front of you there is a loose email, and it
17 should say at the top October 19th, 2023. And my
18 questions here, they're illustrative and
19 (indiscernible), but please do (indiscernible),
20 review it, whatever you need to do with
21 (indiscernible).

22 And I just want to -- just looking
23 at the top, it's from Ms. Matthews to Ms. Wilson --
24 Clark. So, again, that's your director general
25 (indiscernible)?

1 A. Yes.

2 Q. And she reports to you?

3 A. Yes, she does.

4 Q. So, subject to you wanting to
5 read tip to stern, (indiscernible) same questions,
6 I would like to go over to the back, which is,
7 given how these things are arranged, the oldest e-
8 mail, the first e-mail in the chain. And this is
9 the e-mail that is -- first paragraph:

10 "I am writing to request in
11 writing an appeal for this
12 decision."

13 And then:

14 "Could you let me know what
15 the next steps are
16 (indiscernible)." (As read)

17 Do you see that?

18 A. (Inaudible.)

19 Q. And then the next one up -- so
20 we've got to go back over the page now. It's from
21 (indiscernible) to Jordan (indiscernible) --

22 A. Yeah, for regional -- Ontario
23 regional box, I believe.

24 Q. And then there's an acting
25 senior program officer at the bottom here. Do you

1 see that email?

2 A. Yes.

3 Q. And do you see in the second
4 paragraph:

5 "As we've already confirmed
6 in writing, we would like to
7 appeal. Please let me know
8 if you would like us to
9 submit any additional
10 documents or letters of
11 support or if you would like
12 the (indiscernible) the
13 documentation previously
14 provided." (As read)

15 Is this kind of e-mail exchange,
16 is this consistent with your understanding of how
17 appeals -- the external expert appeal committee
18 (indiscernible)?

19 A. I'm not sure.

20 Q. So you wouldn't know how --

21 A. I wouldn't know what the
22 trigger is beyond submission in writing. You know,
23 depending on if they do need to supply more
24 information, et cetera, I don't know about the
25 formal triaging into the system.

1 Q. That's fair enough. If we can
2 just pick back up -- just keep it handy for a
3 moment, the loose e-mail, but I just want to pick
4 back up Dr. Gideon's affidavit, ask a question on
5 something in there. Go to page 17 please.

6 A. Okay.

7 Q. You're already there.
8 Paragraph 58. Now you see towards the middle of
9 the paragraph, it says:
10 "The appeals secretariat,
11 agreed upon by the parties,
12 serves as an advocacy office
13 to support families in
14 bringing appeals forward."

15 Can you confirm my understanding
16 or, you know, reject my understanding or tell me
17 you don't have an understanding about -- my
18 understanding is the appeals secretariat does not
19 work directly with families to build their case or
20 overturn the developing appeal. Is that consistent
21 with your understanding of the work they do?

22 A. That the committee does not
23 work directly with families?

24 Q. No, the secretariat. So my
25 understanding is, you know, you initiate an appeal,

1 it goes to the appeals secretariat, and then from
2 there it will go to the committee. And (inaudible)
3 this paragraph, it's saying that the appeals
4 secretariat is serving as an advocacy office to
5 support families in bringing appeals forward.

6 So I'm wondering if (inaudible)
7 that the team within the secretariat, so the people
8 before -- they aren't looking at decisions, you
9 know, for grounds to overturn them, helping the
10 family build the case.

11 A. They work with the
12 (indiscernible).

13 Q. My understanding is they're
14 assembling that documentation for the
15 (indiscernible).

16 A. I can't speak to their core
17 functions, but I assume that they (indiscernible).

18 Q. And if there was any evidence
19 that they were, you know, analyzing documents or
20 building a case on behalf of the family, would that
21 be found in the review documents that are given to
22 the expert review committee?

23 A. I'm not -- I would have to --
24 I'm not a part of the formal process for the
25 appeals.

1 Q. Okay. Now if we just go back
2 to the loose email here again. This is -- it goes
3 back to that paragraph (indiscernible).

4 "We have already confirmed in
5 writing we would like to
6 appeal. Please let me know
7 if you would like us to
8 submit any additional
9 documents or letters or
10 support or if you would
11 (indiscernible) documentation
12 for you to provide." (As
13 read)

14 And then she says, "Once I receive
15 the response (indiscernible) appeals secretariat."

16 Would you agree with me that the
17 acting senior program officer isn't suggesting that
18 she's going to be in touch to help with the appeal?

19 A. No, that she'll just put it
20 into the system.

21 Q. And I asked Dr. Gideon and she
22 suggested I follow up with you. Am I right to
23 understand that requests (indiscernible)?

24 A. That's my understanding.

25 Q. Now, if we go to the next e-

1 mail -- and again, this is going to be back over
2 the page. It's just how it's printed out. Now
3 this is now an e-mail from the requestor now back
4 to the generic account. And if you look under the
5 salutation there:

6 "It is difficult to know what
7 to include or add to the
8 application (indiscernible)
9 denied. I recognize the
10 response stated that it was
11 denied (indiscernible)." (As
12 read)

13 And then there's a quotation in
14 the email:

15 "(Indiscernible) approvals
16 provided by Jordan's
17 Principle is to help
18 alleviate financial hardship
19 and assist in providing
20 temporary bridge funding in
21 order for the family to be
22 connected and work with
23 existing services or
24 community supports to
25 navigate their current

1 (indiscernible)." (As read)

2 In your world, do you see denial
3 letters on Jordan's Principle files?

4 A. Very rarely, unless it's been
5 escalated to (indiscernible).

6 Q. And would this -- would the
7 rare (indiscernible), is this kind of familiar
8 language to you about --

9 A. Again, I can't speak to it. I
10 have not seen many that have been escalated to this
11 level, so I can't speak to this particular
12 situation.

13 Q. Do you see underneath that
14 there's a -- the requestor is noting concerns with
15 the response. They're saying:

16 "We put in applications for
17 (indiscernible) families in
18 this community and all
19 (indiscernible). I'm
20 wondering why this family was
21 singled out. It's not
22 (indiscernible). This family
23 is probably one of the most
24 deserving. How do I explain
25 to them (indiscernible)

1 approved too. I would like
2 to know if Jordan's Principle
3 (indiscernible) existing
4 services or community
5 supports (indiscernible) in
6 this community the family is
7 not accessing. I do have
8 this information. This
9 family is working closely
10 (indiscernible) to get as
11 much help as available.
12 Unfortunately, this is not
13 (indiscernible)." (As read)

14 I'm not asking you any questions
15 about the underlying case because I am taking it
16 that you aren't familiar with the underlying case.

17 A. No.

18 Q. So just on the face of the
19 exchange here, is it fair to say that what the
20 requestor is communicating here is that the denial
21 (indiscernible) actually not provided with kind of
22 answers to questions (indiscernible)?

23 A. It's challenging for me to
24 make that out to comment on that because I'm only
25 seeing a snapshot and I don't have the full e-mail

1 where this quote is taken from.

2 Q. Fair enough. Fair enough. If
3 we can go back to the tabbed book that
4 (indiscernible) Dr. Gideon's cross-examination.
5 This is the one (indiscernible) on the front.

6 A. (Inaudible.)

7 Q. So just to go back to tab H.
8 This is that AIP summary we were looking at
9 earlier.

10 A. Right.

11 Q. You see over on the -- on the
12 next page over from the Jordan's Principle heading,
13 this is the one that has got "Funding review" down
14 the page. So at the top, the second bullet, it
15 says:

16 "Increase specificity and
17 personalization in denial
18 rationales with prompt
19 communication to requestor."

20 Do you see that?

21 A. Yes.

22 Q. And so at least, again, on the
23 face of the e-mail, would you agree that the
24 requestor has communicated some concerns about
25 specificity and personalization (indiscernible).

1 That's the nature of the concerns being
2 communicated to the acting senior program officer.

3 A. There's a few concerns. And
4 again, I only see this much. So is it just to that
5 or is it the full rationale? I --

6 Q. I'm just asking on the face of
7 the documents. That's a very fair response.

8 I have a few questions about the
9 call centre? So have you called the call centre
10 yourself, just like --

11 A. I was going to call the call
12 centre, in all honesty, but then I actually was
13 nervous that I would take time away from folks who
14 actually needed to use it in an urgent matter, so
15 then I was like -- I was going to call at 3:00 a.m.
16 to test it, and then I thought there's going to be
17 somebody who's going to need it and I'm going to
18 end up -- that was my own nervousness about --

19 Q. And I think that's --

20 A. -- stopping --

21 Q. No, that's helpful context to
22 get your personal knowledge of the -- how
23 (indiscernible) on the phone.

24 So am I right in understanding
25 that as of now, the first prompt at the start of

1 the calling tree after you have selected
2 (indiscernible)?

3 A. I can't speak to what it says
4 beyond what I have been told it says.

5 Q. Have you been told that
6 there's been a change to the call tree --

7 A. Yes, to make it more
8 streamlined and accessible for people to identify
9 those urgent matters.

10 Q. And are you aware that the
11 Caring Society had been calling for that change
12 since at least January 2023?

13 A. I know that I was made aware
14 of it, certainly when I spoke with Ms. Blackstock -
15 - Dr. Blackstock (indiscernible).

16 Q. Do you know why it took almost
17 14 months for that change to happen?

18 A. I can't speak to that.

19 THE CHAIR: Excuse me, please
20 close the phone. I don't know whose phone is
21 ringing. Thank you. No, it's okay. It's better
22 this way. Thank you.

23 BY MR. TAYLOR:

24 Q. I'll take you to it if it
25 would be helpful, but just as a general point, I

1 understand from reviewing Dr. Gideon's affidavit
2 that one of the things the call centre does is
3 intake?

4 A. Yes.

5 Q. And from that point, claims
6 would be handed off to a focal point queue?

7 A. In the regions.

8 Q. And that's where there would
9 be --

10 A. (Simultaneous speaking.)

11 Q. -- determinations made? Is
12 there a reason there can't be a focal point
13 available as part of a call centre team to review
14 the (indiscernible) on the spot?

15 A. Well, during working hours
16 they send it to the regions because that could
17 expedite access to services more quickly because
18 they have presence on the ground.

19 Q. And then versus the national
20 call centre, which --

21 A. Tends to be more
22 (indiscernible).

23 Q. And are there after-hours
24 contacts in the (indiscernible) call centre to
25 reach?

1 A. There is a designated
2 determination officer on off-hours, especially
3 (indiscernible).

4 Q. In paragraph 50 of your
5 affidavit, in the third sentence, you're saying the
6 callback feature -- you're discussing a callback
7 feature in the call centre and you're saying:

8 "...callback feature is now
9 an automated process, and the
10 caller must complete the
11 callback request requirements
12 in order to have their call
13 placed into a callback
14 queue."

15 Am I right in understanding that
16 at a technical level, there's different callback
17 queues for urgent requests and non-urgent requests?

18 A. We're creating one -- like,
19 under way right now, but yes, there is the "Press 1
20 for an urgent request."

21 Q. And if you end up in -- as
22 opposed to getting a live agent, if you either
23 press 1 or press 2, you end up in different queues
24 for callback depending on what number you press?

25 A. Ostensibly, that's how it's

1 supposed to work. If it's -- information is filled
2 out, you're placed in an urgent queue or soon
3 (indiscernible).

4 Q. (Indiscernible) call back.
5 Now if you press 2 and then you leave your
6 information, it'll be (indiscernible) call back; is
7 that right? Is that fair to say?

8 A. That's fair to say.

9 Q. Is it your understanding that
10 once a caller leaves their number and they call
11 back, while they're in the process, they can't call
12 again from that number?

13 A. I'm not sure about how that
14 works, the technology on it.

15 Q. Do you know if there's any
16 functionality in the callback function that allows
17 for an identification of a shift in urgency? So if
18 it's been, say, some days since the call was placed
19 and then things would become urgent in the
20 meantime, for the caller to escalate that?

21 A. I'm not sure if it exists.
22 That's certainly something that we need to look
23 into going forward as part of our changes to the
24 call centre if it doesn't already exist.

25 Q. Okay. Now, in paragraph 52 of

1 your affidavit, just a few down, you're saying as
2 of October 5th, 2023, other changes were made, and
3 then you talk in (b) about the quality assurance
4 team.

5 A. Yes.

6 Q. And one of the things that
7 this -- I mean, I have seen it under here, one of
8 the things this team does is they conduct calls; is
9 that right?

10 A. Yes, they're supposed to be
11 doing random audits.

12 Q. Have the audits been shared
13 with JPOC?

14 A. I'm not sure.

15 Q. And do you know if any changes
16 have been made as a result of such audits?

17 A. Again, (indiscernible).

18 Q. And who would be the person on
19 your team who would know about that?

20 A. I would always defer to the
21 director general (indiscernible) better handle on
22 that, dealing with the operations.

23 Q. Is it fair to say that the
24 director general would be kind of the most
25 knowledgeable person within Jordan's Principle

1 operations?

2 A. Not necessarily, no. I think
3 that the regional executives as well have a higher
4 level of understanding of the day-to-day operations
5 or the (indiscernible) the larger branch authority.
6 I think it really just depends on the nature of the
7 questions.

8 Q. Within headquarters, would you
9 say it would be fair -- fair to say that Ms.
10 Wilson-Clark would have best --

11 A. Again, not necessarily,
12 because there's -- the nature in which my branch
13 functions is that the director general has varying
14 oversights, including operations, but there are
15 leads responsible, as well as there's a director
16 general of strategic policy who also has a strong
17 knowledge of (indiscernible) from the negotiations
18 standpoint and coming through JPOC, et cetera.

19 Q. And would -- Ms. Wilson-Clark
20 would be kind of a level closer to those
21 (indiscernible) or do they report to you?

22 A. One reports to me and one
23 reports to her.

24 Q. Now, at paragraph 54 over the
25 page, you say here that ISC is planning to

1 consolidate regional focal points into the call
2 centre's toll-free number. Is that right?

3 A. Yes, with the focal point
4 ones.

5 Q. Does that mean requestors
6 won't be able to reach out to their local focal
7 points at home anymore?

8 A. Well, they still can, but it's
9 going to be consolidated into a simple 1-800 number
10 -- that's my understanding of what we're seeking to
11 do -- which will alleviate some of the stop and go,
12 stop and go. We can triage, have a live agent to
13 support all transfers. So as opposed to if you
14 press 1, you sit in a queue, (indiscernible) leave
15 a voicemail, if there's a live agent available or a
16 live focal point, we can do one transfer.

17 Q. But would have to be -- you
18 would have to have, I guess, a system that got you
19 to a live agent, as opposed to a busy --

20 A. Well, those are the changes
21 (indiscernible).

22 Q. So the design would be that
23 you would end up on hold until you get a live
24 agent?

25 A. Again, this is what we're

1 exploring. No one ever wants to be on hold, having
2 just worked with a 9-8-8 system that Canada
3 launched. No one ever wants to be on hold when
4 there's an urgent issue (indiscernible).

5 Q. But would you agree that it
6 will possibly be less direct than if you've been
7 dealing with a person and calling a certain number
8 to have to access them --

9 A. No. The idea is that it's
10 going to be more direct. Like, you'll have faster
11 access to a live person. I think when you dial a
12 number, someone will pick up.

13 Q. Sorry, maybe I'll just make my
14 question a bit more clear. So in the case where
15 let's say there is a follow-up that's required
16 (indiscernible) or I have a question about the kind
17 of document, and if you had some level of
18 engagement at a focal point, you're no longer able
19 to call a regional line and get that focal point
20 anymore. (Indiscernible) 1-800 number and say,
21 "Hey, can I talk to (indiscernible)."

22 Is that consistent with what I'm
23 understanding you're meaning when you roll
24 everything together? I think you're talking about,
25 you know, the person who's calling the --

1 A. Right. Yes.

2 Q. -- (simultaneous speaking)
3 hitting the system. And my question is about the
4 person who is in the process and trying to get back
5 the person that they talked to.

6 A. Okay. Thank you. That's a
7 good point of clarification. Certainly what we'll
8 need to do is to work through partners -- and you
9 had mentioned JPOC and operations and the regions -
10 - is how do we address those types of things. As I
11 said, this is still under way, under development.
12 Ideally, by the end of this calendar year, it needs
13 to be up and live, in my personal view. So these
14 are the issues that we're going to be working with
15 partners and certainly our technical -- technology
16 folks, because we do want to ensure seamless access
17 to individuals, especially those with other cases
18 in the system.

19 Q. What would be the factor that
20 would make it take until the end of the year to
21 reach that stage --

22 A. This is just my limited
23 understanding of how IT systems work. You're
24 asking about it. Look, this is far more complex
25 (indiscernible) deals with phone lines.

1 Q. Right. Who would have a more
2 direct understanding of that?

3 A. We're working through our IT
4 units within our CFRDO branch, our chief finances
5 and results --

6 Q. (Simultaneous speaking.)

7 A. Yeah.

8 Q. The chief finances, results
9 and delivery officer, that's what that acronym
10 means?

11 A. The acronym, yes.

12 Q. It's (indiscernible).

13 A. Yes.

14 Q. Now when that change happens,
15 you agree that it's going to be important to have a
16 plan to communicate that change (simultaneous
17 speaking) --

18 A. Very much. Yes, very much so.
19 And all partners, too.

20 Q. Is this part of your projected
21 plan to relieve the backlogs in the regions as
22 well?

23 A. One (indiscernible) ideally.

24 Q. How are you doing?

25 A. I'm good. Getting a little

1 hungry but I'm good.

2 MR. TAYLOR: Madam Chair, I'm
3 about to move to a new topic. I can keep going for
4 a bit or we can break for lunch. I'm in your -- I
5 would say I'm about 75 percent of the way through.
6 So I know I wouldn't be able to finish before
7 lunch. So we can go for a bit now and less time
8 after lunch, or have lunch now and wrap it up after
9 lunch. (Indiscernible) my question, I should say.

10 THE CHAIR: I think we'll have
11 lunch now. An hour, is that sufficient for
12 everyone? So back at 1:15. Thank you.

13 MS. DUBOIS: We're off the record.
14 --- (Luncheon recess)

15 THE CHAIR: Good afternoon,
16 everyone. I hope that your lunch was nice. Mr.
17 Taylor, are you ready to continue?

18 MR. TAYLOR: Yeah. Yes, Chair.
19 Thanks - thanks very much.

20 THE CHAIR: Thank you.

21 BY MR. TAYLOR:

22 Q. So, Ms. St-Aubin, I have some
23 questions for you about - about urgent cases.

24 A. Okay.

25 Q. Or about urgency as a - as a

1 concept as is dealt with in your affidavit.

2 A. Mm-hmm.

3 Q. Actually, before I go there
4 I've got a little note to myself. We - we both got
5 stumped on where the acquisition card --

6 A. Yeah.

7 Q. -- point was in the evidence.
8 So just for the record to clear that up, that's in
9 Dr. Gideon's affidavit.

10 A. Oh, that's where I saw it.
11 Okay.

12 Q. Yeah. And it's paragraph -
13 paragraph 68 and she's discussing there a December
14 2023 adjustment of - of authorities under the
15 acquisition card thresholds.

16 A. Okay. That's what I was
17 thinking.

18 Q. So, anyway, that's just to --

19 A. Thank you.

20 Q. -- close the loop on that.

21 Now on - on urgency, just before I
22 get into my specific questions, as a general
23 question, did you read Dr. Blackstock's reply
24 affidavit that was filed last week and the
25 affidavit from Dr. Jehu (ph)?

1 A. I did. I didn't spend as much
2 time studying them, but I did do a cursory review
3 of the --

4 Q. Okay.

5 A. -- the affidavits. I don't
6 have it with me, though.

7 Q. No, no. And I - I don't have
8 --

9 A. Okay.

10 Q. -- questions about them.

11 A. Okay.

12 Q. Just whether you - you were
13 aware of them and had - had read them.

14 A. Yep.

15 Q. Okay. So, looking at your
16 affidavit at paragraph 46. So, here - here you say
17 in the first sentence, you say:

18 "However, other measures
19 proposed by the Caring
20 Society could inadvertently
21 cause harm, risk, introducing
22 further delay, are
23 duplicative or impractical,
24 or are not operationally
25 feasible." (As read)

1 A. Mm-hmm.

2 Q. Have you raised with the
3 Caring Society the measures you think would cause
4 harm to children?

5 A. Not directly, no. No.

6 Q. And in which specific measures
7 the Caring Society is proposing would harm children
8 in your view?

9 A. Well, we just provided a -
10 just a - I provide a quick example just around if
11 everything is urgent, then it's very hard to tell
12 what is urgent and to the point - like, how do you
13 tirage it if everything is urgent.

14 Q. Right. And - and that's - the
15 next question I guess - I guess that I have for
16 you.

17 So, here you're - you're saying
18 that - this is your next sentence:

19 "The Caring Society's
20 proposal that all requests be
21 considered urgent would
22 further inhibit ISC's ability
23 to ensure that objectively
24 urgent Jordan's Principle
25 requests, as opposed to non-

1 urgent ones, are quickly
2 identifiable and prioritized
3 accordingly." (As read)

4 Do you see that?

5 A. Yes.

6 Q. Now, if you take the Volume 1
7 book and you go - if you could please go to Tab H,
8 and - and do you recognize this as the Notice of
9 Motion the Caring Society brought --

10 A. Yes.

11 Q. -- in December?

12 And - and it's just the order and
13 the schedules of the - the -- you know, factual
14 basis, we haven't included those again for the sake
15 of the trees. But could you please turn to 1.1 in
16 the Schedule? So. you - you want to turn through
17 the - the portrait oriented pages towards the
18 landscape oriented page. It's the one that --

19 A. This one?

20 Q. Yeah, it's the first page of
21 the table there; the scheduling table.

22 A. Oh, yes.

23 Q. And do you see in - in 1.1 it
24 says:

25 "The proposed solution is

1 adopt a presumption that
2 unless triaged otherwise, all
3 requests received through the
4 National Jordan's Principle
5 Contact Centre, or Regional
6 Contact Centre is another
7 Jordan's Principle request
8 mechanisms including email,
9 fax, and text or other
10 modalities are urgent." (As
11 read)

12 Do you see that?

13 A. Yes.

14 Q. And so do you agree your
15 statement in paragraph 46 doesn't reference that
16 what the Caring Society is proposing is a
17 presumption and not a rule?

18 -- NO AUDIBLE RESPONSE

19 Q. What you're saying in 46, just
20 to go back to that paragraph, is:

21 "The Caring Society's
22 proposal that all requests be
23 considered urgent would
24 further inhibit its ability
25 to ensure objectively urgent

1 cases or [your requests] are
2 quickly identifiable and
3 prioritized." (As read)

4 So, you're - you're admitting the
5 triage word there in that paragraph?

6 A. Oh, sorry, so you're -- so
7 adopting a - a presumption as opposed to things
8 being considered urgent?

9 Q. Correct. Presumption and not
10 a rule.

11 A. Okay. Yes, yes, I see that.

12 Q. And you'd agree that that's
13 what's in 1.1 --

14 A. Yes.

15 Q. -- it's a request for
16 presumption?

17 So you - would you agree that it's
18 - it's not accurate, what's in 46, that the Caring
19 Society is proposing all requests be considered
20 urgent?

21 A. I - I suppose the problem for
22 me is I think if somebody presumes it, then they
23 consider it urgent.

24 Q. Right.

25 A. To act -- you would act on it

1 accordingly.

2 Q. But then when - with the words
3 here in 1.1, "unless triaged otherwise," would you
4 agree that that implies that if there is reasons
5 not to consider it urgent that the priority could
6 be downgraded?

7 A. Yeah, I think too, also, the
8 clarification of the definition of - agreed upon
9 definition in partners that are co-developed on
10 what is urgent. Like, the principles of --

11 Q. Right. Like --

12 A. -- would help --

13 Q. -- that's --

14 A. -- too, with that

15 (indiscernible).

16 Q. That wasn't my question. Like
17 --

18 A. No, but that's --

19 Q. -- my question --

20 A. With that on your mind, that's
21 probably where I'm confusing that. But --

22 Q. Sure. But --

23 A. -- it's okay.

24 Q. -- oh, I - I --

25 A. Yeah.

1 Q. -- appreciate the explanation

2 --

3 A. Yeah.

4 Q. -- of what - what might have
5 been going into the wording.

6 A. Yeah.

7 Q. But the wording -- your -- the
8 wording of your paragraph refers to, you know,
9 effectively what - what is --

10 A. Considered.

11 Q. -- I believe, you know, your -
12 your explanation oh, it was, you know, a lack of a
13 triage, but there is triage spoken to in 1.1, we
14 can agree on that?

15 A. Yes, that is mentioned.
16 "Unless triaged otherwise."

17 Q. So, would - would you agree
18 that a - a fairer statement of the point might be
19 that ISC thinks all cases should be considered non-
20 urgent until triaged otherwise, while the Caring
21 Society thinks that all cases should be considered
22 urgent until triaged otherwise?

23 A. Canada doesn't say that they
24 shouldn't - they should be considered non-urgent.

25 Q. But the start --

1 A. I mean --

2 Q. The starting presumption
3 opening a case from Canada's view is that you would
4 need to see indicia of urgency to move it into the
5 urgent category, is that right?

6 A. In the absence of the
7 requester defining it as urgent we need to look at
8 it and - and upgrade it to urgent.

9 Q. Yes, okay. Thank - thank you.

10 Now a further question I have,
11 same document in the Volume 1 book, is -- if we can
12 flip to 5.1, that's on page 8 at the bottom. And
13 do you see here that the Caring Society is
14 proposing that an - an audit be conducted within 30
15 days to determine based on data the number of
16 Jordan's Principle requests that are or are not
17 urgent and/or time sensitive?

18 A. Are - is - the 5.4?

19 Q. No, I'm sorry.

20 A. Or 5.1?

21 Q. Five - 5.1.

22 This is the - the -- where it
23 starts:

24 "Within 30 days, retain an
25 independent expert on service

1 request, contact centres
2 serving children and youth,
3 including those in urgent
4 situations, to conduct an
5 independent audit on Canada's
6 mechanisms --" (As read)

7 Oh, I'm sorry; I think I've Ms. -
8 I've misread the point here. One - one moment.

9 A. Okay.

10 Q. No, I'm sorry, it's 5.2. I -
11 I apologize.

12 A. Okay.

13 Q. "Within 30 days, conduct an
14 audit and consult on the
15 results with the parties in
16 order to determine, based on
17 data, the number of Jordan's
18 Principle requests which are
19 or are not, urgent and/or
20 time sensitive." (As read)

21 Do you see that there?

22 A. I do see that.

23 Q. And have you followed up with
24 the - with the Caring Society about the idea of
25 such an audit?

1 A. No, I have not.

2 Q. Okay.

3 A. Not personally.

4 Q. Okay. And - and just more
5 generally on - on urgent cases, I understand that
6 you were, at the start of your career, an - an
7 early childhood educator?

8 A. I was.

9 Q. And so would you agree with me
10 based on that experience that time passes
11 differently for kids than it does for adults?

12 A. Time passes differently for
13 everybody in their own individual ways. For some
14 children it probably doesn't.

15 Q. To - to make -- I guess to
16 make a, maybe a finer point on it --

17 A. Yeah.

18 Q. -- that - that the - the - the
19 developmental change of a child --

20 A. Oh.

21 Q. -- in a given period of time
22 compared to an adult will be much greater --

23 A. Yes.

24 Q. -- depending on the age of the
25 child?

1 A. Yes. Yeah, yeah.

2 Q. And would you agree that as a
3 result, delays that might not be major for an adult
4 could be very important for a child?

5 A. I agree, yeah. Yeah.

6 Q. And would you agree that
7 delays that might be not major for an adult could
8 be life-altering for a child?

9 A. In certain cases for sure.
10 Yeah.

11 Q. And would you agree that -
12 that some urgent cases, delays for children can be
13 life-threatening?

14 A. As much as an adult as well,
15 to be fair.

16 Q. Now I have a few questions for
17 you about staffing.

18 A. Okay.

19 Q. So, this is now going to
20 paragraph 57 in your affidavit, on page 15.

21 So, you have a little note here
22 about - about some of the staff employed in - in
23 '22-23, and then a table of kind of full-time
24 equivalent staff over - over time. And there's -
25 there's a footnote saying:

1 "The total number of full
2 time equivalent staff
3 reported here support both
4 Jordan's Principle and the
5 Inuit Child First
6 Initiative." (As read)

7 And I'm just wondering if you can
8 confirm my understanding that the Inuit Child First
9 Initiative was announced in Budget 2019 and then
10 launched in fiscal '19-20?

11 A. I believe so, but I don't -- I
12 believe that's the budget it was announced in.

13 Q. Right. But - but you'd have
14 to check --

15 A. I --

16 Q. -- to make sure?

17 A. I always want to check the
18 budget documents. And I don't have them here,
19 unfortunately.

20 Q. So, if that were the year,
21 '19-20, figures from '19-20, onward would have
22 staff for both the Inuit Child First initiative and
23 Jordan's Principle implementation?

24 A. I can't say for sure because
25 we were already doing some similar smaller pieces

1 in previous years, so I'm not sure if they came
2 formalized as a - a new policy program per --

3 Q. Right.

4 A. As opposed to us doing it --

5 Q. So, it - it could have been
6 all --

7 A. And in term of -- yeah, again,
8 I - I'm not -- I don't -- that was before my time
9 so I'm not sure.

10 Q. The - the staffing compliment,
11 could - it could have been reflected all along?

12 A. It could have, but I --

13 Q. Okay.

14 A. -- I'm - I'm sorry, I don't
15 have that level of detail.

16 Q. So, at paragraph 59 you say,
17 "The Caring Society -- " this is the first line:

18 "The Caring Society's
19 proposed solution of
20 appointing 'sufficient
21 staff'--" (As read)

22 And you have that in quotes:

23 "-- within 45 days for urgent
24 determination purposes, set
25 out on page 3 of their Notice

1 of Motion, is not feasible
2 for a number of reasons."

3 (As read)

4 And then you go through four
5 reasons below.

6 And so, if we just go back to the
7 Volume 1 book for a moment here, back to Tab H.

8 And this time if we look at - at page 3, please.

9 And so do you - do you see
10 paragraph number 3, which starts, "In order that
11 Canada within 45 days --"?

12 A. Yes.

13 Q. And it says:

14 "Within 45 days of this
15 Tribunal's order upon
16 sufficient persons in each
17 (indiscernible) region and
18 nationally who are
19 responsible for managing
20 urgent Jordan's Principle
21 cases to ensure that the
22 determinations are made in a
23 manner consistent with the
24 Tribunal's orders." (As
25 read)

1 Do you see that?

2 A. Yes, I do.

3 Q. So would you agree this isn't
4 a request for staff for at large, but it's asking
5 for case managers to deal with the volume of urgent
6 cases?

7 A. I - I don't. I think that as
8 soon as it's identified as an urgent request, once
9 the call is made, that's when it starts being
10 managed as a case as opposed to -- does that make
11 sense? Like, I think there's -- you manage the
12 case all the way through the process, and it's not
13 --

14 Q. Right.

15 A. -- one individual who follows
16 a case.

17 Q. So, that - that's your reading
18 of the - of the verb "managing" --

19 A. Yeah.

20 Q. -- there --

21 A. Yeah, yeah.

22 Q. -- is that there would be all
23 - all focal points would manage?

24 A. They all manage from the point
25 that they start entering it into the system, in my

1 mind.

2 Q. If you understood the request
3 rather as being for a volume of focal points but -
4 but rather being a different - different kinds of
5 focal points appointed to help coordinate bringing
6 those urgent cases through the system, would that
7 change the nature of your concerns in A through D?

8 A. Well, again, it's the word
9 "sufficient." How many is that? It's hard to tell
10 because the case volume increases and - and
11 fluctuates. And I'm not sure what that number
12 would be.

13 I mean that's where -- when I went
14 through why it to be challenging to hire under the
15 guise of sufficiency. We work within these various
16 parameters when we do our hiring, including
17 allocated budgets that are provided through
18 parliament - or --

19 Q. Yeah.

20 A. -- the parliamentary process.

21 Q. So - so that reflects a few -
22 a few of your concerns. So, maybe - maybe we'll
23 just kind of separate them --

24 A. Okay.

25 Q. -- for a moment. So - so if

1 we consider this as essentially, you know, you've
2 got a -- if you've got a, you know, a - call it a
3 series of - of, you know, point - focal points on
4 urgent cases --

5 A. Okay.

6 Q. -- who'd be responsible for -
7 for kind of triage - assisting with the triaging
8 and bringing them along and keeping an eye on them,
9 that's their job. 'Cause - and maybe I'll just
10 start by confirming my understanding of this, that
11 focal points in general could be dealing with
12 urgent or non-urgent cases?

13 A. Yes. Yes.

14 Q. And I think you --

15 A. That's true.

16 Q. -- gave evidence this morning
17 that, you know, there may be some folks who are
18 dedicated to urgency to move those along and
19 dedicate --

20 A. Through surge.

21 Q. -- through surge, yes. But as
22 a general manager, they could be doing both?

23 A. Mm-hmm.

24 Q. And so if we're con - if we're
25 conceiving of, you know, the - the creation of a -

1 of a cadre of - of focal points who are kind of
2 more specifically targeted towards, you know,
3 moving the urgency along, so I take your - your
4 point on the word -- on the adjective "sufficient,"
5 you know, what is sufficient, that's your concern
6 in 59(a) --

7 A. Mm-hmm.

8 Q. -- in your affidavit.

9 A. Mm-hmm.

10 Q. So, I'm just going back to
11 your -- which is, you know:

12 "There is no readily
13 available formula that can
14 determine the number of
15 sufficient staff, given the
16 constantly fluctuating level
17 of complexity and volume
18 requests." (As read)

19 But is that the kind of thing, you
20 know, in consulting with your team, Ms. Wilson-
21 Clark, and the people who - who she works with,
22 consulting with the Caring Society, JPOC, do you
23 think that, you know, a - a level of effort could
24 be arrived at in terms of this a place to start in
25 terms of how many folks like that we should have?

1 A. I think that's something to
2 take back, for sure, to look at proactively, what
3 makes sense. And I'm -- and also just on the point
4 with regards to how I've interpret it --

5 Q. Mm-hmm.

6 A. -- with regards to managing
7 from the moment someone calls, right? That's -
8 that's a request that has to be managed to make
9 sure it finds solution as opposed to just a case
10 manager.

11 Q. Mm-hmm.

12 A. I think that those are
13 conversations I would hope should be happening at
14 JPOC and other tables with all, you know, indicated
15 parties. Yeah.

16 Q. And - and those conversations
17 should help determine number and then they would
18 help determine the second point which is - which is
19 budget in terms of --

20 A. I'm not sure --

21 Q. -- (indiscernible)?

22 A. -- about determine, but at
23 least in form.

24 Q. Mm-hmm.

25 A. You know. And - and to hear

1 from folks, too, what they're - what they're
2 feeling, and then that would become to a place of
3 determination.

4 Q. And - and the determination
5 could be a - a starting point to be informed by
6 later developments. Like --

7 A. Well --

8 Q. -- did we have too many --

9 A. And --

10 Q. -- or too few --

11 A. Sorry.

12 Q. No, no; that's fine. Just -
13 I'll just repeat my question. You know, that -
14 that determination could be a starting point; it
15 could be either too many or too few of these folks
16 and then adjustments could be made later. Do you
17 agree with that?

18 A. We - yeah, we'd certainly it
19 under advisement and work with the parties. I
20 don't think necessarily that that would determine
21 the funding level that we receive from parliament
22 because that's the parliament's prerogative --

23 Q. Okay.

24 A. -- obviously.

25 Q. And it could be the case, if

1 we're conceiving this again as a cadre of focal
2 points, you could be taking resources you already
3 have and re-purposing them?

4 A. I think that again, we'd have
5 to start a conversations as to what makes sense
6 given that there's - you know, the regions take on
7 a - a wealth of programs as well as --

8 Q. Yeah.

9 A. -- implementing the model.

10 Q. If - if you were re-purposing
11 existing resources, would that engage that second
12 concern about budget - budget allocations?

13 A. Oh, I'd - yeah, I couldn't
14 even start to think what that would look like
15 through. That would - that really need to be a
16 thoughtful conversation to have with probably the
17 whole department I would say. And - and the
18 priorities and mandates and mandate commitments as
19 well.

20 Q. If you didn't have to hire any
21 new people to have this kind of cadre of - of focal
22 points who might be kind of taking the lead or
23 helping move the urgent cases along in a more
24 strategic way, would that engage the concerns
25 around hiring federal public servants you've got in

1 paragraph - subparagraph (c)?

2 -- NO AUDIBLE RESPONSE

3 Q. If we're not bringing people
4 in from the outside?

5 A. Oh, so the - the only
6 challenge with that would need to be considered -
7 and this goes back to your previous points about
8 the whole systems and as the - the - that the
9 representative of the Tribunal referenced around
10 Canada's obligation to look at federal programming.
11 So, if we're moving from one to put into the other,
12 what happens to that one? So, that would have to
13 be part of the discourse, I would think, with all
14 parties, if there's going to be shortfalls in one
15 area to cover another area in the part of human
16 resources, which also includes, you know, salaries
17 and - and regulating, operating - sorry - operating
18 budgets.

19 Q. Have you heard of the adage
20 just as a general term, "work smarter than harder"?

21 A. Or to "steal from Peter to pay
22 for Paul"?

23 Q. No, no, that is not -- that's
24 not at all --

25 A. Is that the same adage?

1 Q. No, no.

2 A. Oh, sorry.

3 Q. The idea - the idea is that
4 instead of - instead of increasing the volume of
5 your effort, you increase the strategic nature of
6 the effort. And so if you have, let's say you've
7 got 50 focal points --

8 A. Mm-hmm.

9 Q. -- in your region. If you're
10 going to say okay, we're going to have three of you
11 who are particularly adept at stick-handling these
12 things, you know, concentrate on the urgent cases
13 and maybe some of you will have some extra, you
14 know, ability to pull people in, et cetera, you
15 wouldn't necessarily need to hire any people to do
16 that.

17 A. Yeah, I think that also speaks
18 to the fact that this - the government, the public
19 service wasn't built to implement this model. We
20 are - we are not used to functioning in a way that
21 orders were placed upon us. And we're doing our
22 best to do so, but as you've said, it's - there's
23 some - there's some conversations that need to
24 continue to happen.

25 Q. And --

1 A. In particular in the area of -
2 of the human resourcing of it.

3 Q. As a - as a - just as a
4 baseline concept, if you don't have to hire anybody
5 to do something, could you avoid Collective
6 Agreement Public Service Employment Act appointment
7 concerns?

8 A. Not if it ever comes to the
9 point where people become overburdened or have to
10 move outside. We have to do it in negotiation with
11 unions, naturally, to avoid grievances in those
12 types of - of discussions as well.

13 Q. Okay. Now in terms of your
14 concern on training new staff again, if you're - if
15 you were repurposing or optimizing, you know,
16 existing resources, that would be a less - lesser
17 strain on staff training in terms of you're not
18 starting from zero --

19 A. Not --

20 Q. -- necessarily?

21 A. -- necessarily because again,
22 the staff have very specific and need training. We
23 have man - mandatory 15 hours of training.

24 Q. Mm-hmm.

25 A. In particular, I will stress

1 the importance that they have to be re-trained and
2 trained for cultural sensitivity and awareness.
3 And as you pointed out - thank you for this - the -
4 the - the Child Rights --

5 Q. Mm-hmm.

6 A. -- assessment; those types of
7 new training. You know, so they're -- if we're
8 taking folks who worked in Lands and Economic
9 Development, they may not understand or even have a
10 concept of what best --

11 Q. Right.

12 A. -- interest of the child is.

13 Q. So - so my question wasn't
14 about Land and Economic Development.

15 A. No, but I --

16 Q. My question was --

17 A. -- was just saying re-
18 purposing of staff.

19 Q. If I --

20 A. Right?

21 Q. -- can just ask my question,
22 please.

23 So --

24 A. Sure.

25 Q. -- we have - we have focal

1 points who work on Jordan's Principles cases now
2 and the question I have is about re-purpose that;
3 repurpose or optimizing those existing focal point
4 resources. We're not starting at zero with those
5 folks, right?

6 They - they have existing focal
7 point training that they could be applying in a new
8 way if their - if their - if the nature of their
9 role changes?

10 A. I think I'm just confused as
11 to we're re-training them to work in Jordan's
12 Principle but they already work in Jordan's
13 Principle?

14 Q. So, I'll take --

15 A. Sorry if that --

16 Q. -- two seps back.

17 A. -- was explained.

18 Q. No, it - it's fine. So, in 59
19 you're criticizing the Caring Society solution,
20 which is to have, you say sufficient staff, I say,
21 you know, managing staff or some management
22 function for four reasons.

23 We've kind of gone through the
24 first three about how do you figure out how many;
25 how do you have enough money to pay for them; how

1 do you get them hired within the federal government
2 or moved over or whatever it is, does the union get
3 in the way?

4 We're on the last concern now,
5 which is - the way I'm reading this concern, and
6 tell me if this is unfair, is if you've got Johnny
7 off the street who comes in to be a focal point,
8 it's going to take four to six weeks to train that
9 person to do the job. Is that correct?

10 A. Yeah. Yes.

11 Q. So, if we're not using Johnny
12 off the street, if we're using Jane focal point,
13 who'd been a Jordan's Principle focal point and is
14 now taking on new or different roles, that concern
15 doesn't apply in the same way?

16 A. Yeah, and thank you for that
17 clarification; I thought it was something new.

18 So, we already are doing that. I
19 have other regions stepping in to support other
20 regions that are - have greater backlog, as well as
21 people from national office, working in the
22 national office context, being triaged in to - to
23 work in those areas with greater de - like, greater
24 requests and --

25 Q. And --

1 A. -- volumes.

2 Q. And when you do that, you -
3 you aren't starting from zero on training? The
4 people know how to --

5 A. No, but then --

6 Q. -- do the job?

7 A. -- other - other work gets put
8 to the side while we - we do that.

9 Q. Just on training.

10 A. Oh, just on training?

11 Q. If we can just --

12 A. Yes.

13 Q. Sorry, if we can just focus --

14 A. Yeah.

15 Q. -- on - on --

16 A. No, no.

17 Q. -- the question.

18 A. Well, I -- not necessarily,
19 just depending on what they were doing or how long
20 it's been since they've had the training.

21 Q. Right.

22 A. I think the training is
23 continuous.

24 Q. It's continuous but it's not
25 the same as Johnny off the street? Johnny off the

1 street doesn't know what --

2 A. Yes.

3 Q. -- Jordan's Principle is

4 necessarily.

5 A. The - the first training.

6 Q. Yeah.

7 A. But if -

8 Q. But there's --

9 A. -- they haven't worked --

10 Q. Right.

11 A. -- in a regional office, then

12 they're --

13 Q. Yeah.

14 A. -- like a Johnny off the

15 street --

16 Q. Yes.

17 A. -- even if they're working in

18 - in national headquarters.

19 Q. So, would you agree with me

20 that any - any solution that's proposed that

21 involves, you know, pulling in anyone, including

22 your surge - your surge strategies you're already

23 using, there's going to be a - a training element

24 that's common --

25 A. Yeah.

1 Q. -- to that?

2 A. Yeah.

3 Q. And that's not unique to the
4 Caring Society's proposal?

5 A. Uh --

6 Q. It's not -- it's a -- the fact
7 that the Caring Society's proposal, depending on, I
8 think it's an order of degree on training, which
9 interpretation --

10 A. Mm-hmm.

11 Q. -- you take of it.

12 A. Mm-hmm, mm-hmm, mm-hmm.

13 Q. It's not something that makes
14 it a unique challenge that the proposal brings.
15 It's a challenge that some of this current
16 proposals would have as well.

17 A. Will have a consideration,
18 yes.

19 Q. Yes. Okay.

20 A. It's part of my bigger
21 consideration on it.

22 Q. Okay, thank you. Just more
23 generally on training and in particular thanks for
24 your evidence about, you know, the on - the nature
25 of the ongoing training and re-training folks,

1 that's helpful.

2 Can you give me a sense of the
3 kinds of positions that would require -- so there's
4 kind of two ranges I'm seeing this paragraph 59(d).
5 There is you know, generally speaking, required
6 training takes from four to six weeks. However,
7 some positions require training of up to six
8 months.

9 A. Mm-hmm.

10 Q. So, what - what kind of
11 positions will we be at the four to six week period
12 and what kinds of positions would be at a six month
13 period for training?

14 A. And this is a generalization -
15 -

16 Q. As a general, yeah. Because
17 now --

18 A. -- 'cause it's --

19 Q. -- I've now taken --

20 A. -- quite complex depending on
21 where they are for region for region.

22 So, for the four to six weeks I
23 would think as a general would be the initial
24 intake. So, making sure there's cultural
25 competency, things like blanket exercise, et

1 cetera, so they're fully grounded and - and are
2 respectful in that nature. Certainly the one-on-
3 one in foundational information on the CHRT orders
4 and the application of Jordan's Principle. And
5 what is - you're allowed to request and what you
6 can't to ensure that there's no, you know,
7 overstepping for lack of a better word for those
8 first people who are just doing the - the
9 information inputting.

10 Q. Right.

11 A. But if you're somebody who are
12 making higher level decisions, or even, let's say
13 certainly on the financial side, because I don't
14 know that side very well; that's not my background,
15 that may take up to six months. It may require
16 more in-depth understanding certainly of the Act if
17 you're working in supporting of - of different -
18 what's the determinations, et cetera, and - and the
19 nuances around what is, you know, how to make those
20 determinations, is beyond just a standard 15 --

21 Q. So - so is it fair to say that
22 as the level of seniority increases the amount of
23 training increases?

24 A. I wouldn't say it's just the -
25 - not seniority. I would say I look at it more as

1 the res - the area of responsibility.

2 Q. Responsibility. Okay. And
3 where would a focal point fall in that four to six
4 weeks to six months?

5 A. I - I would say they're
6 certainly more than the - the four to six weeks,
7 but I don't know to what degree how much. And -
8 and again, I also feel, and I - I know that I've
9 seen this happen, where we want to ensure that they
10 return for additional training, to maintain and
11 retain or upgrade cultural training and - and
12 responsiveness.

13 Q. And in terms of how it rolls
14 out, what do - do people do while training? Or is
15 it a, you know, they're in a classroom for two
16 months and then they go and --

17 A. Oh, I can't speak to that
18 level of detail because again, it depends on what's
19 available in the particular region that they're in.
20 Obviously here in Ottawa I have a very different
21 viewpoint of what accessible to me as training. I
22 can do it virtually with relative ease. I can do
23 it throughout the day. There may be on -- virtual
24 on-the-spot training. I know there as people come
25 into it, there's certainly the CHRT 101 and

1 Jordan's Principle 101, Back to Basics 101.

2 Q. Right.

3 A. It's a mix. But then as
4 they're working through the call centre, that is
5 hands-on training, yeah, with the team.

6 Q. But if could --

7 A. (indiscernible).

8 Q. If I can try and use an
9 analogy. Like, if you - if you were to come work
10 at - at my law firm, you'd have a few days at the
11 start where you're learning software, et cetera,
12 but then a lot of the training beyond that is kind
13 of happening on the job over the first --

14 A. It varies.

15 Q. -- few months. And then, you
16 know, the general expectation is once somebody's
17 been on board for, you know, three to six months
18 they, you know, they kind of know how stuff works
19 at that point as opposed to a, you know, a six-week
20 period where they're not, you know, touching files
21 or doing anything.

22 Do you know which of those methods
23 is employed?

24 A. I think it's both. We do have
25 a training team and I - I don't have their tools

1 here and how they - they do their methodology, but
2 part of it is a combination of -- it's a virtual,
3 obviously, 'cause it's across the country, looking
4 at --

5 Q. Yeah.

6 A. -- information but then
7 walking through cases --

8 Q. Mm-hmm.

9 A. -- together and - and doing
10 that type of situational learning. And then it's
11 the hands-on. Naturally if there's a need to
12 course correct and come back and doing something
13 over again --

14 Q. Mm-hmm.

15 A. -- people are encouraged to
16 come back. It doesn't - it doesn't - it doesn't
17 have an end date when it come to training.

18 Q. So, it would be fair to say
19 training can be progressive and it can be
20 continuous?

21 A. I think it should be
22 continuous for everybody.

23 Q. And - and so it would be fair
24 to say that in the - depending where you are in the
25 range, your four to six weeks or your six months

1 you could be - you could be - or one - could be in
2 the position of the - where they're handling cases
3 during that training period as part of their
4 experiential learning?

5 A. I can't speak to whether or
6 not they're live active cases --

7 Q. I see.

8 A. -- but I do know that they've
9 used case examples.

10 Q. Okay.

11 A. So, again, I can't --

12 Q. And - and who would it - on
13 your team, who would be in charge - in charge of
14 training on your team?

15 A. There's a training unit --

16 Q. Okay.

17 A. -- but I don't know the name
18 of the -- I - I don't know the name of the
19 individual. But it's a - it's a manager.

20 Q. Okay. And - and do you know
21 if there's standardized training materials used for
22 onboarding new staff?

23 A. Yes, there is. Yeah.

24 Q. Okay.

25 Okay. I have a few questions

1 related I suppose on a surge team support --

2 A. Okay.

3 Q. -- which we've kind of - we've
4 touched a little bit in some of your answers.

5 A. Sure.

6 Q. And so at paragraph 61 of your
7 affidavit --

8 A. Mm-hmm.

9 Q. -- you have some statistics
10 about the work of surge teams. And so at 61 you're
11 noting:

12 "Between January 15th and
13 March 8th, 2024, surge teams
14 have entered 3,379 requests
15 for products, services, or
16 supports into the Jordan's
17 Principle Case Management
18 System." (As read)

19 Is it the case that surge - the
20 surge team initiative started on January 15th,
21 2024?

22 A. There had been pockets of
23 surge happening amongst the regions internally, but
24 a dedicated targeted whole of department surge
25 where we sought out individuals --

1 Q. Mm-hmm.

2 A. -- was around that time. We
3 had started having discussions around that pre- --
4 like in December, like the - because we were trying
5 to figure out new ways to or other ways to address
6 the issue.

7 Q. And - and the surge would be
8 mainly addressing those - those unopened email --

9 A. It's intake.

10 Q. -- (indiscernible).

11 A. Yeah.

12 Q. Intake. Yeah. And - and when
13 abouts did you become aware that there was a - a
14 problem with the intake in terms of there was a
15 backlog?

16 A. I think that it's fair to say
17 that probably the backlog was there prior to my -
18 to my arrival, having not even been a year at the
19 department. But the issue of email backlogs to
20 this - to the degree where I knew that it was
21 probably not nationally -- I want to say maybe a
22 couple of months ago. Like, it was once I started
23 diving more in to this particular area of my
24 mandate.

25 Q. Are you aware that it - it was

1 raised at JPOC in August of 2023?

2 A. I wasn't aware. I - I don't
3 see - necessarily see the information --

4 Q. Right.

5 A. -- that comes from there. But
6 it was around that time where I - I started looking
7 more deeply into how it was - how Jordan's
8 Principle was rolling out on the ground. Because I
9 started to have conversations with communities who
10 were delivering it to their, like on the ground
11 floor, I suppose.

12 Q. Sometimes I like to try and
13 put a season to something. So, like, late summer,
14 early fall sounds about right?

15 A. Yeah. So, if I came and I - I
16 arrived around, well, May, and, in or around my
17 birthday, and then I started having more
18 discussions certainly with Chief and Council in
19 leadership and it was raised I'd say even towards
20 the fall, because I remember it was Thanks - around
21 Thanksgiving. So, August, September - around
22 September a couple of conversations with specific
23 Chief's in Manitoba, when they were just flagging
24 that they had heard and they were really struggling
25 to get a sense of it.

1 Q. Mm-hmm.

2 A. And that's when I started to
3 really look into it a little bit more deeply around
4 the situation.

5 Q. So is it fair to say that the
6 issue mainly came to your attention via the - the
7 contacts with the community and Chief's then?

8 A. Well, just to the - to the
9 extent. I mean, I knew that the system itself
10 needed updating from an operational --

11 Q. Mm-hmm.

12 A. -- perspective and I know
13 that, you know, the - the need for obviously more
14 humans, like more bodies, was something that was
15 being felt as well. But I think to the point where
16 it was causing delays in payments was when it was
17 raised to me. I'm going - I wanted to go back and
18 unpack it. It --

19 But more in particular into that
20 region in Manitoba, and that's when I started to -
21 to have conversations with the regional offices
22 more closely.

23 Q. Would - would - just as a
24 general statement, would you agree if something is
25 important enough to be a concern that's raised at

1 JPOC, is that an important enough concern to be at
2 your desk?

3 A. I can't - that's a dec -
4 that's a determination that I leave in the hands of
5 my - of my - of my officials. As I said, I was
6 still onboarding. I have a pretty massive mandate
7 and this is obviously a very important one, that
8 you know, I'm obviously very passionate about, but
9 it would have been, you know, something that would
10 have been raised around - all around that same
11 timeframe. But really the - as soon as the Chief
12 and I speak, then I --

13 Q. Right.

14 A. -- want to dig into it.

15 Q. I have a math question.

16 A. Oh.

17 Q. Please let me know if - if you
18 can't answer it. If it's a data team question
19 that's - just - just let me know that.

20 Paragraph 61, I - I just am not a
21 hundred percent sure how to interpret this - these
22 numbers. So, the - the paragraph says that there
23 were 3,379 requests entered, and then it says 2,334
24 of those were decided. And then - this may just be
25 a typo, but at least when I ran the numbers I saw

1 that as 69 percent instead of 59 percent. I - I
2 don't really need - I guess, we can all just use a
3 calculator, but I was just wondering if you checked
4 the numbers before you - you swore this?

5 A. I did not.

6 Q. Or affirmed this, sorry.

7 A. Yeah.

8 Q. Okay. Now the second
9 sentence, this is one where I have a methodology
10 thing I'm not understanding. And so it says:

11 "Together, and in this same
12 time frame, surge teams and
13 regional focal points entered
14 10,582 requests for products,
15 services, or supports into
16 the Jordan's Principle Case
17 Management System." (As
18 read)

19 And then it says:

20 "62 percent of those items
21 (or 6,538) were determined as
22 of March 8, 2024." (As read)

23 A. Mm-hmm.

24 Q. And - and what I'm wondering
25 is, like, looking at - there's - there's kind of

1 two sets of figures there, there's the 3,379 and
2 then the 10,582.

3 A. Mm-hmm.

4 Q. Are - are those separate? Or
5 is the first included in the --

6 A. The first is included.

7 Q. Okay. Thank you. That's -
8 that's really helpful.

9 Okay. So, at paragraph 62 you say
10 - that's the next paragraph down, you see the last
11 sentence, you say:

12 "ISC also remains open to
13 discussing with the parties
14 other possible interim
15 solutions to address the
16 backlogs." (As read)

17 Have you - have you attempted to
18 convene any such meetings with the Caring Society
19 since it filed its notice of motion?

20 A. Not personally, no.

21 Q. Now, at paragraph 63(a) -- so
22 here you're - in paragraph 63 you were commenting
23 on the Caring Society's backlog solutions. At
24 least it would be fair to say that this affidavit
25 is the first time that you personally would have

1 communicated on any of this with the Caring
2 Society, that's right?

3 A. Through the affidavit? Yes.

4 Q. So, in (a) you're saying, I'm
5 just trying to summarize here, that it's not
6 possible to identify a total of backlogged cases
7 without individually reviewing every single email?

8 A. Yes.

9 Q. And you'd agree with me,
10 though, that that - that problem has to do with
11 kind of the level of detail on the review in terms
12 of what's in each email? You know, you'd be able
13 to know kind of inventory-wise what the volume is
14 like just by looking at more general statistics,
15 kind of like what your data team did in that --

16 A. The true request verse -- the
17 case versus the request.

18 Q. Yeah, but you - at least you'd
19 be able to get a sense of the volume of the emails
20 that's - that's sitting there?

21 A. Mm-hmm.

22 UNIDENTIFIED SPEAKER: Yes.

23 Q. Sorry, that's a "yes"?

24 A. Yes. Sorry.

25 Q. I have some questions for you

1 now about staff retention.

2 A. Sure.

3 Q. This is moving over to
4 paragraph 65; it's the next part of your affidavit.

5 And so is it fair to say based on
6 the - the percentages that you're giving there that
7 the staff turnover rate is about one in five?

8 A. I'm -- just a minute.

9 Q. Depending on the year?

10 A. Yeah, 20 percent. Yeah, 25.

11 Q. A little bit lower in '22-23?

12 A. Yeah, that seemed to be a
13 little bit lower year.

14 Q. Are you aware -- have you -
15 have you seen the results of the 2022 public
16 service employee survey?

17 A. Yes, I have.

18 Q. And so you're aware that in
19 that survey 42 percent of ISC employees surveyed
20 planned on leaving their position in the next two
21 years?

22 A. Can -- and then - what was --
23 that was in 2022 --

24 Q. Two.

25 A. -- and it's one year behind,

1 so it's in 2020. The only caveat I would have with
2 that is this is Jordan's Principles specific.

3 Q. Yes.

4 A. ISC is the whole of
5 department. And when that year was taken, was also
6 during the pandemic.

7 Q. Mm-hmm.

8 A. A lot of staff at that time
9 were socially isolated, they had challenges, they
10 wanted to move on, workload was extremely demanding
11 in the department, so I don't use that as a
12 barometer or an indicator --

13 Q. Right.

14 A. -- to - to be fair.

15 Q. So, if we can actually --
16 maybe the -- I think the easier way to ask these
17 questions might be to look at Tab I in Volume 1.
18 And that's - this is excerpt from Dr. Blackstock's
19 reply affidavit. And so there's some excerpts here
20 from the survey results and - and acknowledging two
21 - two points, I think. The first is we're not
22 comparing apples to apples --

23 A. Yeah.

24 Q. -- with respect to Indigenous
25 Services because you've said that this is a subset.

1 But the other point would be that, you know, the
2 question is, will you - do you intend to leave your
3 position in the next two years as opposed to have
4 you left, which is what your statistic is, and 65
5 is --

6 A. Yeah.

7 Q. -- the turnover.

8 But would you agree with me that
9 the - the, you know, overall -- when you - you look
10 at 42 percent, which is just over on the - it's
11 under the Mobility And Retention heading there; I
12 don't know if you see it at the top of the - the
13 first kind of, page of tables there?

14 A. Yeah.

15 Q. And see --

16 A. Yes.

17 Q. Do you see 2022 public
18 service, 38 percent say yes to the question "Do you
19 intend to leave your current position in the next
20 two years?" and then 42 percent Indigenous Services
21 Canada answering "yes" to that question. Would you
22 agree those are pretty comparable numbers?

23 A. Again, I - I'm not comfortable
24 comparing what is a - an aggregate, like a - a
25 specific --

1 Q. Sorry.

2 A. -- department (indiscernible).

3 Q. Setting aside 65, comparing
4 the numbers to each other. If you compare
5 Indigenous Services Canada response --

6 A. Here? Oh.

7 Q. Yeah.

8 A. Oh, sorry. Apologies for
9 that.

10 Yeah, I - I -- from the percentage
11 perspective --

12 Q. Okay.

13 A. -- they're both --

14 Q. They'd be comparable at least?

15 A. Yeah.

16 Q. Okay. Now, just as another
17 concept, down at 56(2), it's the same page here in
18 the - in the brief, the kind of, you know, question
19 56(2) is essentially looking at where people are
20 going.

21 A. Okay.

22 Q. And again, recognizing we're
23 talking about Indigenous Services Canada as a
24 whole, 34 percent of the respondents there are
25 pursuing another person [sic] within the department

1 or agency. And so is it possible when we're
2 looking at the employee turnover, just as a
3 destination as opposed to anything with a
4 frequency, but in 65 when you're talking about
5 employee turnover in the various fiscal years that
6 some of those folks are leaving for different
7 positions within ISC?

8 A. Certainly that's what it
9 indicates here out of Jordan's Principle, into
10 another area. Or -- oh, just in general?

11 Q. Just in general. Like, I
12 mean, they would be leaving --

13 A. Sure.

14 Q. -- Jordan's Principle but they
15 may not be leaving ISC entirely.

16 A. The department, yeah.

17 Q. And - and would it capture -
18 if there's a high employee turnover rate across
19 Jordan's Principle operations, if they're going
20 somewhere else within the, you know, 400 and some
21 FTE's, would that count as turnover as well?

22 Like, if you were having a - if
23 you had a job as a focal point and then you went --
24 or if you had a job, for instance, as intake, and
25 then you had a promotion to work as a focal point,

1 I'm assuming that that's a seniority difference
2 between those - those - those roles.

3 A. That's not turn over, though.
4 That still re - retention. For the - my purposes
5 of 65 you mean?

6 Q. Okay. So, that's excluded, as
7 - so you - that would be a retained --

8 A. So, my --

9 Q. -- position --

10 A. Yeah.

11 Q. -- if someone --

12 A. So, my understanding here is
13 turnover as in people leaving --

14 Q. Mm-hmm.

15 A. -- at large, not due to
16 promotion.

17 Q. Not - not -- so it's - it's
18 people leaving the sector as opposed to people
19 leaving their position?

20 A. Correct.

21 Q. Okay. And did you - did you
22 prepare these figures yourself?

23 A. I did not.

24 Q. And did you confirm that with
25 the person who prepared the figures, that that's

1 how they did it?

2 A. I can't remember.

3 Q. Okay. Some questions for you
4 about automated determinations. Or, if I - if I
5 use that frame, automated determination, does it -
6 does it mean something to you? Like, an automated
7 determination of a request?

8 A. In this - determined
9 electronically or an automatic determination?
10 Sorry.

11 Q. You know what, probably best
12 to just go to paragraph --

13 A. Yeah.

14 Q. -- 68 of your affidavit here.

15 A. Thank you.

16 Q. So - so here you say, "ISC is
17 also exploring potential automated determination
18 under a certain cost threshold." Do you see that?

19 A. Page?

20 Q. Oh, I'm sorry. It's page 19,
21 paragraph 68.

22 A. Okay. Yes.

23 Q. And so, you know, in - in
24 thinking about this I think you also refer to it as
25 - as automated adjudication.

1 Yes, you refer to it in the last
2 sentence as automated adjudication. This is the
3 idea that rather than reviewing the file for its,
4 you know, relative merits or demerits, it's - it's
5 an approval that is just made as a matter of
6 course. Is that right?

7 A. And this came from, I think
8 one of the ideas that at one point the Caring
9 Society had flagged with me on a call which made
10 sense, where there was a - a clear threshold --

11 Q. Yes.

12 A. -- did not require burden --

13 Q. Yes.

14 A. -- the - the requester. Yes.

15 Q. And - and would it - would it
16 be kind of in keeping with that memory you have
17 that there's - there's a line, essentially, where a
18 request costs more to adjudicate than it does to
19 approve?

20 A. Oh, I - I don't know --

21 Q. No? Okay.

22 A. -- that line, but I did know -
23 - I remember having that --

24 Q. But - but --

25 A. -- (indiscernible) flagging

1 it.

2 Q. -- the - the --

3 A. Yeah.

4 Q. -- concept that there may be a
5 - a benefit cost between the transactional cost of
6 deciding it versus the cost of paying for the
7 service. Is that a concept you're familiar with?

8 A. Yeah, I don't think about
9 that, I just think about the - the cost on time on
10 the requester.

11 Q. Oh, okay.

12 A. That's my - more where I was
13 thinking about where it reduce costs or to - well,
14 right. Human cost time, right?

15 Q. Fair enough. Do you have a
16 general sense of how long it might take to
17 implement a measure like this? Having automated
18 determinations?

19 A. I don't have a clear timeline.
20 I think some of the challenges we've encountered --
21 well, no, some of the challenges we've encountered
22 is the perimeters which I'm hoping could be
23 explored at a place like JPOC, like how many times
24 does someone request it? Is there - is there a
25 certain number of times? What is the amount that's

1 an appropriate amount for automatic - automated --
2 sorry, I always say "automatic", but --

3 Q. Either is fine for me.

4 A. -- yeah, the threshold. Yeah,
5 yeah, to - to have that automatic threshold? So,
6 these, again, I think it has to be done
7 expeditiously but in a way that's informed and
8 engages the parties and partners around the table.

9 Q. And - and you think
10 conversations with JPOC - JPOC are one way of doing
11 that?

12 A. I think it could be. I think,
13 you know, I'm open to exploring it; I hope the team
14 is open to exploring how we could have those
15 conversations.

16 Q. And - and you agree JPOC can't
17 have this conversations if it's not meeting?

18 A. I'm hoping that they can still
19 have those conversations when they resume meeting.

20 Q. Yeah. Did - did you decide
21 that they shouldn't be meeting?

22 A. No.

23 Q. Do you know who did?

24 A. No. I'm not a part of the -
25 unfortunately I'm just not a part of the JPOC

1 process.

2 Q. Right. That - that's Ms.
3 Wilson-Clark's team who's part of that --

4 A. Yeah, and there's --

5 Q. -- process?

6 A. -- there's a cou - a few other
7 folks that are there as well.

8 Q. Okay.

9 A. Yeah. From the department.

10 Q. Now, in the last sentence
11 here, you note as it - at least I'm interpreting
12 this as a challenge you're noting, which is:

13 "Automated adjudication may
14 also not be feasible in
15 certain circumstances, given
16 that Jordan's Principle is
17 needs based and involves case
18 by case assessments." (As
19 read)

20 A. Mm-hmm.

21 Q. Do you see that?

22 A. Mm-hmm, mm-hmm.

23 Q. So, is the concern here that
24 the wrong cases will be approved or the wrong cases
25 will be denied?

1 A. That people will not always to
2 go to the best first point of entry. So, if they
3 think that -- so if it's needs based and somebody
4 needs home renovations --

5 Q. Mm-hmm.

6 A. -- versus groceries, so I
7 think it's more that. So, it may not be feasible
8 in certain situations which require maybe a
9 purchase price tag or -- and different types of
10 authorities or areas or avenues to flow funding.
11 Because Jordan's Principle doesn't have a set of
12 authorities, we have to rely on other existing
13 authorities.

14 Q. I - I'm not sure I follow the
15 answer.

16 A. Oh, sorry.

17 Q. No, no, don't apologize. I'm
18 just wondering if we can kind of - maybe we --

19 A. For sure.

20 Q. -- need to break it down a
21 little bit.

22 So, the concern is on feasibility
23 due to Jordan's Principle requiring case-by-case
24 assessments. And is - is your concern that the -
25 the wrong cases will go to the wrong windows? Or

1 is it something different?

2 A. That's a part of it, just
3 because they may need a much larger set of supports
4 than would be feasible through an automated.

5 Q. Ah.

6 A. So, I think about the kind of
7 the quicker ones, which are clear to determine -
8 groceries, rent support, those types of things. If
9 there was a certain threshold purchasing of
10 diapers, formula, et cetera; immediate needs
11 versus, perhaps, something that involves more
12 complex set of situations. Certainly with regards
13 to - I'm grasping, but orthodontics, or you talked
14 about medical travel. With - there are cards for
15 that, but I don't know how this would look like in
16 this type of automated determination. I don't know
17 if it's going to be feasible for all cases, but
18 there are some where it makes clear sense.

19 Q. And - and would - would you
20 agree that that - that's a - a possibly - and this
21 - I don't mean anything pejorative by this term,
22 but possibly it's a case management concern as
23 opposed to an approvals concern in that, you know,
24 there might be a need that's missed, whereas if a
25 focal point was talking to them, there might be

1 more needs identified. Is that what you're - what
2 you're --

3 A. Well, yeah.

4 Q. -- (indiscernible)?

5 A. And we do see that, right?

6 Once we actually have a - a conversation. All of a
7 sudden we're able to say well, what about this? Do
8 you need these services? What else do you need in
9 that - in that situation? So, al - always - it's
10 always nice to have a - a voice. Which I
11 understand is always - is a challenge at times.
12 But this is where I think it - it's still part of
13 the case by case, which is why those conversations
14 are important to have.

15 Q. And in - in your views - in
16 your view, would it be possible to explore methods
17 of having, essentially pairing - pairing those
18 models, where you might have, you know, the - the
19 point of entry might be an automated determination,
20 but that could identify a follow-up to see if there
21 are other services required?

22 A. Well, and certainly, the -
23 there's no limit to how many times you can access
24 Jordan's Principle either, right? So, I mean,
25 that's - I can't see it being one or the other - to

1 your point; if that answers your point.

2 Yeah. No, it's --

3 Q. No, it's helpful. Thank you.

4 I've got some questions for you
5 about a new document which I had provided to you
6 and to your counsel and to the Chair and I think
7 it's been circulated by email to the parties and to
8 Member (indiscernible).

9 Sorry; just one - one moment.

10 --- CONVERSATION IN BACKGROUND NOT TRANSCRIBED

11 BY MR. TAYLOR:

12 Q. Okay. So, you have or
13 hopefully have before you the Convention on the
14 Rights of the Child document there that I had --

15 A. Yes.

16 Q. -- handed you earlier? Is -
17 is this a document you recognize?

18 A. Yes.

19 Q. And I understand from
20 paragraph 1 of your affidavit that in 2022 you were
21 named Canada's Head of Delegation to the United
22 Nations' Committee on the Rights of the Child. Do
23 you still hold that position?

24 A. Oh no, that was just they had
25 the delegation for that appearance.

1 Q. Oh, for that appearance, I
2 see. So it's a one - it's a point in time.

3 A. Yeah.

4 Q. But it coincides with this
5 point in time?

6 A. Yeah.

7 Q. Okay.

8 A. That was result, I think.

9 Q. The results.

10 A. (indiscernible) observations.

11 Q. And - and so there was a, you
12 know, Canada would have been - through a process
13 that I'm going to assume you were coordinating as
14 the Head of Delegation, kind of providing a report
15 to the Committee?

16 A. Yes, I was the maestro. To
17 the questions that came in, I would turn to either
18 one of the provinces or territories or other
19 federal departments that were there to respond.

20 Q. And then the - the - the
21 result of your gathering would have been a response
22 back to the committee to its questions. Is that
23 right?

24 A. Yes. So, we would appear
25 before the - before the - the Commission or the

1 Committee on the Rights of the Child and they would
2 pose a series of questions. We'd have a series of
3 minutes to prepare and depending on who was the
4 lead department, because it does cover quite a
5 range of issues, or the provinces and territories
6 if they had jurisdiction; we had - we did have
7 three provinces and territories with us. So --

8 Q. Right.

9 A. -- four. I don't remember
10 (indiscernible).

11 Q. And - and are you aware, kind
12 of the colloquial expression there are, you know,
13 there are four pillars of the United Nations
14 Convention on the Rights of the Child?

15 A. Mm-hmm.

16 Q. And - and do you have a sense
17 of what those four pillars are?

18 A. Vaguely. It's been a while,
19 but yes.

20 Q. If I said they were non-
21 discrimination --

22 A. Yeah.

23 Q. -- best interests, life
24 survival and development and the right to be heard,
25 would that sound about right?

1 A. Yes.

2 Q. Okay. Now just looking at the
3 - the document here, am - am I right that this is
4 the - essentially like, what the title "Concluding
5 observations on the combined fifth and sixth
6 periodic reports of Canada" - this is kind of the -
7 the document back to Canada from Committee?

8 A. Yes.

9 Q. Okay. And if you'd turn over,
10 please, to page 4. And so this is just - they're
11 paragraphs 17 and 18. And 17(a) says that - sorry,
12 17, the header says "The Committee is deeply
13 concerned about the following." Sub (a) says:

14 (a) The discrimination
15 against children in
16 marginalized and
17 disadvantaged situations in
18 the State party, such as the
19 structural discrimination
20 against children belonging to
21 Indigenous groups and
22 children of African descent,
23 especially with regard to
24 their access to education,
25 health and adequate standards

1 of living." (As read)
2 And then at 18 the committee says:
3 "Taking note of parts 5.1 and
4 10.3 of the Sustainable
5 Development Goals, the
6 Committee recommends that the
7 State party put an end to
8 structural discrimination
9 against children belonging to
10 Indigenous groups and
11 children of African descent
12 and address disparities in
13 access to services by all
14 children, including those in
15 marginalized and
16 disadvantaged situations,
17 such as Indigenous children,
18 children with disabilities,
19 migrant children and children
20 belonging to ethnic minority
21 groups." (As read)

22 A. Mm-hmm.

23 Q. In - in your view, is - is
24 implementing Jordan's Principle, is that part of
25 responding to these - to this - this recommendation

1 and this deep concern from the Committee?

2 A. I think it's -- yeah, I think
3 it's one of the - one of the components --

4 Q. Components.

5 A. -- for sure. For sure.

6 Q. And just going over to - to
7 page 11 now. And so 39 notes:

8 "Taking note of targets 1.1,
9 1.2, and 1.3 of the
10 Sustainable Development
11 Goals, the Committee
12 recommends that the State
13 party -" (As read)

14 And then in (b):

15 "Ensure that all children and
16 their families living in
17 poverty receive adequate
18 financial support and free,
19 accessible services without
20 discrimination." (As read)

21 And there's some discussion in -
22 in particular, I think in Dr. Gideon's affidavit
23 about the kind of the increased or the - the
24 importance - I don't know if it's increased or not,
25 depending on where you - the perspective you take

1 on how the requests are coming together.

2 A. Mm-hmm.

3 Q. But the - the - there's a - a
4 role for Jordan's Principle in socioeconomic
5 requests, and would you agree that that role is
6 consistent with, you know, measures to ensure that
7 First Nations kids in poverty have adequate
8 support?

9 A. Yeah, we have seen an increase
10 in the socioeconomic demands certain - most
11 recently for sure.

12 Q. And so Jordan's Principle
13 responding to those demands would be consistent
14 with - with the recommendation of the committee?

15 A. Mm-hmm, mm-hmm. Yes. Sorry.

16 Q. And then the last point on
17 this one which is page 12, para - well, actually I
18 should say bottom of page 11 is where paragraph 40
19 starts, that's the - the - the header lines there:

20 "In line with its previous
21 recommendations and taking
22 note of targets 4.1, 4.6,
23 4.a, 4.b, and 4.c of the
24 Sustainable Development
25 Goals, the Committee

1 recommends that the State
2 party --" (As read)
3 and over to (e) on the next page:
4 "Coordinate with provincial
5 and territorial governments
6 to guarantee the right of the
7 child and adolescents to
8 engage in play and accessible
9 recreational activities
10 appropriate to the age of the
11 child." (As read)

12 I'm right in understanding that
13 one of the things that Jordan's Principle can
14 support is - is recreational activities for kids?

15 A. That it can support?

16 Q. Yes.

17 A. Yes.

18 Q. Do you agree that again it's
19 another example potentially of the response --

20 A. Well, the challenge is that
21 we're - we're not able to coordinate with
22 provincial and territorial government supports by
23 orders --

24 Q. Right.

25 A. -- issued that we're not able

1 to --

2 Q. But I - I suppose --

3 A. -- redirect.

4 Q. -- and not to turn into a
5 lesson or a - a - a discourse on federalism; I will
6 avoid that --

7 A. Oh, yeah.

8 Q. -- with - with all but closest
9 friends.

10 A. Yep

11 Q. For First Nations children in
12 - in particular the federal government has its own
13 independent constitutional role to play. Would you
14 agree?

15 A. For on reserve specifically?

16 Q. Yeah.

17 A. Okay. Sorry.

18 Q. I don't want into --

19 A. Sorry.

20 Q. -- a legal --

21 A. Yeah, yeah.

22 Q. -- (indiscernible) --

23 A. Okay.

24 Q. -- kind of qualifies --

25 A. No, no. That's good. No, no,

1 no. You're good.

2 Q. But would - would you say for
3 - for, you know, for - for non-Indigenous Canadian
4 children, is it fair to say the federal government
5 is - is less involved in their lives than for First
6 Nations kids?

7 A. Yes.

8 Q. As a matter of access to
9 services.

10 A. Yeah.

11 Q. Of course, we're all affected
12 by the federal government.

13 A. Yeah.

14 Q. That's why - that's why
15 elections matter.

16 A. Yeah.

17 Q. But more - more so unlike
18 Jordan's Principle where there's a direct role of
19 providing services or supporting services on or off
20 reserve, non-Indigenous children wouldn't have that
21 direct kind of relationship with the federal
22 government?

23 A. Oh, yeah. Correct.

24 Q. Okay.

25 A. I understand now.

1 Q. So, I'll - I have a few
2 questions and I'll do my -- kind of my last - last
3 ISC theme of questions here, about the long-term
4 vision you're - you're speaking to in the - in - in
5 your affidavit at the end. But just - just before
6 going there, I just want to pause for a moment.

7 You know, we've been talking a lot
8 about, you know, organizational challenges that the
9 department has and ideas for operational change in
10 Jordan's Principle, and I'm wondering if you'd
11 agree with me that those are really, you know, kind
12 of the concerns and considerations about how adults
13 are approaching Jordan's Principle? Like, we're
14 really having conversation about adults figuring
15 out how Jordan's Principle should work when we're
16 talking about those things.

17 Would you agree with that?

18 A. I think the challenge is how
19 the systems and the interoperability of systems,
20 much to the point of - of the Tribunal member as
21 well, that's where we feel challenged. And this
22 is, again, my perspective, having come, relative -
23 you know, still relatively new to the department.
24 My whole purpose is to try and not make it so
25 complicated. Why can't we see those system

1 changes? And what - what's become - it's not just
2 the people, it's how do we change the structures in
3 which we're working within?

4 Q. Yep.

5 A. Because it's not --

6 Q. And adults are having those
7 conversations. Right? That's - that's the work
8 that's happened, the adults have to do?

9 A. Forcing them to come to the
10 table. And sometimes, yes.

11 Q. And just in terms of the, you
12 know, the impacts of Jordan's Principle on kids,
13 you know, you've seen, in your time, you've seen
14 cases or had access to case files where you have to
15 make a decision, is that right?

16 A. Yeah.

17 Q. And you've seen Jordan's
18 Principle make positive impacts for kids?

19 A. Mm-hmm. Yes, I have.

20 Q. Have you seen cases where
21 delays have negative impacts for kids?

22 A. I've seen delays, certainly at
23 my level, that have just delayed change, I would
24 say, in the community and in the systems, bigger
25 systems. I don't always see the individual

1 requests per se, but the bigger ones that are more
2 systems oriented, I find it just delays,
3 unfortunately, the needed changes in the community
4 at times.

5 Q. And - and if those - if those
6 delays are happening, there are underlying needs
7 that are --

8 A. They'll be --

9 Q. -- continuing on that?

10 A. They'll -- yes, exactly.

11 Q. Yeah.

12 A. Yeah.

13 Q. And whatever the long term
14 vision for Jordan's Principle, would you agree with
15 me that if ever - if it ever were to go away, that
16 would be a bad thing for First Nations kids?

17 A. I think that if we could ever
18 fix the systems where there wasn't a world where we
19 would need such a - a - these ad hoc requests; that
20 communities were able to be fully healthy and kids
21 were thriving and it was a great place and we never
22 even had to have it, that would be a utopia. Is
23 that pragmatic or realistic? Certainly probably
24 not within my career. I think that we need -
25 Jordan's Principle needs to be here and how -

1 Canada needs to be present to support communities,
2 regardless of level of readiness for folks to take
3 it on. Yeah.

4 Q. And that - and that - the need
5 for that presence is - is really related to the
6 needs of kids to be able to grow up and have the
7 lives they want to have?

8 A. To -- yeah, to - to flourish.

9 Q. And to live free from
10 discrimination.

11 A. Completely.

12 Q. So, you - you said?

13 A. Completely.

14 Q. Completely.

15 A. Yes.

16 Q. Thank you. So - so just
17 asking you some questions now about this - this
18 long term vision. And that starts, I believe that
19 starts around paragraph 69 of your affidavit. And
20 this, I think, reflects maybe some comments that
21 you were - you were just making. You say in this
22 paragraph here, it's on page 19.

23 A. Sorry, I'm a little --

24 Okay.

25 Q. So you say:

1 "Jordan's Principle has
2 evolved into a critical
3 stopgap measure for First
4 Nations families as they cope
5 with inconsistencies in core
6 federal and
7 provincial/territorial
8 programs and services." (As
9 read)

10 And I just - and we did a little
11 word choice discussion on - on urgency, so just a -
12 a word choice question here. I want to ask about
13 the word inconsistencies. Would - in your view,
14 would a more accurate word be shortfalls? So,
15 "shortfalls in core federal and provincial
16 territorial programs and services"?

17 A. I think shortfalls is probably
18 one of the inconsistencies. But also who is in and
19 who's out? Who's covered, who's not covered? I
20 think you talked about health, the recreation. It
21 wasn't recreation just for the pure recreation; it
22 was actually for social development and - and
23 mental health supports and well being. That may
24 not be the case, let's say, in a provincial
25 recreational program. They may have, it just may

1 be for children or for this particular age, as
2 opposed to targeted or directed supports.

3 Q. Because they may have
4 different needs --

5 A. They would have different
6 needs, or it may be only specific. Yeah, exactly.
7 So that's more the inconsistency.

8 Q. So whether you use the word
9 inconsistency or use the word shortfall, underlying
10 that concept is unmet need.

11 A. Yeah. And difference. Right?
12 Through difference.

13 Q. And do you agree with me that
14 the reason that Jordan's Principle has become such
15 a critical stopgap is because many core federal and
16 provincial territorial programs are not meeting the
17 needs of First Nations children and families?

18 A. I - I think there's probably a
19 bunch of needs; those would be one of them. But
20 also certainly fiscal climate, you know, the
21 economy, access to jobs, access to human health,
22 human resources, mental health, human resources. I
23 think there's a bunch of - of systems that aren't
24 working as well that aren't meeting the needs.

25 Q. And in terms of thinking of

1 the economy, and I won't go through the whole --

2 A. Sorry.

3 Q. -- list you had there, but
4 those items --

5 A. Yeah.

6 Q. -- that you just had --

7 A. Yeah.

8 Q. -- the economy, health,
9 resources - those are, again, also, you know, needs
10 that are --

11 A. Yeah.

12 Q. -- materializing in the
13 community?

14 A. Yeah. All Canadians even.

15 Q. Did you review or have you
16 reviewed IFSD's data analysis work that it did in
17 2022?

18 A. Very peripheral. When I first
19 came on, that was one of my required readings, so I
20 -- but that was a while ago now at this point.
21 But, yeah.

22 Q. A few months ago. And are you
23 aware, just at a general level, that IFSD concluded
24 that shortfalls in other programs were a driver of
25 Jordan's Principle requests coming forward?

1 A. Yeah, I think there was -
2 there was mention of the relationship with the
3 existing programs.

4 Q. Now, if - if we're looking at
5 paragraph 70, which is at the bottom of page 19.
6 So, in - in this - in this paragraph, you're
7 identifying - in the last sentence, you say:

8 "This new approach needs to
9 include specific operational
10 parameters and most
11 importantly, increased first
12 nation self determination and
13 control." (As read)

14 So is it fair to say you're seeing
15 these - these two items, specific operational
16 parameters and increased self determination and
17 control, are two parts of what you're seeing as the
18 systemic and holistic approach --

19 A. Mm-hmm.

20 Q. -- to Jordan's Principle?

21 A. Mm-hmm. Yes.

22 Q. And would you agree that a
23 third part of this would be continued federal
24 funding?

25 A. Okay. Yeah. Well, obviously,

1 Canada will continue to fund as required because it
2 is a court order to - to continue it. That's not -
3 not funding it.

4 Q. So it's a - it's a -- you
5 almost - you took that for granted in your
6 paragraph, that the federal --

7 A. Yeah, I just --

8 Q. -- government --

9 A. Yeah. That -- I just -- it
10 needs to be. And if anything, including capacity
11 to support those communities, those First Nations,
12 to be able to exercise full determination and
13 control in this area.

14 Q. Now in paragraph 71, you note:

15 "While the current approach
16 is based on Tribunal orders,
17 response solely through
18 operational growth does not
19 address gaps in products,
20 services, and supports
21 through core programming or
22 community level service
23 delivery." (As read)

24 And - and this, I think, goes to
25 some of the - the Chair's questions this morning.

1 Are you aware the Tribunal has ordered Canada on
2 several occasions to do gap analyses regarding its
3 services? I think you said this morning you'd -
4 you'd heard of that idea.

5 A. Yes. So, it was a part of the
6 broader ISC - not modernization, I apologize, but
7 longer term reform for the department --

8 Q. Mm-hmm.

9 A. -- in its existing programs.
10 Correct?

11 Q. That - and we'll go to -
12 actually, we'll go, go to some of that right now
13 just to kind of be a little - put a little bit more
14 of a finer point on it.

15 A. Okay. Thank you.

16 Q. So, if you go to Tab J in the
17 Volume 1 book.

18 A. Okay.

19 Q. So, this - this is, I mean,
20 again, at the risk of getting too - to avoid
21 thinking too much like a lawyer about this, but we
22 - we call this 2017 CHRT 14.

23 A. Okay.

24 Q. Do you recognize that kind of
25 nomenclature as referring to a particular Tribunal

1 order?

2 A. Yes.

3 Q. And - and would you recognize
4 that as kind of the - on the Jordan's Principle
5 front, you know, the first order that kind of came
6 after the Child First initiative --

7 A. Mm-hmm.

8 Q. -- or first substantive order;
9 there was a reporting order earlier. But this is
10 essentially the order. Would you recognize this as
11 the 48-hours timeline was set here, the twelve hour
12 timeframes were set in this CHRT 14. Now, you
13 don't have the full --

14 A. I thought it was 35. CHRT 35
15 further outlined the timelines.

16 Q. Yes. There was more beyond -
17 there was a more refined timelines in 35. There
18 was an amendment.

19 A. Sorry.

20 Q. No, no, no. Again, I don't
21 want to make this a law - a law school exam, but we
22 - we're kind of in the ballpark of 2017 orders --

23 A. Okay.

24 Q. -- as what kind of started the
25 --

1 A. Yes.

2 Q. -- start us on the - on this
3 path. You'd agree with that?

4 A. Yes.

5 Q. Okay. Now, you have paragraph
6 106 - 105 and 106. And so here in 105, there's -
7 there's submissions, you know, from AFN about not
8 having had an internal understanding of the gaps in
9 federal funding to First Nations children are. And
10 then the panel notes an October 2016 presentation
11 that was in the field. And there's a - a - just
12 kind of part way through the paragraph there under
13 the implementation points, one of the points was
14 conducting a province by province gap analysis of
15 health and social services for on reserve children
16 with disabilities.

17 And then paragraph 106 says:

18 "There are no timelines
19 indicated for when this
20 analysis will be completed.
21 And based on the panel's
22 reasoning above regarding
23 Canada's definition of
24 Jordan's Principle, the
25 analysis will need to be

1 broadened beyond observed
2 children with disabilities.
3 The information that is
4 collected must reflect the
5 actual number of children in
6 need of services and the
7 actual gaps in those services
8 in order to be reliable in
9 informing future actions."

10 (As read)

11 Do you see that?

12 A. Yes, I do.

13 Q. So - so were you aware that at
14 the same time it was - it was setting the timelines
15 and putting the kind of the - the - the pieces in
16 place that we're - we've been talking about this
17 week, they were at the same time calling for this
18 analysis to happen and be done in a - in a broader
19 way?

20 A. Yeah, I remember the reference
21 to the - to broader than on reserve children with
22 disabilities to be more holistic.

23 Q. But there was, as early as
24 2017, calls from the panel to take on this kind of
25 gap analysis approach on a - on a more expedited

1 basis. Would you agree with that?

2 A. Yes.

3 Q. And then if we go over the pa

4 - or the over the tab, sorry, to 2021, CHRT 41.

5 And would you recognize that kind of nomenclature

6 as being about the capital orders that were

7 addressed a couple years ago? I know that was

8 before your time, so I just want to check.

9 A. This is it, right?

10 Q. Yes. Tab K?

11 A. Yeah. Yes.

12 Q. And I think people refer to it

13 sometimes as CHRT 41 --

14 A. CHRT 41.

15 Q. -- when they're talking about

16 capital.

17 A. Yes.

18 Q. So, that's - you're familiar

19 with that?

20 A. That I am familiar with.

21 Q. Okay.

22 A. Yes.

23 Q. And so if you go over a couple

24 of pages, there's a longer extract here from - from

25 386 to 390. And just at 388 here the panel is

1 saying:

2 "The damaging effect of not
3 applying a substantive
4 equality lens to services
5 offered to First Nations
6 children and families results
7 in unnecessarily removing
8 children from their homes,
9 families, and communities as
10 a result of one factor, such
11 as poor housing, poverty, or
12 substance abuse. These
13 factors can intersect and can
14 be identified as to
15 [identified, too] as
16 socioeconomic determinants of
17 health." (As read)

18 And then in 389:

19 "The panel also addressed the
20 issue of federal departments
21 working in silos and causing
22 adverse impacts to First
23 Nations children and families
24 in previous rulings. Canada
25 chose to create social

1 programs and divide them into
2 branches. This is Canada's
3 choice. The branches are
4 attached to a tree of social
5 programs in one of those
6 programs as the FNCFS
7 program." (As read)

8 And - and then - and then they go
9 on. And then note a few lines down:

10 "The panel ordered Canada in
11 2018 to look into all its
12 social programs to avoid
13 adverse impacts, namely
14 apprehensions or other
15 negative impacts to
16 children." (As read)

17 And then they go on. So again,
18 would you agree this is another example of the
19 panel kind of calling for that more comprehensive
20 approach?

21 A. Yes.

22 Q. So, when - when we're talking
23 about, you know, paragraph 71, you know, in terms
24 of the current approaches based on Tribunal orders,
25 and you say:

1 "A response solely through
2 operational growth does not
3 address gaps in product
4 services and supports through
5 core programming or community
6 level service delivery." (As
7 read)

8 Would you - would you agree with
9 me it's fair to say, you know, the panel's not
10 calling for a response that's solely through
11 operational growth. They're calling for - for gap
12 closing as well? That that's the direction they
13 ask in these orders?

14 A. Yeah. Yes. That we're look -
15 we're - we're supposed to be looking into the gaps
16 and - and doing some analysis on the gaps.

17 Q. Okay.

18 A. Yes.

19 Q. And - and not just responding
20 through operational growth?

21 A. Correct. So, can - I'm - just
22 for - just for clarity, though --

23 Q. Yes.

24 A. -- the question was about 71:

25 "[With the -] While the

1 current approach is based on
2 Tribunal orders, a response
3 solely on operational growth
4 does not affect the gap."

5 (As read)

6 So, that's an - that is about us
7 breaking down the silos? I'm sorry
8 (indiscernible).

9 Q. Well, know what? No, that --

10 A. I'm sorry, I just want to make
11 sure I answered your question.

12 Q. That's a - the - I - I don't
13 want to - to confuse you or - or lead you into
14 error in - in any way. So, what - what I'm - I'm
15 talking about here is, in your last sentence here
16 you say:

17 "While the current approach
18 is based on Tribunal orders,
19 a response solely through
20 operational growth does not
21 address gaps in products,
22 services, and supports
23 through core program or
24 community level service
25 delivery." (As read)

1 And - and I guess what I'm coming
2 - coming at here is, you know, is your take on the
3 Tribunal's orders that ISC is being ordered to
4 proceed through operational growth only?

5 A. I think it's beyond that,
6 though, and that's why I just asked the question.
7 Because the current federal implementation approach
8 is - doesn't allow us necessarily to hand over
9 decision making to hands of First Nations
10 leadership where it should be in regards to these
11 requests, right? So, just by growing federal - a
12 federal department, that's what that sentence was -
13 -

14 Q. So, your --

15 A. -- responding to. Like, not -
16 -

17 Q. So, your interpretation --

18 A. -- (indiscernible).

19 Q. -- though, is that - is that
20 the Tribunal - the approach that's required by the
21 Tribunal orders is this operational growth approach
22 is what you're - is what you're saying.

23 A. Well, it says - well, the
24 approach that the Tribunal - that - that -- so
25 maintaining the current federal implementation

1 approach --

2 Q. Mm-hmm.

3 A. -- of how we're implementing
4 Jordan's Principle --

5 Q. Mm-hmm.

6 A. -- purely through the federal
7 decision making power is not necessarily - does not
8 address the gaps. But that was --

9 Q. And --

10 A. -- again --

11 Q. I guess what I'm - I guess
12 what I'm asking maybe, to try and put it another
13 way is would you agree with me that that's not the
14 only thing that the Tribunal has ordered Canada --

15 A. Asked us --

16 Q. -- to do?

17 A. -- to do. Yes.

18 Q. Okay.

19 A. Thank you.

20 Q. And I think just this goes to
21 another point you - you just noted, and this is
22 going back a couple of sentences. In the second
23 sentence you say:

24 "Responding only through
25 growth in the federal

1 implementation of Jordan's
2 Principle could have
3 unintended consequences such
4 as inadvertently shifting
5 funds and services away from
6 First Nations led programs,
7 thereby creating a greater
8 dependency on Jordan's
9 Principle." (As read)

10 A. Mm-hmm.

11 Q. And that's - that's what
12 you're talking about with your concern?

13 A. Yeah, we're taking it out of
14 other pro --yes. Yeah.

15 Q. And then you, I think continue
16 on that vein in 73 where you say in the middle of
17 the paragraph, this is just further down that page:

18 "Due to the current Tribunal
19 orders, Canada is not
20 permitted to redirect or
21 connect requesters to
22 existing programs or to their
23 first nations for more
24 fulsome supports." (As read)

25 A. Mm-hmm.

1 Q. "This approach does not ensure
2 or allow for individual
3 children to be connected
4 locally to services and
5 supports from which they may
6 benefit. It also limits the
7 ability of the ISC and First
8 Nations to work together to
9 address gaps identified
10 through Jordan's Principle,
11 which could instead be
12 resolved through existing or
13 new programs where
14 appropriate." (As read)

15 And - and again, just, I think
16 it's fair to say that that's not the only thing
17 that the Tribunal has been asking Canada to do.
18 Would you agree with me about that? When you're
19 talking about closing gaps and creating new
20 programs? The Tribunal has never said Canada can't
21 do that, have they? Or there's a - or - sorry. Is
22 your sense that the Tribunal is telling you that
23 they can't?

24 --- (cross-talking/indiscernible)

25 A. Sorry, yeah. So, based on

1 this is that we've been directed also and ordered
2 through the Tribunal to do a gaps analysis, for
3 lack of a better word, to capture it all here,
4 which - of the programming.

5 Q. And those gaps should be
6 closed once identified? Is that a fair thing to
7 say?

8 A. I think it's looking at
9 engaging with partners and how best to close those
10 gaps in a way that allows them to be in the
11 driver's seat and not Canada.

12 Q. Okay. And then - and then a
13 few paragraphs later, 79, you say - you say in the
14 second sentence here:

15 "Under the Tribunal's orders,
16 when ISC is the government
17 department of first contact,
18 ISC is prohibited from
19 administrative case
20 conferences or service
21 navigation to existing First
22 Nations service providers."

23 (As read)

24 And I was just wondering if you're
25 familiar with the idea that that navigation or

1 that, you know, I think we call it a warm handoff
2 in the context of the call centre. Like, that
3 could happen within the 48 hours or twelve hour
4 period or the one week period, depending on if it's
5 a group request. Is that - is that your
6 understanding? Or - or have you not, kind of dealt
7 in that level of --

8 A. I haven't dealt in that level
9 and I don't have examples of where that happens.
10 My understanding, and this is my interpretation for
11 sure, is that we need to, as first responder,
12 address this issue and not refer - refer back into
13 the community, even though community supports are
14 there. I, again, not having, you know, triage
15 cases first hand.

16 Q. If you've just got Dr.
17 Gideon's exhibit brief or the exhibit brief put to
18 Dr. Gideon, I should say, if we can go to Tab I.

19 If you open to the - there's the
20 page - the page that has the number 2 at the top of
21 it; it's kind of the tail end of paragraph 3, which
22 starts in the paragraph before, and it talks about
23 the Caring Society, the AFN, Health Canada, and
24 INAC officials reached an agreement in October of
25 2017. And the agreement was based on the following

1 principles. And then there's (b), case
2 conferencing.

3 A. I'm sorry --

4 Q. If you're not following,
5 that's - that's all right.

6 A. Is it the correct one?

7 Q. Yeah. Yeah. So, if you just
8 - if you look at --

9 A. Page 2?

10 Q. -- at paragraph 3 on the page
11 before.

12 A. Oh.

13 Q. I just --

14 A. Sorry, I thought I heard page
15 2.

16 Q. It's because of this --

17 A. I apologize.

18 Q. No, it - because - the - page
19 2 --

20 A. Yep.

21 Q. -- is where --

22 A. Okay.

23 Q. I was just trying to landmark
24 kind of what you --

25 A. Thank you.

1 Q. -- see in front of you.

2 A. Thank you.

3 Q. So. paragraph three starts on
4 page 1.

5 A. Okay.

6 Q. And - and then it has that -
7 paragraph 3 has that header about the agreement
8 between Caring society, AFN, and then at the time,
9 Health Canada, and INAC, given the configuration of
10 the department --

11 A. Right.

12 Q. -- in 2017, or departments, I
13 should say. And then on case conferencing, one of
14 the sub points in the agreement was:

15 "In cases where a service is
16 available, Canada can consult
17 within the specified timeline
18 for the type of case involved
19 with the First Nations
20 child's family, with the
21 First Nations community, or
22 with service providers in
23 order to fund the service."

24 (As read)

25 Do you see that? That's on -

1 that's on (z) sorry, on the next --

2 A. Oh.

3 Q. -- on the next page.

4 A. I see this. Yeah.

5 Q. And so it would be fair to say
6 that that's - that's not a kind of concept that's
7 been on - on your - at least your - your radar as
8 part of responding to this situation?

9 A. No, I mean, no, it hasn't
10 been. I haven't seen one where that's been able to
11 --

12 Q. And just in terms of other -
13 other strategies, are you aware that call agents at
14 the national call centre can provide requesters
15 with information on programs that exist in their
16 communities?

17 A. Yes, that I do know. They can
18 provide information.

19 Q. And you're aware that service
20 coordinators can link requesters up to existing
21 programs and communities?

22 A. I think that they can make
23 them aware, but I don't - I don't know if they can
24 necessarily hand them off into a community program.
25 That's just my level of awareness, though.

1 Q. Okay. And are you aware that
2 ISC sometimes approves bridge funding under
3 Jordan's Principle to give support while a child
4 transfers to an existing service?

5 A. I was not aware of that.

6 Q. Okay. And just wonder if
7 you'd agree that there are a number of existing
8 Tribunal compliant mechanisms for avoiding the
9 unintended consequence that you're talking about
10 here of undermining First Nations programs?
11 There's other ways to do it.

12 A. I -- can you --

13 Q. So, just that there - there
14 are ways of - of implementing the Tribunals orders
15 that are compliant, like handoffs before the
16 timeline, like the national call centre, service
17 coordinators, bridge funding, that would be a way
18 of avoiding the unintended consequence of
19 undermining the First Nations programming.

20 A. I think that it goes back to
21 who's -- I - I'm not sure if I'm understanding your
22 --

23 Sorry, I'm not sure I'm
24 understanding your question. I apologize. Just
25 the last part of it.

1 Q. No.

2 A. So, for undermining First
3 Nations control over the programming?

4 Q. Well, the --

5 A. Sorry.

6 Q. -- the unintended consequence
7 that you were - you were talking about in, I
8 believe it was 71.

9 A. Okay. Sorry.

10 Q. So, if you look in the fourth
11 line, you talk about, you know, or third line, you
12 talk about:

13 "Growth and federal
14 implementation of Jordan's
15 Principle could have
16 unintended consequences, such
17 as inadvertently shifting
18 funds and services away from
19 First Nations led programs,
20 thereby creating a greater
21 dependency on Jordan's
22 Principle." (As read)

23 A. Okay, sorry. Yes.

24 Q. And so just the - the
25 strategies that I was - I was calling them

1 strategies; that's my word - of, you know, having
2 handoffs within the Tribunal timelines or national
3 call centre agents giving information, service
4 coordinators establishing links, or using bridge
5 funding to existing services, that those would all
6 be ways of avoiding the unintended consequence?

7 A. I think it would be part of,
8 but it goes a little bit back as well to your
9 example, which I misinterpreted, but it leads to
10 this, where we would take from one piece of the pie
11 to pay for another piece of the pie. So, do you
12 know, with funding going into, let's say, an
13 educational system like a K to 12 system, as
14 opposed to funding. Like, if they need supports,
15 it's hard to know how much support do they need
16 because they may not have a line of sight because
17 it's going just through Jordan's Principle.

18 This goes back to kind of the
19 longer term approach, for sure, breaking down those
20 silos to ensure that there is information sharing
21 so that those requests can go into, let's say, the
22 education narrative to support the need for
23 additional funding or resourcing as appropriate,
24 because we're seeing it perhaps more in the
25 Jordan's Principle, but it doesn't necessarily

1 translate in the community level how much they need
2 on the ground to operate the schools and support
3 the children in school.

4 That was the unintended
5 consequences that I had thought through when I was
6 --

7 Q. But those - and another way of
8 addressing those unintended consequences is, I
9 think, as you're saying, to take a more
10 comprehensive look at how --

11 A. Yes, and that's happening
12 right now.

13 Q. Okay. And I'll have a couple
14 of questions - I'll have some questions about that.
15 I'm just wondering if you'd agree with me that you
16 haven't heard the Caring Society advocating to
17 respond to the exist - to the increased volume of
18 requests only by growing the size of the federal
19 government's response team?

20 A. Correct.

21 Q. So, the Caring Society has
22 been talking about other strategies --

23 A. Yes.

24 Q. -- as well?

25 A. Yeah.

1 Q. And - and you're aware the
2 Caring Society has been calling for a while for the
3 federal government to close gaps in its service
4 framework?

5 A. Certainly since I've been
6 here.

7 Q. And - and you're aware that
8 one of the solutions the Caring Society has
9 advocated as well has been greater community level
10 involvement in those services?

11 A. Yeah. Yes, I can. I - I have
12 heard Dr. Blackstock speak to that. Yeah. Sorry.
13 I'm --

14 MR. TAYLOR: I'm just noting,
15 Chair, we've been going for about an hour 15. I -
16 I'm likely close to the end, but it might be a
17 convenient time for - for the afternoon break. If
18 it's convenient for you. And of course for you,
19 (indiscernible).

20 THE CHAIR: I don't think you'll
21 mind if we take a break. We'll take 20 minutes.
22 But 20 minutes, we start in 20 minutes; not 20
23 minutes plus another five to settle in.

24 MR. TAYLOR: And - and just --

25 THE CHAIR: Okay?

1 MR. TAYLOR: -- just to flag, I -
2 I think I likely have, you know, 10 or 15 minutes
3 left. If - if I can have the Chair's indulgence
4 for a brief break just to confer with my colleagues
5 and check my notes before concluding. But I
6 believe --

7 THE CHAIR: Yes.

8 MR. TAYLOR: -- that'll be it --

9 THE CHAIR: Yes.

10 MR. TAYLOR: -- for me.

11 THE CHAIR: Of course.

12 MR. TAYLOR: Okay.

13 THE CHAIR: Okay.

14 MR. TAYLOR: Thank you.

15 THE CHAIR: Thank you. Yes.

16 --- RECESS

17 --- UPON RESUMING

18 THE CHAIR: Mr. Taylor, are you
19 ready?

20 MR. TAYLOR: I am. Thanks very
21 much, Chair.

22 THE CHAIR: Thank you.

23 MR. TAYLOR: Ms. Anderson, just to
24 start, Ms. St-Aubin and I talked a bit about the
25 call centre audits at the various points, and

1 there's - I think the evidence was there certainly
2 been some conducted at various point, random
3 sampling of calls and such. And just wondering if
4 we could have as a - as a request if there are any
5 reports from those random sampling audits. You
6 know, ideally, if we could do last two quarters of
7 '23-24, understanding we're just out of Q4, if Q2,
8 Q3 are what's possible, that's fine, too.

9 MS. ANDERSON: Yes. And I wonder,
10 could you just situate me into which paragraph --

11 MR. TAYLOR: Oh, yes.

12 MS. ANDERSON: -- of which
13 affidavit that was from? I believe that was Dr.
14 Gideon's?

15 MR. TAYLOR: Very possible.

16 We have paragraph 52 of, actually,
17 Ms. St-Aubin's.

18 THE WITNESS: Yeah, it's in mine,
19 too.

20 MR. TAYLOR: Yeah.

21 THE WITNESS: Yes.

22 MR. TAYLOR: 52(b)(i) --

23 UNIDENTIFIED SPEAKER: Yes.

24 MR. TAYLOR: -- talks about
25 "conducts call audits and provide timely coaching

1 to call agents." So, just those audit; if there's
2 reports coming out of those audits.

3 MS. ANDERSON: Yes. Thanks, we'll
4 - we'll ask for those.

5 MR. TAYLOR: Thanks very much.

6 MS. ANDERSON: Yep.

7 BY MR. TAYLOR:

8 Q. And just before we get back to
9 the area we were in, Ms. St-Aubin, I was just
10 wondering, have - have you heard of the Spirit Bear
11 plan?

12 A. Yes, I've heard of it.

13 Q. And have you reviewed it?

14 A. I reviewed it again as part of
15 my --

16 Q. Onboarding?

17 A. -- onboarding. Thank you for
18 the word. Yeah.

19 Q. Now, if we go back to your
20 affidavit, please, at paragraph 77. That's on page
21 21. Now, here you say that:

22 "ISC is leading a project to
23 systematically identify the
24 present overlaps, gaps,
25 and/or opportunities for ISC

1 funded community based
2 programs to provide similar
3 access to the most frequent
4 Jordan's Principle requests."

5 (As read)

6 A. Mm-hmm.

7 Q. You see that?

8 A. Yes, yes.

9 Q. And I think you may have
10 alluded to this earlier in evidence as something
11 that was ongoing or something that's --

12 A. That's right.

13 Q. -- happening; underway. Who
14 else is involved in that project?

15 A. So, that would be certainly
16 our folks from the CFRDO as - as --

17 Q. Chief Finance --

18 A. -- Chief Financial --

19 Q. -- Results Delivery Officer?

20 A. Thank you. Yes. As well as
21 the region supporting any information requests,
22 certainly from our case management systems from
23 that. So the IT part of that world --

24 Q. Right.

25 A. -- and the funding program.

1 Q. So, when you say ISC is
2 leading a project, it's - it's an ISC project?

3 A. Currently. And I - I mean, I
4 think it's still setting out parameters. And I
5 don't know how far it's come to date, but I know
6 that it is underway, and I don't know if there's,
7 let's say, additional contractors that will be
8 sought or consultants at this point, but the CFRDO
9 is leading that piece.

10 Q. Oh, so it's your colleague,
11 the CFRDO --

12 A. Yeah.

13 Q. -- who is in charge of that?

14 A. They are, yeah, they're --

15 Q. Okay. And that's Philip
16 Thompson?

17 A. Yes, that's correct.

18 Q. And - and is there an expected
19 completion date for that project?

20 A. I can't remember off the top
21 of my head, like, when it is going to be completed
22 by. I - I don't even know if I've mentioned a
23 completion date.

24 Q. No, it --

25 A. I know that it's planned, but

1 --

2 Q. At least my reading of your
3 evidence is that it's - it's - is leading and that
4 there are results that are coming. But I was just,
5 you know, in terms of a timeframe, is it next
6 month, next quarter, next year?

7 A. Oh, yeah. I don't have an
8 exact timeframe. I think - but it is, like I said,
9 a critical part of the way forward. We --

10 Q. But you don't know when - when
11 that critical part is going to land?

12 A. No, I don't know when it's
13 going to land at this point.

14 Q. So, yesterday, Chairperson
15 Marshall then asked Dr. Gideon in the context of
16 socioeconomic supports and issues of poverty, about
17 whether the department had undertaken a systemic
18 analysis of other programs and whether they could
19 bridge gaps. And she noted this is something that
20 - Dr. Gideon noted, this is something started in
21 2023 and that you might be able to speak to this.
22 Does this sound like the project you're referring
23 to --

24 A. Yeah.

25 Q. -- at 77?

1 A. That seems to align with that
2 --

3 Q. Okay. And do you know, are
4 there any analyses that have been produced to date
5 as part of this project?

6 A. I'm not sure if there has been
7 any that would have made it to my level. That's
8 not to say that others would not have seen it to
9 feedback or see where else do we need to go --

10 Q. Okay.

11 A. -- to be fair.

12 MR. TAYLOR: Ms. Anderson, I'm
13 wondering if we could have - two questions, I
14 guess, by nature of request. One is if - if
15 there's an anticipated completion date for this
16 project. And the second is if there's any, you
17 know, interim analyses that can be shared, if we
18 could have that produced.

19 MS. ANDERSON: Okay.

20 MR. TAYLOR: I'm not asking for a
21 creation of a new report if none exists, but if
22 there is a - an internal report that says what
23 we've learned so far, or the stage one or however
24 it's construed, it would be very helpful to see
25 that.

1 MS. ANDERSON: Yes, subject to
2 privilege.

3 MR. TAYLOR: Of course.

4 MS. ANDERSON: Yes.

5 MR. TAYLOR: Of course.

6 MS. ANDERSON: Thanks.

7 BY MR. TAYLOR:

8 Q. Now if we - if we back up a
9 paragraph to paragraph 76, still on the same page.
10 So, here you're noting that:

11 "Under the long term vision,
12 while continuing to cover
13 remaining gaps, Canada's role
14 would be more limited to
15 providing products, supports
16 and services where the
17 demands exceed the resources
18 and capacity of the First
19 Nation, or where an eligible
20 child does not have a
21 connection to community or
22 with the First Nations
23 Service delivery
24 organization." (As read)

25 You see that?

1 A. Yes, I do.

2 Q. Are you aware that the most
3 recent -- I should - let me just ask a question
4 first. Are you aware of, if I say the word deep
5 dive in terms of Jordan's Principle data, does that
6 mean something to you?

7 A. I know that we do deep dives
8 as part of our reporting processes, but beyond that
9 I don't.

10 Q. So, if I said it's kind of an
11 annual, more granular, look --

12 A. Yeah, I don't have --

13 Q. -- at statistics?

14 A. -- a in-depth knowledge of --

15 Q. Right.

16 A. -- what's in those dives.

17 Q. But it's a data exercise
18 you're aware of?

19 A. Yes.

20 Q. And are you aware that the
21 most recent deep dive exercise found that roughly
22 half of First Nations children - children accessing
23 supports, products or services through Jordan's
24 Principle live off reserve?

25 A. I - I'm not aware of the exact

1 number --

2 Q. Okay.

3 A. -- but I do know that a large
4 portion do. Like, the (indiscernible) the numbers.

5 MR. TAYLOR: And Ms. Anderson, I'm
6 wondering if - yesterday we had a question that was
7 more about the proportion for a certain kind of
8 services, but this one's a more general request.
9 If it'd be possible to have the updated statistics
10 for all requests for '22-23, '23-24 first three
11 quarters for the proportion of those coming off or
12 on reserve.

13 I think what we saw in the deep
14 dive we went through yesterday with Dr. Gideon was
15 the, the '21-22 figure. And so just specifically
16 that kind of data point for '22-23 and then
17 whatever you've got for '23-24, please.

18 MS. ANDERSON: So, just extending
19 the timelines on that initial request?

20 MR. TAYLOR: Yeah. And if we
21 could have it, you know, for '22-23 and '23-24 as
22 opposed to, you know, '22, to -- not just one
23 extended period; like, the two calendar periods.

24 And if it's helpful for your data
25 team, we would be looking at essentially the kind

1 of information that is being provided in table -- I
2 don't - now I don't have it noted. But it's the
3 table in the deep dive that breaks it down, you
4 know, on - on reserve, off reserve would be the one
5 we would be looking at if we could.

6 MS. ANDERSON: Yes.

7 MR. TAYLOR: Thank you.

8 BY MR. TAYLOR:

9 Q. So, think - thinking about off
10 reserve service requests, Ms. St-Aubin, would you
11 agree with me that there may be serious practical
12 challenges for First Nations who are looking to
13 offer programming off reserve? That may be an
14 obstacle they'd face?

15 A. Yeah. There are challenges,
16 for sure, when they're trying to deliver services,
17 all services off reserve. Yeah.

18 Q. To - to --

19 A. To communities.

20 Q. -- their officer of members.

21 A. Yeah. Yeah.

22 Q. And would you agree distance
23 is one such challenge? Members could be located
24 anywhere in the country?

25 A. Oh, yeah. Across the country?

1 Yeah. Sorry. Yeah.

2 Q. And population concentration
3 might be another - another challenge? They might
4 have pockets of members in different places of the
5 country?

6 A. Yes. They're dispersed.

7 Yeah.

8 Q. So, is it fair to say that
9 you'd - you'd agree that the individual request
10 element of Jordan's Principle will probably have to
11 play a significant part of any long term vision for
12 Jordan's Principle to support First Nations kids
13 living off reserve?

14 A. Yeah. Long term vision does
15 not have us coming out of this role at all because
16 of just that point. Yeah. Yeah.

17 Q. Now, in terms of thinking
18 about the - the - this broader vision with respect
19 to kind, of First Nations delivering the community
20 level services, would you agree with me there's a
21 difference between offloading a service to a First
22 Nations service provider and providing a properly
23 funded mechanism for local service delivery?

24 A. Yeah. I think that it's -
25 it's fair we don't want to offload. And - and I

1 would actually say that it's - it's developed a new
2 system that works for that particular community
3 specifically.

4 Q. And - and so you'd agree that
5 what Canada aims to do is provide properly funded
6 mechanisms for local service delivery?

7 A. That are built by the
8 community to meet the community context. Yeah.

9 Q. And you'd agree with me that
10 there will need to be some confirmation or
11 understanding that resources available to First
12 Nations are sufficient in order for First Nations
13 to deliver the services in - in the way they want
14 to, to close those gaps?

15 A. Correct. We see that in
16 health services; education services would be no
17 different.

18 Q. And so I think we can agree
19 it's important to set First Nations communities up
20 for success?

21 A. I agree.

22 Q. And would you agree that
23 setting First Nations communities up for success
24 includes providing them sufficient information to
25 exercise free prior and informed consent?

1 A. I -- can you give me an
2 example? Or specific context?

3 Q. Sure.

4 A. Sorry.

5 Q. So, that might include
6 information about current volume or current
7 projected volume for different kinds of services or
8 different, you know, members from their community
9 who are using services?

10 A. Okay. Yes. So, for sure, if
11 we're entering into that point in time where
12 community comes to us and wanting to take it on,
13 and it's happening now, actually, we have to talk
14 open about what the demand is in - in that
15 particular region and what we're seeing as trends
16 to help inform how they want to proceed forward for
17 success. Yeah.

18 Q. And it would include also
19 information about alternatives if the demand is
20 higher than expected?

21 A. Yes. And what would work for
22 them? Because again, it could be something that we
23 haven't even thought of that may be a better
24 solution.

25 Q. And it would also include

1 ensuring that once funding is approved, that
2 funding is provided in a timely way for them?

3 A. Oh, like for them to deliver?
4 Yes, yes. Yeah.

5 Q. Now, you mentioned you'd
6 reviewed briefly Dr. Blackstock's reply affidavit.
7 I was wondering if you noted the case of Keewatin
8 Tribal Council, which was noted there?

9 A. Yes. KTC. Yes.

10 Q. And - and you're aware KTC is
11 currently in a bridge financing situation for 7
12 million. They were approved for Jordan Principle?

13 A. Yes. I've seen the request
14 for additional funding come through.

15 Q. Yeah. And that's an important
16 one; those kinds of requests will be very important
17 to deal with in a timely way if - if this model is
18 --

19 A. So --

20 Q. -- is adopted?

21 A. -- that's a different model
22 than what's happening now; that is a contribution
23 model through a third party organization to deliver
24 under the current context. What I'm looking at, a
25 long term vision is actually to not be in that, so

1 it could look something very different. But the
2 funding would always - we would need to support
3 them.

4 And this is where I think I even
5 said where it goes beyond the - the ability to meet
6 the needs. The government of Canada would need to
7 step in --

8 Q. Right.

9 A. -- and provide those supports.

10 Q. But - but whether it's the
11 current contribution agreement model or the - the -
12 the new model that might be developed, getting the
13 funds to the First Nations so they can develop the
14 service and not be in a position of bridge
15 financing, that's going to be an important goal?

16 A. Correct. Yeah. To get out of
17 that space.

18 Q. Is that something that needs
19 to change about at least whatever circumstances are
20 leading to that --

21 A. We need to --

22 Q. -- (indiscernible)?

23 A. Exactly. We need to work
24 together on what makes sense, certainly even in
25 this context.

1 Q. And would you agree with me
2 that to introduce the - the First Nation service
3 delivery mechanism, this kind of broader approach
4 that - that you're looking at, ISC is going to need
5 to seek funding and authority from other parts of
6 the federal government?

7 A. Oh, I can't -- I don't know.
8 I'm not sure, because we haven't really entered
9 into those kinds of conversations yet. This is
10 something we do want to take on. And if it's - if
11 it is required, then that is my job, to go and try
12 and seek that additional funding and any authority
13 is required.

14 Q. So, as the - as - well, tell
15 me if you disagree with this characterization, but
16 as you know, as the senior executive who's
17 responsible for - for Jordan's Principle, are you
18 anticipating you might have to go to cabinet or to
19 the Department of Finance to ask for changes in
20 order to do this?

21 A. I think it would depend on the
22 type of change. But if that's something open,
23 then, yes, of course I --

24 Q. I'm just - not asking for --

25 A. Sorry.

1 Q. -- any content in terms of
2 cabinet confidence.

3 A. Oh, yeah. No, no.

4 Q. Just in terms --

5 A. But as - as --

6 Q. -- of having you --

7 A. Oh, sorry.

8 Q. No, no, it's okay. I just
9 noticed Ms. Anderson's hand and I just wanted to --

10 MS. ANDERSON: When I hear
11 cabinet, I hear --

12 BY MR. TAYLOR:

13 Q. No. Not anything that'll
14 happen while once you get there, but it's a place
15 you may have to go?

16 A. Oh. And that is always
17 something that we need to think through when we're
18 having these types of conversations.

19 Q. And are you - are you aware
20 that the '23-24 ISC departmental plan has set out
21 that Jordan's Principle funding is set to sunset at
22 the end of this fiscal year?

23 A. Yeah, that's just part of
24 normal budgetary processes. It's every year
25 because we have a fixed amount that we have to go

1 back for off cycle requests for additional funding
2 every year.

3 Q. And so there will need - there
4 needs to be funding after this sunset for this to
5 all continue and for the new vision to get into
6 place?

7 A. Yeah, there's - there's no
8 decrease. Like, it - this is just, again, part of
9 normal budgetary process, where we come back
10 through our - our supplementary estimates and off
11 cycle requests.

12 Q. And that's because the needs
13 of the community are continuing and --

14 A. Oh, yes. Yes.

15 Q. -- and there needs to be a way
16 to meet the needs?

17 A. Yes.

18 Q. Okay.

19 MR. TAYLOR: Chair, I wonder if I
20 might just have a couple minutes indulgence, just
21 to check my notes and check in with my colleagues?

22 THE CHAIR: Yes. How - how long
23 do you need?

24 Q. Oh, no more than five. And it
25 may be a quick five, like yesterday.

1 THE CHAIR: Okay, so we'll break
2 for five minutes. Don't go very far, please.

3 MR. TAYLOR: Thank you.

4 --- RECESS

5 --- UPON RESUMING

6 MR. TAYLOR: We have a very tight
7 five minutes, Chair. Thanks very much.

8 Ms. St. Aubin, merci beaucoup.
9 Thank you very much. Those are my questions.

10 THE WITNESS: Thank you for those
11 questions.

12 THE CHAIR: Thank you very much.
13 Would you like to mark your documents as exhibits?

14 MR. TAYLOR: Thank you very much
15 for that, Madam Chair. I would have forgotten.
16 So, if it would be possible to mark - I think we
17 have four items to mark.

18 THE CHAIR: Yes.

19 MR. TAYLOR: There would be the -
20 the Volume 1 of the (indiscernible) or the first
21 PDF, if you're working from computer. And then
22 there's the Volume 2 of the provincial standards,
23 and then there's the - the loose email, and the -
24 the child - UNCRC document. That would be the four
25 exhibits if we could have those, please.

1 And just for clarity, Ms. Dubois,
2 would those be 3, 4, 5, 6 or 1, 2, 3, 4?

3 CLERK REGISTRAR: Those would be
4 3, 4, 5, 6.

5 MR. TAYLOR: Thank you.

6 CLERK REGISTRAR: So, the Caring
7 Society exhibits brief Volume 1 is Number 3.

8 The Caring Society exhibit, Volume
9 brief Number 2 is Exhibit 4.

10 Sorry, just a moment.

11 Okay. The -- sorry, just call
12 them up here.

13 So, the United Nations Convention
14 on the Rights of the Child is Exhibit Number 5.

15 And the loose emails, five pages,
16 starting with the email dated October 19, 2023, is
17 Exhibit Number 6.

18 THE CHAIR: Thank you.

19 Mr. Wuttke for the Assembly of
20 First Nations. Or --?

21 MS. KASSIS: Good afternoon.
22 Bonjour --

23 THE CHAIR: Bonjour.

24 MS. KASSIS: -- Madam

25 (indiscernible). My name is Lacey Kassis and I'm

1 appearing on behalf of the Assembly of First
2 Nations this afternoon.

3 THE WITNESS: Pleasure.

4 CROSS-EXAMINATION BY MS. KASSIS:

5 Q. Bonjour, Madame St-Aubin. I'm
6 hoping that you can assist us with some questions
7 here. Just to move this matter forward. I don't
8 expect to take too much of your time. I know it's
9 been a long day for you this afternoon, so I thank
10 you.

11 All right. Just getting started
12 here. So, in addition to your affidavit, Ms. St-
13 Aubin, I'll also make some references to the
14 amended affidavit of Craig Gideon (ph) that was
15 affirmed on March 22, 2024, the affidavit of
16 Brittany Matthews (ph) that was affirmed on January
17 12, 2024, Doctor Black - and Dr. Blackstock's
18 affidavit that was affirmed on January 12, 2024.

19 Have you read Craig Gideon (ph),
20 Brittany Matthews (ph), and Dr. Blackstock's
21 affidavits?

22 A. Yes, I have.

23 Q. Great. And are you familiar
24 with the contents of those affidavits?

25 A. To a degree, yes, I am.

1 Q. Okay. And Ms. St-Aubin, the
2 Caring Society pointed you to Ms. Buckland's
3 evidence earlier this morning on timelines.

4 A. Correct.

5 Q. Would you agree that at the
6 time, in February 2017, there were significantly
7 less Jordan's Principle request when compared to
8 today?

9 A. Oh, yes, I agree.

10 Q. Okay, thank you. Mr. Taylor
11 also took you to standards under various youth
12 protection acts and policies in Volume 2 of their
13 exhibits - of the Caring Society's exhibits. Would
14 you agree that child protection issues are very
15 different than Jordan's Principle requests?

16 A. Yes.

17 Q. Right. So, let's say, for
18 instance, you would agree that if a child is being
19 abused in the home, that quick intervention is
20 warranted in this circumstance, and that Jordan's
21 Principle would not be the appropriate pathway then
22 to address it?

23 A. Correct.

24 Q. Okay, thank you. Now, turning
25 to your affidavit, Ms. St-Aubin, at paragraph - at

1 paragraph 6, you note that there has been an
2 increase of Jordan's Principles requests - that's
3 at paragraph 6. You note that:

4 "The increase can be
5 attributed to social media
6 posts and a greater
7 understanding of the
8 program." (As read)

9 A. Um --

10 Q. Is that an accurate
11 reflection? So, if your --

12 A. Can you let me --

13 Q. No problem.

14 A. Which --

15 Q. So - so it's at paragraph 6 of
16 your affidavit, Ms. St-Aubin, So, I'll just give
17 you a few moments there.

18 A. Okay, thank you. Yes. Yeah.

19 Q. Okay, great.

20 A. I see where you're talking.

21 Q. So, I'll proceed then. You
22 note that there has been an increase of Jordan's
23 Principle requests. Specifically, you note that:

24 "The increase can be
25 attributed to social media

1 posts and a greater
2 understanding of the
3 program." (As read)

4 Is that an accurate reflection of
5 your evidence?

6 A. Yes, it is.

7 Q. Okay, thank you. Now, turning
8 to Exhibits F and G of Craig Gideon's affidavit
9 now, and I'll give you a few moments.

10 A. Okay.

11 Q. So, Exhibits F and G, there
12 are two social media posts that are included as
13 exhibits. Would these be some examples of such
14 social media posts that you have come across in
15 administering Jordan's Principle?

16 A. I certainly have seen the one
17 under G; personally, I've seen that on my own
18 social media. And then the fact sheet, I - I'm not
19 sure I've seen this one specifically come through
20 my social media, but I've seen the fact sheet just
21 in - in the office, in an office context.

22 Q. Okay, thank you. And with
23 respect to Exhibit G of Craig Gideon's affidavit,
24 the social media post notes that the Wikwemikong
25 Health Authority was assisting band members with

1 applying for Jordan's Principle services. Are you
2 aware of other such Jordan Principles drives that
3 are taking place in other parts of the country?

4 A. The First Nations Health
5 Consortium in Alberta is another one that is very,
6 very active in supporting communities and have -
7 has reached out even beyond Alberta to help out in
8 British Columbia, for example.

9 Q. Okay, thank you. Now, would
10 it be accurate to state that the complementary work
11 by First Nations organizations in assisting First
12 Nations children and families accessing Jordan's
13 Principle services is in fact benefiting First
14 Nations children?

15 A. From what I've heard
16 anecdotally, we do see quicker results in accessing
17 the services that are being requested and more
18 information being shared because of a level of
19 comfort versus having to share with government
20 employees, which I understand.

21 Q. Okay, thank you. Would it be
22 accurate to say that the number of Jordan's
23 Principles requests continue to increase every
24 year?

25 A. I think that's an accurate

1 assumption, yes.

2 Q. Thank you. Can we expect that
3 the number of Jordan's Principle requests for 2023-
4 24 be higher than the previous fiscal year?

5 A. Given the recent trajectory
6 since - certainly since the pandemic, we are
7 anticipating that, yes, it will.

8 Q. Okay, thank you. And are
9 there other factors contributing to the increase in
10 Jordan's Principle requests, such as gaps in other
11 programs and services, accessibility of applying
12 through a service coordinator, et cetera?

13 A. Are there other gaps in
14 accessing?

15 Q. Yes. Are you aware of any
16 gaps?

17 A. In acc -- yes.

18 Q. Accessing services.

19 A. Is there any other gaps in
20 accessing services via Jordan's Principle, or via
21 programs? I'm sorry, I'm - I just misunderstood
22 your question.

23 Q. Programs.

24 A. Are there any other gaps in
25 accessing services and programs that we're seeing

1 that are --

2 I'm just trying to take -- I'm
3 sorry. I apologize.

4 Q. No, no problem.

5 A. I'm just --

6 Q. Please take your time.

7 A. -- trying to think about
8 examples of where something - where there are
9 existing programs and we're seeing requests for. I
10 think, supports with regards to food security. And
11 I know that there's some work happening in that
12 space; I don't know that area enough, but that's
13 certainly something that I've seen as an increased
14 gap, because it's not a formal federal program.
15 And of course, rent - rental supports and a lack of
16 access to accommodations.

17 I don't know if -- I hope that
18 answers your question. I'm just trying to think
19 federally, what's in --

20 Q. No problem.

21 A. -- the parliamentary --

22 Q. Yeah, no. No, that's fine.

23 Thank you.

24 So, now, turning back to your
25 affidavit, Ms. St-Aubin, at paragraph 12,

1 specifically,

2 A. Okay.

3 Q. You note that:

4 "For the first three quarters
5 of the 2023 and '24 fiscal
6 year, 62 percent of requests
7 were determined within 15
8 days, and 70 percent were
9 determined within 30 days."

10 (As read)

11 For the remaining 30 percent of
12 requests not processed within 30 days, what is the
13 current processing timeline?

14 A. I don't have that information
15 on me, unfortunately, to speak to those 30 - that
16 30 percent.

17 Q. Okay, thank you.

18 Now, does ISC track any adverse
19 consequences or impacts on First Nations children
20 for those services not processed within the 30
21 days?

22 A. I'm - unfortunately, I'm not
23 aware. I'm unable to answer that.

24 Q. Okay. Thank you. The Caring
25 Society has highlighted a number of interventions

1 they made on behalf of Jordan's Principle
2 requesters. Are you aware that the AFN has made
3 similar interventions on behalf of requesters?

4 A. No, I was not aware of that.

5 Q. Okay. So, now, turning back
6 to your affidavit again, Ms. St-Aubin, this is at
7 paragraph 17 now. You note that:

8 "The Caring Society's
9 interventions amounted to
10 less than 0.167 of the total
11 amount of individual requests
12 processed." (As read)

13 Is it your evidence that a crisis
14 in Jordan's Principle does not exist?

15 A. I think it depends on what you
16 determine to be a crisis in Jordan's Principle. I
17 think that there are some - some issues that we
18 need to work on and do better in regards to
19 timeline compliance and pay - payment issues. But
20 I'm not sure the crisis to - that you're - like,
21 what you're defining as a crisis.

22 Q. Hi. Sorry. Thank you. I
23 guess what we're asking then is, you know, you're
24 suggesting that there's less than one percent of
25 cases or that the percentage is less than one

1 percent. Are you then suggesting that there is not
2 a significant problem that exists?

3 A. I'm not suggesting that.

4 Q. Okay.

5 A. I think that that number is
6 just specific to the Caring Society's
7 interventions, which we do appreciate having
8 because we are only better for - when - when we
9 hear about these issues. But that just reflects
10 that, not the bigger issue with Jordan's Principle.

11 Q. Okay, thank you. Is it
12 accurate to - to assume that some families who did
13 not contact the Caring Society or the AFN would
14 face similar hardships in not being able to contact
15 officials on the status of their applications,
16 and/or encounter delays in accessing services for
17 urgent requests that would have adverse impacts on
18 First Nations children?

19 A. Again, I can't speak to that
20 level of detail. That would be something probably
21 more within the regional level of information.
22 Unfortunately, I just don't have a - that level of
23 - of granularity.

24 Q. Okay, thank you. Now, turning
25 again to your affidavit, Ms. St-Aubin, at paragraph

1 20, specifically, you state that:

2 "Some of the Caring Society's
3 examples of problems
4 individuals encounter are
5 either incomplete in the
6 information provided or do
7 not reflect steps taken."

8 (As read)

9 You further note at paragraph 22,
10 steps taken to address these concerns. Would these
11 outstanding requests in the examples reference
12 cases eventually be approved? Should the Caring
13 Society not have intervened on behalf of those
14 families?

15 A. I can't make that type of
16 assumption or hypothetical, I suppose, because
17 there were some that partially approved, some are
18 in the process of denials. So, I can't presume
19 that it would not have already or have been through
20 in a point of approval with that intervention.

21 Q. Thank you. And now turning to
22 paragraph 96 of Dr. Blackstock's affidavit. And
23 I'll give you a few moments.

24 I'm so sorry. You can disregard
25 that; I've omitted that question there. Pardon me.

1 Okay, so now turning back to your
2 affidavit, Ms. St-Aubin, specifically at paragraph
3 46, you state that:

4 "Measures proposed by the
5 Caring Society could cause
6 harm to First Nations
7 children. So, for example,
8 the request for an order that
9 all Jordan's Principle
10 recipients can classify their
11 requests as urgent." (As
12 read)

13 Please turn now to Exhibit 12(A)
14 of the Matthew affidavit, Ms. Brittany Matthews
15 (ph).

16 A. I think --

17 Q. Do you --

18 A. -- you said --

19 Q. -- have a copy?

20 A. -- exhibit. I don't have the
21 exhibits, no.

22 UNIDENTIFIED SPEAKER: What - what
23 is it?

24 MS. KASSIS: 12(A). Thank you.

25 --- CONVERSATION IN BACKGROUND NOT TRANSCRIBED

1 A. I have it now.

2 Q. Okay, thank you. So, this
3 example relates to someone's attendance in a
4 potlatch, and the request was marked as urgent.
5 From the email string, would you agree that first -
6 that the first email request for reimbursement was
7 dated May 26, 2023?

8 A. So, I - I'm not a part of the
9 conver -- like, this was prior to my, or just
10 around the time I joined, so I don't have - I don't
11 know where it is in the email.

12 Q. It should be the last page.
13 If you wanted to check.

14 A. The -- okay.

15 MR. TAYLOR: Madam Chair, just
16 while the witness is looking for the - the - the
17 part of the document, I hesitate to couch this in
18 the nature of an objection; maybe it's just a
19 request for guidance, or at least for the - the
20 Chair and Member (indiscernible) view on this, but
21 urgency is a place where the Caring Society and the
22 AFN are not aligned in interest on the motion, at
23 least our understanding is they're not supporting
24 that portion of the relief sought. And there's
25 certainly case law in Alberta, Ontario, I believe,

1 Nova Scotia, that leading questions to witnesses
2 that are aligned in interest with a party can cause
3 concerns. And so just if there's any guidance from
4 the - the Chair on leading questions in areas where
5 the AFN is disagreeing with the Caring Society for
6 this witness.

7 THE CHAIR: You're raising this in
8 the context of cross examination --

9 MR. TAYLOR: Exactly.

10 THE CHAIR: -- which is a broad --

11 MR. TAYLOR: A broad --

12 THE CHAIR: -- right.

13 MR. TAYLOR: A broad right.

14 Although there is - there is authority in some
15 jurisdictions that where a party is cross examining
16 a party with whom they are related or aligned in
17 interest, which at least we understand - understand
18 the AFN and Canada are on the point of urgency,
19 that caution - caution can be warranted with
20 respect to leading questioning in those
21 circumstances.

22 And so, like I said, I'm
23 hesitating to couch it in the nature of an
24 objection. Just wondering if there's any guidance.
25 If the guidance is that the cross examination

1 proceed with leading questions, that's understood.
2 But just - just to raise it as a procedural point,
3 as the examination is continuing.

4 THE CHAIR: Well, you would have
5 to raise this authority and I would have to confer
6 with my colleague.

7 MR. TAYLOR: Okay. Thank - thank
8 you for the direction, Chair.

9 MR. WUTTKE: I can also advise
10 that the AFN does not agree with Canada's
11 definition of urgency. We have our own views on
12 urgency that's apart from both Canada and the
13 Caring Society.

14 THE CHAIR: Thank you. And in
15 response to what Mr. Taylor has said, do you have
16 other views to share?

17 MR. WUTTKE: We do have. I mean,
18 it will be in, of course, our - our written
19 submissions later on, but we definitely, when it
20 comes to what Mr. Taylor's referencing, as you
21 know, case law, haven't seen those case law. But I
22 would argue that our views of what is urgent and
23 what should encapsulate urgency will not
24 necessarily be what Canada views as urgency, and it
25 will not be what the Caring Society's views as

1 urgent, either. We definitely do have our own
2 views on that subject matter. So, I wouldn't couch
3 it as us supporting Canada's position. We clearly
4 are not supporting Canada's position on that
5 subject matter.

6 THE CHAIR: I understand. But
7 just to speak about the fact that he's saying that
8 the questions might be leading in a certain way --

9 MR. WUTTKE: Mm-hmm.

10 THE CHAIR: -- do you have
11 anything to add on this?

12 MR. WUTTKE: No, I don't. I mean,
13 we are entitled to cross examinations and we are
14 testing the submission - I mean the evidence of the
15 affiant.

16 THE CHAIR: Thank you.

17 MR. TAYLOR: If it's helpful,
18 Chair, I - I tried to couch this as a - as a
19 commentary as opposed to objecting to a specific
20 question of Ms. - Ms. Kassis', and so I - I'm
21 content to simply raise an issue if - if there is
22 an objection to a question. And I - I think I've
23 taken the direction from the Chair, and also,
24 frankly, Mr. Wuttke's helpful clarification of the
25 AFN's position. And I'm content to - to leave my

1 comment as a comment. And if it turns into an
2 objection, I'll - I know where to find the button
3 on my microphone.

4 THE CHAIR: Okay, thank you.
5 That's helpful.

6 MR. TAYLOR: Thank you.

7 MS. KASSIS: Thank you, Mr.
8 Taylor.

9 BY MS. KASSIS:

10 Q. All right, so continuing on,
11 would you like me to repeat that first half there?
12 Ms. St-Aubin, or are you okay to proceed?

13 A. Yes, if you could just repeat
14 it, just because I can't --

15 Q. No problem.

16 A. -- see the date in reference?
17 I'll - perhaps I'm looking at this evidence wrong.
18 I went to the back and there's a receipt.

19 Q. Right.

20 A. Is that the one you're talking
21 - like, a TD direct deposit thingy? I don't know
22 if I have the right --

23 Q. No.

24 A. -- page or --

25 Q. No, I was referring to Exhibit

1 12(A) of Ms. Brittany Matthews' (ph) affidavit.

2 A. 12(A)? I'm just trying to see
3 where -- do you have the page, I suppose?

4 UNIDENTIFIED SPEAKER: Page 21.

5 BY MS. KASSIS:

6 Q. It's page 21, if that's
7 helpful.

8 A. Okay, that's great. Lots of
9 pages today.

10 Q. Yes, thank you.

11 A. Okay.

12 Q. All right, so this example
13 relates to someone's attendance in a potlatch, and
14 the request was marked as urgent. And from the
15 email string, you would agree that the first email
16 request for reimbursement was dated May 26, 2023?

17 A. Yes.

18 Q. Okay, thank you. And now, in
19 this case, a hotel was approved for one night, but
20 the client wanted to stay for an additional two
21 days as the ceremony was continuing. This raised
22 some questions by its personnel on May 30, 2023.
23 The request was finally approved on June 2, 2023.
24 The email string ends on August 3, 2023.

25 Would you agree that this request

1 took too much time to process?

2 A. I think that - and this is
3 just - I was not a part of this conversation; I
4 think I hadn't really been onboarded fully at that
5 point in time. I do know that there was many steps
6 and it did take a long time. There was, I think,
7 even a letter that was sent in an apology for this
8 taking as long as it did with - if I remember
9 correctly.

10 Q. Okay, thank you. And
11 secondly, in your view, was this matter truly
12 urgent? Was this an urgent request, in your
13 opinion?

14 A. I can't make that
15 determination. I don't have intimate knowledge of
16 the request. And again, it's not -- I don't feel
17 comfortable making that determination.

18 Q. And finally, could another
19 more pressing and urgent request fall through the
20 cracks while you were dealing with the requester
21 and the Caring Society? Do you think that that was
22 a possibility or that could have been a
23 possibility?

24 A. Again, if a request were
25 coming in - because requests come in at such a

1 large volume over the course of - certainly over
2 the course of this timeline, there - there - there
3 may have been. I can't speak to that level of
4 granularity, though.

5 Q. Okay, thank you. Now, turning
6 to Exhibit A of your affidavit. I'll give you a
7 few moments.

8 A. Okay.

9 Q. Would you agree that most of
10 the 167 interventions by the Caring Society were
11 deemed to be not urgent by ISC officials?

12 A. I think that's a fair
13 statement, yes.

14 Q. And are you aware that the
15 Spirit Bear plan contains many elements that are
16 beyond Child and Family Services and therefore fall
17 outside of the four corners of this complaint and
18 therefore the Tribunal may not have jurisdiction
19 over it?

20 A. Again, I can't speak in great
21 detail to the Spirit Bear, but that is my
22 recollection of when I read the plan.

23 Q. Okay, thank you. And at
24 paragraph 65 in your affidavit, you describe the
25 rate of staff overturned per year. And what

1 impacts to the Jordan's Principle result from a
2 staff leaving these positions?

3 A. The results of when staff
4 leave Jordan's Principle?

5 Q. Correct. Yeah.

6 A. From an operational
7 perspective, it's a bit of a scramble to ensure
8 that we can continue to attempt to meet the
9 timelines, but it has a, I would say, an emotional
10 impact, mental health impact on colleagues because
11 they're very invested in each other and they want
12 to keep people there who know the work - the hard
13 work that goes into - to delivering.

14 Q. Absolutely. And so how long
15 does it take approximately for a replacement
16 employee to get up to speed on the file? So, if
17 they undergo training, how long would this training
18 take before the new employee is able to begin
19 processing requests?

20 A. Again, I think it depends on
21 the individual. Certainly we go up to four to six
22 months, let's say, for training. The determination
23 is do they have experience in Jordan's Principle?
24 Are they aware? Are they Indigenous or work in
25 Indigenous communities? I think there's many

1 factors. I think it - it takes time. I don't
2 think it's a quick thing to learn because of the
3 complexities in the nature of the orders and having
4 to understand them.

5 Q. Thank you. And at paragraph
6 70 of your affidavit, you state that:

7 "Jordan's Principle would
8 benefit from greater First
9 Nations control. However,
10 the current application of
11 Back To Basics has created
12 prohibitions to connecting
13 individuals to community
14 level programs." (As read)

15 Can you provide more context to
16 these statements?

17 A. There has been, since my time
18 coming into the branch in my role has been focused
19 on increased determination and transfer of health
20 services predominantly. And this is very
21 collaborative, co-developed in a way that is a
22 reciprocal partnership. So, unlike Jordan's
23 Principle, we feel a little bit more bound on how
24 much we bring leadership into this without being
25 seen as trying to add - abdicate our required role,

1 legal role.

2 In addition, the ability to fund,
3 let's say, for example, housing and providing
4 leadership and community with housing dollars to
5 determine the needs of their communities because
6 they - they know the realities of the communities,
7 we're unable to redirect into - into housing on
8 reserve via the community.

9 So, that's, I would say that is
10 probably my largest example of where we struggle to
11 be able to - to redirect into where there are
12 resources being led and determined by leadership
13 and community.

14 Q. Thank you. With regards to
15 Canada's cross appeal, it seeks a number of orders
16 allowing referrals to First Nations administered
17 programs. Can you identify how ISC envisions this
18 operating and how long or, sorry, how it will
19 address the backlogs?

20 A. How we envision it operating
21 is certainly in partnership with - and this goes
22 back to the need to break down those silos -
23 looking at where ISC is already investing in
24 systems in community that folks may not be aware
25 of. So, based on a request that comes in, we would

1 be able to - and it is happening in pockets - but
2 certainly in areas such as housing, be able to
3 connect the decision makers in the community with
4 housing requests that come in and allow them to
5 have the full understanding and suite of what's
6 being requested that we see that they may not see.

7 And I - I talk a lot about
8 infrastructure, just because, again, that is, we've
9 tried to transfer that control and determination
10 into the hands of communities.

11 The other area I would see is also
12 around aligning programming. So, we have education
13 and we're exploring this, actually, with some of
14 the requests through the Assembly of Manitoba
15 Chiefs taking on Regional Education Agreements. We
16 are also exploring what would that look like with
17 Jordan's Principle, because we do see a lot of
18 educational supports requests coming in. So, by
19 aligning them together, it allows decision makers -
20 First Nations decision makers - to - to best place
21 those supports and try and avoid, perhaps band aid.
22 And it also allows Canada to come back to - to
23 parliamentarians through our - our own internal to
24 seek additional funding if required, because it's a
25 better systems approach.

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1 I hope that answers your question.

2 Q. Yes. Thank you. And what
3 risks has ISC identified with such an approach?

4 A. The risk through such an
5 approach is being unable to meet the timeline which
6 we're struggling to be compliant in the timelines.
7 I think there is a fear at the community level,
8 too, around indemnification or potential
9 litigation. And - and so I think that's a little
10 bit of a barrier, although we're trying to - what
11 does that even look like? Again, we're not even
12 sure ourselves. But that is certainly two - two
13 big flags that have been raised on the part of - of
14 certain First Nations leadership that I've met
15 with.

16 Q. Hi. Sorry. Is it to your
17 knowledge that First Nations administering
18 education programs, do they come across those same,
19 I guess, fears or issues that you describe?

20 A. I think with education it's
21 much clearer around, certainly around the legal
22 risk that they take on. Assuming that that doesn't
23 seem to be an issue, it's actually pretty - pretty
24 broadly covered. The only where there would be
25 commonalities is always around capacity, which is

1 something that Canada would - would still need to
2 continue to be a part of to ensure that communities
3 have the supports they need in place to be able to
4 be successful in implementing them.

5 Q. Right. And thank you. Should
6 referrals to First Nations administered programs
7 become possible, how does ISC propose to support
8 additional capacity needs for First Nations to
9 begin processing Jordan's Principles requests?

10 So, if there's not capacity
11 funding, as you just mentioned, funding for First
12 Nations, how realistic would it be for First
13 Nations to take on a greater role in processing
14 Jordan's Principle requests?

15 A. So, currently, even within,
16 and I'm just taking my health transformation lens,
17 and we're looking for health transfer, there are
18 always mechanisms to return for capacity when it's
19 going to - to promote and accelerate ISC's mandate
20 of transfer and meeting self determination in the
21 community. Once a community, if a community
22 approaches us to say we would like to take a
23 greater role on, we'd like to take on these
24 programs, we'd like to be able to take this service
25 to -- then we would need to say, how much is it

1 going to cost you? What does it look like? What
2 are the systems needs? And then be able to come
3 back to parliament with something like - or fin -
4 Department of Finance for like, an off cycle
5 request, which we - we do use as one of our tools
6 in regards to accessing additional funding.

7 Q. Thank you. And in relation to
8 a greater First Nations role, Jordan's Principle is
9 premised on the government or department of first
10 contact to pay for the service so that an
11 individual doesn't have to pursue multiple avenues
12 to access the supports they need. This would
13 effectively amount to administrative case
14 conferencing. And how do you envision that ISC
15 overcome the current prohibition by CHRT orders on
16 case conferencing?

17 A. I'm - I don't feel very
18 comfortable or I don't feel comfortable in
19 addressing the case conferencing, but I would say,
20 because it's the first point of contact, some of
21 the areas we're moving towards is bringing a
22 trilateral table so that the province is there or
23 the terrorist government is present with First
24 Nations leadership, so that we try and do it in a
25 more holistic, collaborative way.

1 I don't know if -- that doesn't
2 really address our case conferencing issue. I
3 apologize; I don't - I'm probably a bit tired. I'm
4 struggling a little bit on that one.

5 Q. Okay, thank you. And Mr.
6 Taylor asked you a question about First Nations
7 citizens living in different parts of Canada, for
8 instance, off reserve. Do you agree that First
9 Nations have long advocated and are capable of
10 offering services, including Jordan's Principle, to
11 their citizens, whether they be on or off reserve?

12 A. Yes, we're doing it now
13 already. I've seen it in labour market
14 development. Where I came from at ESDC we have
15 labour market agreements where First Nations
16 communities also provide services to their - their
17 citizens who have to go off reserve to access
18 labour market training and labour market
19 participation.

20 Q. Thank you. Canada's motion
21 also seeks to exempt First Nations from any
22 procedural orders of the Tribunal. Is it possible
23 that a complete exemption could potentially create
24 a double standard for access to services? Should
25 First Nations be able to offer services quicker

1 than ISC?

2 A. I can't - I can't assume or
3 presume what could be the outcome. I would say,
4 though - and this is - as part of the cross motion,
5 and I've said this before - it's a whole in my
6 mind, when we're seeking these types of changes to
7 the orders, I - I look at it as all four of the
8 components and not just one on its own. And hoping
9 that through conversations and negotiation and co-
10 development and all of that great consultative
11 work, that that would be avoided.

12 Q. Thank you. And while the AFN
13 supports greater First Nations control over
14 Jordan's Principle, is Canada prepared to work with
15 the AFN, the Chiefs of Ontario, and NAN as
16 representative rights holders to further study this
17 matter and develop solutions for the Tribunals
18 consideration?

19 A. I - I can't necessarily -- do
20 you mean within the context of like, JPOC, or as a
21 separate -- I - I'm just trying to understand the
22 mechanism, what you're seeking a response to.

23 Q. As parties to the table to the
24 long-term reform negotiations.

25 A. So, I'm not a party to the

1 negotiations; that's a - a different group that
2 leads it, I'm more on the operational side. I
3 don't know if it's being discussed in the context
4 of negotiations. I mean, Canada's always happy to
5 work with partners on solutions.

6 Q. Okay. Thank you.

7 MS. KASSIS: Those are all of my
8 questions this afternoon. Thank you. Merci.

9 THE WITNESS: Thank you.

10 THE CHAIR: Thank you very much.

11 Redirect? Do you need a break?

12 Are you --

13 MS. CLARKE: No, I think we're
14 safe to say no redirect today.

15 THE CHAIR: No redirect?

16 MS. CLARKE: No redirect.

17 THE CHAIR: Okay. Thank you very
18 much.

19 So, I - I must thank you for this
20 long day for you.

21 THE WITNESS: Great.

22 THE CHAIR: You've been great.

23 It's not easy. So, you're dismissed. Thank you
24 for being here.

25 THE WITNESS: Well, thank you for

1 having me here. And thank you very much for the
2 very thoughtful questions, everyone.

3 THE CHAIR: We have housekeeping
4 matters, so I don't know that - I know the Caring
5 Society had a housekeeping matter. So, do you need
6 a little break or we should just enter into this
7 now?

8 MS. CLARKE: I'm happy to take a
9 break if people want to stretch their legs, but
10 also happy to just carry on.

11 THE CHAIR: Carry on? Okay. Yes,
12 that's fine. Let's carry on.

13 MS. CLARKE: Thank you, Madam
14 Chair.

15 So, as you may have discerned from
16 my - my colleague Mr. Taylor's question previously,
17 there are multiple different positions from
18 multiple different parties on the various motions.
19 And we're mindful that the schedule set by the
20 Tribunal in relation to the Caring Society's motion
21 was set down before Canada filed its cross motion.

22 So, just as a matter of urgency
23 for this particular week, the Caring Society would
24 be requesting from each of the parties their
25 specific positions on both motions by the end of

1 this week, given the impending filing deadlines of
2 the facta that are coming up very quickly.

3 We don't actually know from our
4 friends at the AFN, from Chiefs of Ontario, and
5 Nishnawbe Aski Nation what position they're taking
6 specifically on Canada's cross motion and what
7 position they are taking specifically on our - on
8 the Caring Society's motion. And so in preparing
9 for the factum, I think it's important that we have
10 that information.

11 And I'm mindful that the Tribunal
12 has previously directed that information be brought
13 forward. But due to the, you know, the plethora of
14 paper that has been exchanged on the various
15 motions, I don't think that's ever been nailed
16 down. So, we would be asking for some guidance
17 from the Tribunal on that by the end of this week.

18 THE CHAIR: Yes. Most of your -
19 your friends are here. Would you benefit from
20 having a conversation? Some might not have
21 instructions right now.

22 MS. CLARKE: My understanding is
23 that not everyone has instructions today. And so
24 I'm - I'm mindful that I don't want to put people
25 in a position to ask to be changing --

1 THE CHAIR: Yes.

2 MS. CLARKE: -- the current
3 schedule without them having instructions. I'm
4 just mindful now that there are no more witnesses
5 to come forward, the evidence is now in, aside from
6 the requests for information; I'm hoping that the
7 parties can, in great haste, given that the - the
8 date for argument is coming quickly and the urgency
9 with which the Caring Society feels that these
10 issues need to be addressed, that the parties can
11 come to - to - back to the Tribunal by the end of
12 this week with a position.

13 THE CHAIR: Yes. Well, some of
14 them don't have instructions, so one of the
15 response might be, even if I direct that we have an
16 answer by the end of the week, I don't know if the
17 answer will be we have not received our
18 instructions yet. So, that's - that - that's
19 hopeful, but I'm - I'm not sure if that's doable.

20 MS. CLARKE: Maybe I can suggest
21 this, Madam Chair, could we perhaps caucus with the
22 parties for the next 20 minutes and come back
23 before you? And perhaps by then we will have some
24 clarity that we could offer to you as - as to next
25 steps?

1 THE CHAIR: Absolutely. I wasn't
2 clear, but that was kind of the suggestions that I
3 made.

4 MS. CLARKE: Okay.

5 THE CHAIR: So, yes. Let's -
6 let's break for about 20 minutes. Let me know if
7 you need more time. I would prefer if this can be
8 dealt with before we leave, but if not, maybe by
9 email tomorrow.

10 MS. CLARKE: Thank you. Thank you
11 so much.

12 THE CHAIR: Okay.

13 So, the - the hearing is
14 adjourned, and we'll be back in 20 minutes for case
15 - case management.

16 MS. CLARKE: Thank you.

17 --- Whereupon the hearing adjourned.

I HEREBY CERTIFY THAT I have, to the best
of my skill and ability,
accurately transcribed from a pre-existing recording
the foregoing proceeding.

Lisa Nguyen, Court Reporter

(Pages 176 to 354)

Lorraine Douglas, Transcriptionist

(Pages 354 to 510)

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