

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

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

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

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

Respondent

-and-

CHIEFS OF ONTARIO,  
AMNESTY INTERNATIONAL CANADA and NISHNAWBE-ASKI NATION

Interested Parties

-and-

FIRST NATIONS LEADERSHIP COUNCIL

Moving Party

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**MOTION RECORD**

of the proposed interested party First Nations Leadership Council  
for involvement specific to the motion filed by the First Nations Caring Society of  
Canada and the cross motion filed by the Attorney General of Canada

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**FIRST NATIONS LEADERSHIP COUNCIL**

MANDELL PINDER LLP

Barristers and Solicitors

Suite 422 – 1080 Mainland St.

Vancouver, BC V6B 2T4

Tel.: (604) 681-4146 Fax: (604) 681-0959

E-mail: [crystal@mandellpinder.com](mailto:crystal@mandellpinder.com) and [dawn@mandellpinder.com](mailto:dawn@mandellpinder.com)

**Crystal Reeves and Dawn Johnson**

Counsel for the Moving Party

**ORIGINAL TO: Canadian Human  
Rights Tribunal**

**CANADIAN HUMAN RIGHTS TRIBUNAL**  
c/o Judy Dubois, Registry Officer  
240 Sparks Street, 6th Floor West  
Ottawa, ON K1A 1J4

**AND TO:**

**DEPARTMENT OF JUSTICE CANADA**  
Dayna Anderson, Kevin Staska and  
Samantha Gergely  
Department of Justice Canada  
50 O'Connor Street  
Ottawa, ON K1A 0H8  
Counsel for the Respondent, Attorney  
General of Canada

**ASSEMBLY OF FIRST NATIONS**  
Stuart Wuttke, Adam Williamson  
55 Metcalfe Street, Suite 1600  
Ottawa, ON K1P 6L5  
Counsel for the Complainant, Assembly of  
First Nations

**CONWAY BAXTER WILSON LLP**  
David Taylor and Kevin Droz  
400 - 411 Roosevelt Avenue  
Ottawa, ON K2A 3X9

**CLARKE CHILD & FAMILY LAW**  
Sarah Clarke  
36 Toronto Street, Suite 950  
Toronto, ON M5C 2C5  
Counsel for the Complainant, First Nations  
Child and Family Caring Society of Canada

**CANADIAN HUMAN RIGHTS COMMISSION**  
Brian Smith  
344 Slater Street, 8th Floor  
Ottawa, ON K1A 1E1  
Counsel for the Canadian Human Rights  
Commission

**OLTHUIS KLEER TOWNSHEND LLP**

Maggie E. Wentz, Jessie Stirling and Ashley Ash  
250 University Avenue, 8th Floor  
Toronto, ON M5H 3E5  
Counsel for the Interested Party, Chiefs of Ontario

**STOCKWOODS LLP**

Justin Safayeni and Stephen Aylward  
TD North Tower  
77 King Street West, Suite 4130  
Toronto, ON M5K 1H1  
Counsel for the Interested Party, Amnesty International

**FALCONERS LLP**

Julian Falconer, Christopher Rapson, and Natalie Posala  
10 Alcorn Avenue, Suite 204  
Toronto, ON M4V 3A9  
Counsel for the Interested Party, Nishnawbe Aski Nation

## MOTION RECORD OF FIRST NATIONS LEADERSHIP COUNCIL

### TABLE OF CONTENTS

<b>Tab</b>	<b>Document</b>
<b>1.</b>	Notice of Motion
<b>2.</b>	Affidavit of Grand Chief Stewart Phillip, Union of BC Indian Chiefs
<b>3.</b>	Affidavit of Hugh Braker, First Nations Summit
<b>4.</b>	Affidavit of Regional Chief Terry Teegee, BC Assembly of First Nations
<b>5.</b>	Written Submissions of the Proposed Interested Party First Nations Leadership Council

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FIRST NATIONS LEADERSHIP COUNCIL

Moving Party

**NOTICE OF MOTION**

**TAKE NOTICE** that the Applicant First Nations Leadership Council (the “FNLC”) makes a motion to the Canadian Human Rights Tribunal located at 240 Sparks Street, 6th Floor West, Ottawa, Ontario.

**THE MOTION IS FOR:**

1. An Order granting FNLC leave to intervene become an interested party in this proceeding on the following terms, or such other terms as the Tribunal deems just:

- a. Interested party status for FNLC is specifically limited to participation in the motion filed by the First Nations Child and Family Caring Society of Canada on December 12, 2023 and the cross motion filed by the Government of Canada on March 15, 2024 (collectively “the Motions”);
- b. In the Motions, the FNLC shall be permitted to:
  - (i) make oral and written arguments, as may apply in the course of the Motions, of a length that may be fixed by the Tribunal and according to the timeline set by the Tribunal;
  - (ii) participate in case conferences, mediation, negotiation or other dispute resolution or administrative processes in respect of the Motions; and
- c. FNLC’s participation shall be on a without costs basis.

**THE GROUNDS FOR THE MOTION ARE:**

1. The FNLC has expertise and knowledge that will be of assistance to the Tribunal in determining the Motions;
2. The FNLC will bring a unique perspective
3. FNLC’s involvement will add to the legal position of the Parties with respect to the Motions; and
4. The FNLC’s interests are engaged by the issues in the Motions.

**THE FOLLOWING DOCUMENTS** will be referred to in support of this motion for leave to intervene as a proposed interested party:

2. Affidavit #1 of Stewart Phillip;
3. Affidavit #1 of Terry Teegee;
4. Affidavit #1 of Hugh Braker, KC; and
5. The written argument of the applicant, FNLC.

Dated: June 3, 2024



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**Crystal Reeves**

Mandell Pinder LLP  
Barristers and Solicitors  
422 - 1080 Mainland Street  
Vancouver, BC V6B 2T4  
Tel: 604.681.4146 Fax: 604.681.0959  
Email: [crystal@mandellpinder.com](mailto:crystal@mandellpinder.com);  
[dawn@mandellpinder.com](mailto:dawn@mandellpinder.com)

Counsel for the Moving Party,  
**First Nations Leadership Council**



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**Dawn Johnson**

Mandell Pinder LLP  
Barristers and Solicitors  
422 - 1080 Mainland Street  
Vancouver, BC V6B 2T4  
Tel: 604.681.4146 Fax: 604.681.0959  
Email: [crystal@mandellpinder.com](mailto:crystal@mandellpinder.com);  
[dawn@mandellpinder.com](mailto:dawn@mandellpinder.com)

Counsel for the Moving Party,  
**First Nations Leadership Council**

CANADIAN HUMAN RIGHTS TRIBUNAL

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-and-

FIRST NATIONS LEADERSHIP COUNCIL

Moving Party

**AFFIDAVIT #1 OF STEWART PHILLIP**

I, Stewart Phillip, of 732 Westhills Drive, Penticton, British Columbia, AFFIRM THAT:

1. My name is ʔaʔsiwł Grand Chief Stewart Phillip and I am Syilx/Okanagan. I have served as President of the Union of BC Indian Chiefs ("UBCIC") for eight consecutive terms since 1998. As such, I have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated

to be based on information and belief and where so stated I believe them to be true.

2. I have worked with the Penticton Indian Band for over 38 years. I held the positions of Chief from 1994 to 2008, band councillor for 10 years, and a variety of other leadership positions in the administration. I also served as Chair of the Okanagan Nation Alliance for 16 years.
3. Through these roles and the entirety of my career, I have advocated for Indigenous rights in British Columbia ("BC"). I have been personally involved in UBCIC's work as discussed in this affidavit, including advocacy in the defence of Aboriginal title, Indigenous rights, the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP") and the health and wellbeing of First Nations children and families.
4. This affidavit is in support of a motion by the First Nations Leadership Council ("FNLC") to be granted interested party status in the motion filed by the First Nations Child and Family Caring Society on December 12, 2023, and the Government of Canada's cross-motion in the same proceeding filed on March 15, 2024 (collectively, the "Motions").

## THE FNLC

5. BC is home to 204 First Nations, representing approximately one third of all First Nations in Canada, each with their own cultures, languages, laws, and traditions. The FNLC was formed in 2005 by a historic Leadership Accord and is a collaborative political working relationship between the UBCIC, the First Nations Summit ("FNS") – , and the BC Assembly of First Nations ("BCAFN"). UBCIC, BCAFN and FNS have come together to address issues of common concern to First Nations peoples in British Columbia ("BC"). Attached as **Exhibit "A"** to my affidavit is the Leadership Accord.
6. Since its inception, the FNLC has engaged in strategic policy discussions with the governments of Canada and BC, seeking a common vision for systemic

change by advocating for a government-to-government relationship based on respect and recognition of First Nations peoples' rights. This has included acting jointly as intervenors on a number of matters, engaging in legislative and policy reform at the provincial and federal level, and sitting at bilateral and trilateral tables with the governments of Canada and BC.

## **UBCIC**

7. UBCIC was founded in 1969 by chiefs of First Nations communities in BC in response to the federal government's white paper policy, which was aimed at assimilating Indigenous peoples in Canada. UBCIC is a representative organization of First Nations in BC, dedicated to promoting and supporting the efforts of First Nations in BC to affirm and defend their Aboriginal title and rights. UBCIC acts as an advocacy body to provide a cohesive voice to support and strengthen Indigenous Nations and communities.
8. The Chiefs' Council is the governing body of UBCIC. It consists of representatives, generally the elected Chiefs of Indian Bands in BC. The officers of UBCIC form the Executive Committee, which is responsible for upholding the Aboriginal Title, Rights, and Treaty position of UBCIC. Currently more than half of the 204 First Nations in BC are members in good standing of UBCIC.
9. The mission of UBCIC includes: holding the federal government to its fiduciary obligations; building trust, honour, and respect to achieve security and liberty; asserting minimum standards for the survival, dignity, wellbeing and rights of Indigenous peoples along with their right to self-determination under international law; and continuing the process of healing and reconciliation.
10. UBCIC is guided by the principle that Indigenous peoples possess an inherent right and responsibility to care for and protect our lands, waters, and resources, to govern ourselves, and to enter into relationships with other nations guided by our laws and legal traditions, which must be respected and have space made for them within the Canadian legal landscape. UBCIC recognizes that Indigenous

peoples' right to care for our own children, according to our own laws and practices, is essential to our continued survival as peoples.

11. UBCIC has achieved recognition as a non-governmental organization with special consultative status to the United Nations Social and Economic Council.
12. UBCIC has participated in the development of Aboriginal and human rights law in a range of cases, including participation as an intervener in, amongst others: *Lovell v Canada (Attorney General)*, [1974] SCR 1349; *Delgamuukw v. British Columbia*, [1993] 5 C.N.L.R. 1 (BCCA); *British Columbia (Attorney General) v Davies*, 2009 BCCA 337; *Mclvor v Canada (Registrar of Indian and Northern Affairs)*, 2009 BCCA 153; *Ahousaht Indian Band and Nation v Canada (Attorney General)*, 2021 BCCA 155; *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44; *Ewert v Canada*, 2018 SCC 30; and, most recently, *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5.
13. Between 1970 and 1985, UBCIC published four position papers addressing the inherent right of self-government held by First Nations, including the inherent rights related to the care, upbringing, health, and education of our children. Between 1985 and 2005, UBCIC was involved in direct advocacy efforts to support the exercise of jurisdiction over children and families to First Nations.
14. Working collectively with its partners as the FNLC, UBCIC was deeply involved in advocacy pertaining to the implementation of UNDRIP in Canada and BC and was involved in the co-development and passage of the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 ("UNDRIPA"), and the *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c 44 ("DRIPA").
15. UBCIC is mandated by the Chiefs Council to carry out continued advocacy required to ensure full implementation of UNDRIP and the elimination of anti-Indigenous discrimination in all areas of law and to ensure that all Indigenous rights are respected, including with respect to First Nations children and families.

## WORK OF THE FNLC/UBCIC ON CHILDREN & FAMILIES IN BRITISH COLUMBIA

16. In January 2008, UBCIC (as part of the FNLC) convened the first Indigenous Child at the Centre Forum with First Nations Chiefs in BC, securing a commitment from BC's then-Premier to support Jordan's Principle. Later in 2008, UBCIC (as part of the FNLC) convened the second Indigenous Child at the Centre Forum at which time First Nations leadership in BC developed the One Heart, One Mind Statement of Solidarity and Cooperation affirming a commitment to work together in a Nation-to-Nation and community-driven process to secure the individual and collective survival, dignity and well-being of Indigenous children. This statement was endorsed by the UBCIC Chiefs-in-Assembly by UBCIC resolution 2008-29. A copy of this resolution is attached as **Exhibit "B"** to my affidavit.
17. In 2016, by UBCIC resolution 2016-24, the UBCIC Chiefs-in-Assembly endorsed wholesale reform of the Indigenous child welfare system in BC and mandated the UBCIC executive to work as a part of the FNLC on tripartite efforts with Canada and BC to advance First Nations jurisdiction over child and family services. This included the signing of the Reconciliation Charter with BC and Canada and work on the development of the federal *Act Respecting First Nations, Inuit and Metis children, youth and families*, S.C. 2019, c. 24. Attached as **Exhibits "C"** and **"D"** to my affidavit are UBCIC resolutions 2016-24 and 2019-20.
18. UBCIC, with our FNLC partners, has continued to work together to support First Nations in BC in reclaiming their jurisdiction over child welfare, including through advocating for the full implementation of Jordan's Principle in BC and in the development of a BC-specific fiscal framework for First Nations jurisdiction over child and family services.
19. UBCIC (together with the FNS and BCAFN as the FNLC) has been mandated by the Chiefs-in-Assembly to work collaboratively with First Nations organizations providing direct services in the area of child and family wellbeing, including the Our Children Our Way Society ("OCOWS"). Attached as **Exhibit "E"** to my

affidavit is UBCIC resolution 2023-56, directing the UBCIC executive to work (together with the FNS and BCAFN as the FNLC) with the OCOWS in the area of First Nations jurisdiction over children and families.

### **FNLC/UBCIC'S INTEREST IN THE MOTIONS**

20. Since the Tribunal issued its decision in 2016 CHRT 2 (the "Merit Decision"), the UBCIC Chiefs-in-Assembly have issued several resolutions directing the UBCIC Executive to ensure the implementation of the Tribunal's orders and the negotiations toward a Final Settlement Agreement on long-term reform of the First Nations Child and Family Services program and Jordan's Principle. As part of the resolutions, the Chiefs have resolved that long term reform properly acknowledge and reflect the distinct and unique needs of First Nations in BC, and are conducted on the basis of free, prior and informed consent. Attached as **Exhibits "F", "G", "H", and "I"** to my affidavit are the 2016-04, 2022-67, 2024-02, and 2024-17 resolutions from the UBCIC Chiefs-in-Assembly.
21. Much of UBCIC's recent law and policy reform work has concerned issues that are central to the motion before this Tribunal, including ensuring that First Nations are adequately resourced in the exercise of jurisdiction over child and family service delivery, and that the unique experiences, needs, and voices of First Nations in BC are represented and respected in accordance with the principles of free, prior, and informed consent.
22. UBCIC/FNLC's reform work has been on behalf of First Nations in BC, who form the membership of the FNLC organizations. First Nations in BC have a significant interest in any orders made by this Tribunal as sought in the Motions. Specifically, First Nations in BC are disproportionately impacted by backlogged Jordan's Principle requests and payment reimbursements compared to other jurisdictions in Canada.
23. First Nations in BC are also disproportionately impacted by local states of emergency, as tied to the definition of urgent requests. In the 2021 fiscal year

there were over 1,642 wildfires in BC resulting in 181 evacuation orders, 304 evacuation alerts, and a 56-day provincial state of emergency. BC also experienced record levels of flooding, causing loss to lands, roadways, and infrastructure, and impacting as many as 42 First Nations communities. Climate emergencies have continued to have a real and substantial impact on First Nations in BC, particularly remote First Nations communities, women, and children. Attached as **Exhibits “J”** and **“K”** to my affidavit are resolutions 2022-22 and 2023-42 from the UBCIC Chiefs-in-Assembly regarding the climate crisis in BC.

24. In the BC-region there are 35 First Nations and First Nation organizations who have an enhanced service coordination agreement with Canada, and two provincial Jordan's Principle enhanced service coordination hubs. The issues raised in the Motions related to these enhanced service coordinators and service navigation by First Nations and First Nations organizations are unique and distinct in the BC-context, and any orders made will have significant implications for First Nations children, families, communities, and organizations in BC.
25. I am aware through UBCIC's participation at the BC Tripartite First Nations Children and Families Working Group (“TWG”), there is a serious backlog relating to Jordan's Principle requests and the payment of vendor invoices. I have also been informed by the OCOWS, and I believe it to be true, that there are over 3000 backlogged Jordan's Principle requests in the BC-region, and that reimbursements are delayed to the point of putting a strain on families.
26. UBCIC, through the FNLC, seeks interested party status to make submissions on the unique and distinct perspective of First Nations in BC regarding the implementation and current state of Jordan's Principle in BC.

## **RELEVANCE AND USEFULNESS OF FNLC'S PARTICIPATION IN THE HEARING OF THE MOTIONS**

27. FNLC's participation in the hearing of the Motions is necessary given the issues raised in the Motions, including: the definition and identification of urgent requests in BC, including requests related to First Nations children impacted by states of emergency; the backlog of unopened and unassigned Jordan's Principle requests and the processing of payments; the self-determination of First Nations in respect of child and family services; and all related orders being sought from this Tribunal.
28. As well, the Final Settlement Agreement on long-term reform of Jordan's Principle has not yet been finalized. Negotiations between Canada and the First Nations parties to the agreement are ongoing and could be affected (positively or negatively) by any orders of the Tribunal in the context of the motion and cross-motion. The orders of the Tribunal and negotiations between the parties on the long-term reform of Jordan's Principle will have a direct impact on First Nations in BC. As such, it is important that the Tribunal hear from bodies such as FNLC who are working to support long term reform for BC First Nations with respect to child and family services.
29. If granted interested party status with respect to the Motions, our proposed submissions will provide FNLC's perspective on the issues raised in the Motions. Our submissions will be useful to this Tribunal given our particular expertise and experience with law and policy reform as it relates to jurisdiction over child welfare and Indigenous rights, our decades of experience in negotiating with the Crown on child and family services reform and offering practical solutions to address issues, and the unique perspective we bring on behalf of First Nations in BC regarding the health and welfare of our children.

## **CONDUCT OF THE FNLC/UBCIC IN THE HEARING OF THE MOTIONS**

30. If granted interested party status, FNLC/UBCIC:



This is Exhibit "A" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.

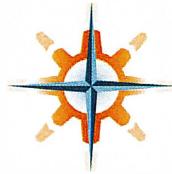


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A Commissioner for Taking Affidavits  
For British Columbia



**Assembly of  
First Nations  
BC Region**



**First  
Nations  
Summit**



**Union of  
British Columbia  
Indian Chiefs**

## LEADERSHIP ACCORD

This Leadership Accord is effective from the 17th day of March, 2005

BETWEEN

The First Nations Summit ("Summit")

- AND -

The Union of British Columbia Indian Chiefs ("UBCIC")

- AND -

The BC Assembly of First Nations ("BCAFN")

WHEREAS the First Nation people in British Columbia respect and recognize each other's Aboriginal title, rights and interests and treaty rights.

WHEREAS the Summit represents those First Nations participating in or supportive of the treaty negotiation process in British Columbia and provides a forum for those First Nations to address issues related to treaty negotiations as well as other issues of common concern.

WHEREAS the UBCIC is an organization of First Nations in British Columbia, founded in 1969, dedicated to promoting and supporting the efforts of First Nations to affirm and defend Aboriginal Title and Rights. It is the goal of UBCIC to help First Nations exercise of their inherent rights and by holding the Crown to its obligation to honour and respect those rights.

WHEREAS the BCAFN works to advance the rights and interests of First Nations people in British Columbia, restore and enhance the relationship among First Nations people in British Columbia, the Crown and the people of Canada, develops and promotes programs and policies for the benefit of First Nations people in British Columbia, and works in coalition with other organizations that advance the rights and interests of indigenous peoples.

WHEREAS the Summit, the UBCIC and the BCAFN recognize each other's respective mandates to represent the interests of their respective membership.

WHEREAS over the years, the Summit, the UBCIC and the BCAFN have developed a relationship through sharing, information exchange, dialogue and respect for and recognition of each other's interests. They each desire to build upon this relationship by affirming their mutual respect for and recognition of each other's respective mandates and establishing a formal, ongoing political process to work cooperatively together to advance the interests of First Nations in British Columbia.

THEREFORE in the spirit of mutual respect and continued cooperation, the Summit, the UBCIC and the BCAFN agree as follows:

### 1.0 Purpose of Accord

1.1 The purpose of this Accord is to:

- a) affirm mutual respect, recognition and support of each of the Parties for one another,
- b) formalize a cooperative working relationship of the Parties to politically represent the interests of First Nations in British Columbia and develop strategies and actions to bring about significant and substantive changes to government policy that will benefit all First Nations in British Columbia,
- c) focus on a range of agreed upon issues and initiatives of common interest or concern among First Nations in British Columbia, including:
  - i) engaging with the provincial and federal governments regarding implementation of the Crown's honourable duty to consult with and accommodate First Nations,
  - ii) advancing the interests of First Nations in British Columbia in national processes, such as the Prime Minister's Canada-Aboriginal Peoples Roundtable process, and

- iii) addressing social and economic program and service issues with the Department of Indian Affairs and Northern Development, BC/Yukon Region.

## 2.0 Guiding Principles

- 2.1 The Parties agree that the implementation of this Accord will be guided by the following principles:
- the Parties recognize and respect each other's respective mandate,
  - the Parties will be mindful that they each represent a diversity of perspectives on issues relating to Aboriginal title, rights and interests,
  - the Parties commit to work to advance the interests of First Nations in political level discussions amongst themselves and with governments,
  - the Parties will represent their respective memberships in any discussions that directly involve government and industry.

## 3.0 Ongoing Process

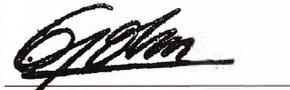
- 3.1 The Parties commit to engage in an ongoing process of dialogue through regular leadership meetings to achieve the purposes of this Accord and, where possible, develop common understandings, strategies and/or positions on identified issues of mutual concern or priority.
- 3.2 Each Party agrees to take individual responsibility for decisions made at the leadership meetings and required follow-up.
- 3.3 The Parties may establish joint working groups on identified issues of mutual concern or priority to assist the Parties in advancing issues politically.

## 4.0 General

- 4.1 This Accord may be terminated by any Party by the Party providing written notice to the other Parties of their intention to terminate the Accord.
- 4.2 This Accord does not create, define, limit, prejudice, abrogate or derogate from any of the Aboriginal title, rights and interests or treaty rights of any First Nation.
- 4.3 This Accord does not limit or affect the mandate or the ability of either Party to pursue their respective political mandates provided by their membership from time to time.

Signed this 17<sup>th</sup> day of March, 2005

On behalf of the First Nations Summit:



Grand Chief Edward John  
Task Group Member



Grand Chief Doug Kelly  
Task Group Member



Dave Porter  
Task Group Member

On behalf of the Union of BC Indian Chiefs:



Chief Stewart Phillip, President



Chief Robert Shintah, Vice-President



Chief Mike Retasket, Secretary-Treasurer

On behalf of the BC Assembly of First Nations:



A-in-chut (Shawn Atleo), BC Regional Chief

This is Exhibit "B" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

# OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE  
345 Yellowhead Highway  
Kamloops, B.C. V2H 1H1  
Tel: (250) 828-9746  
Fax: (250) 828-0319



VANCOUVER OFFICE  
5th Floor, 342 Water Street  
Vancouver, B.C. V6B 1B6  
Tel: (604) 684-0231  
Fax: (604) 684-5726  
Email: [ubcic@ubcic.bc.ca](mailto:ubcic@ubcic.bc.ca)  
Website: [www.ubcic.bc.ca](http://www.ubcic.bc.ca)

UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
JUNE 3<sup>RD</sup> – JUNE 5<sup>TH</sup>, 2008  
VERNON, B.C.

**Resolution no. 2008 -29**

**RE: “Walking Together To Keep Indigenous Children at the Centre” Declaration of Commitment**

**WHEREAS** by UBCIC Resolution #2007-52, the UBCIC Chiefs directed the UBCIC Executive to work with the other members of the First Nations Leadership Council to convene a “First Nations Child at the Centre Chiefs’ Forum” to bring together Chiefs/leaders, along with key political and technical partners, to review, discuss and finalize a First Nations Child at the Centre Action Plan, which will set out a vision, principles, key topics and actions assisting First Nations to address and advance issues related to children and families; that the UBCIC Social Development Committee has provided further direction to ensure that Early Childhood Development is a priority agenda item for the First Nations Chiefs Forum; and that the Forum follow the same format as previous First Nations Leadership Council forums (i.e. information sharing, review and discussion of a “Discussion Paper” prepared in advance, and finalization of the Discussion Paper into an Action Plan).

**WHEREAS** by BCAFN Resolution #17/2007, Chiefs directed the Regional Chief to pursue a province wide assembly to discuss the development of a strategy to address First Nations jurisdiction over First Nations Children, Families and Communities.

**WHEREAS** the First Nations Summit Resolution #0907.15, the First Nations Summit Chiefs in Assembly directed the First Nations Task Group to work with the other members of the First Nations Leadership Council to convene a “First Nations Child at the Centre Chiefs’ Forum” in fall 2007 to bring together Chiefs/leaders, along with key political and technical partners, to review, discuss and finalize a First Nations Child at the Centre Action Plan, which will set out a vision, principles, key topics and actions assisting First Nations to address and advance issues related to children and families, and that the Forum follow the same format as previous First Nations Leadership Council forums (i.e. information sharing, review and discussion of a “Discussion Paper” prepared in advance, and finalization of the Discussion Paper).

**WHEREAS** an “Indigenous Child at the Centre” Chiefs’ Forum was hosted by the Union of BC Indian Chiefs, BC Assembly of First Nations and First Nations Summit on January 23-25, 2008, in Vancouver, BC. The Forum followed the same format as other FNLC hosted forums. A draft Discussion Paper was

presented to the delegates and significant feedback was provided throughout the Forum discussions, as well as through written feedback during a breakout session, evaluation forms, and written submissions. The draft Discussion Paper and Action Plan Framework will be revised to reflect this feedback.

**WHEREAS** other outcomes of the Forum include:

- An MOU with the Representative for Children and Youth (as mandated by the Chiefs by UBCIC Resolution #2007-56 and First Nations Summit Resolution #0907.14)
- Support for the “Walking Together to Keep Indigenous Children at the Centre” Declaration of Commitment,
- A Proceedings Report,
- Extensive sharing of information and perspectives to educate and inform the Chiefs/leaders of issues relating to children and families,
- Significant feedback to inform the ongoing development of the Action Plan,
- Significant feedback through evaluation forms to assist in planning a second follow-up forum,
- Provincial endorsement of Jordan’s Principle,
- General consensus that this dialogue was long overdue and the discussion must continue, with corresponding action.

**WHEREAS** the “Walking Together to Keep Indigenous Children at the Centre” Declaration of Commitment (attached) arose during the course of discussion at the Forum and represents commitments to:

- Maintain and uphold the provisions set out in the Declaration, including protecting and supporting our Indigenous children.
- A coordinated social justice framework that promotes a holistic approach to resolving the systemic disadvantages experienced by Indigenous children in British Columbia.
- Create an Indigenous Child at the Centre Caucus to assist Indigenous Nations in the development, finalization, and implementation of an “Indigenous Child at the Centre Action Plan” and to work to coordinate and facilitate dialogue through regional and provincial forums.

**THEREFORE BE IT RESOLVED** that the Union of BC Indian Chiefs endorse the attached “Walking Together to Keep Indigenous Children at the Centre” Declaration of Commitment and direct the UBCIC Executive, working with the BC Assembly of First Nations and First Nations Summit, to work with First Nations to establish an Indigenous Child at the Centre Caucus to assist Indigenous Nations in the development, finalization and implementation of an “Indigenous Child at the Centre Action Plan”, and to work to coordinate and facilitate dialogue through regional and provincial forums.

**Moved:** Chief Fabian Alexis, Okanagan Indian Band  
**Seconded:** Chief Joe Dennis, Lower Similkameen Indian Band  
**Disposition:** Carried  
**Date:** June 5, 2008

**"WALKING TOGETHER TO KEEP INDIGENOUS CHILDREN AT THE CENTRE"  
DECLARATION OF COMMITMENT**

*The spirituality and cultural identity of a child must come first and foremost and serve as the principle that firmly grounds us as we undertake this work. As leaders, we commit to always put the spiritual, cultural and emotional well-being of our children at the very heart of all of our discussions. We commit to putting aside our political differences in light of this principle that must lead all of our affairs.*

On January 25<sup>th</sup>, 2008 the Indigenous Peoples of British Columbia convened an "Indigenous Child at the Centre" Forum.

We, the Indigenous peoples of British Columbia, commit to exercise our inherent right and welcome the responsibility for the survival, dignity and well-being of our children. We have a deep relationship with our lands, and unique spirituality, cultures, languages, and systems of governance which together provide for the holistic well-being of our children. We make this solemn Declaration out of our commitment to be unified in affirming our Aboriginal Title and Rights, and our self-determination and jurisdiction, as they relate to our children and families, and to support each other in improving the lives of our children and families.

As the original Peoples to this land now known as British Columbia, and in accordance with provisions of the *All Our Relations Declaration*, *UN Declaration on the Rights of Indigenous Peoples*, the *United Nations Convention on the Rights of the Child* and other international standards aimed at ensuring the survival, dignity and well-being of Indigenous children and families, we declare:

- We have the inalienable sovereign right of self-determination. By virtue of this right, we are free to determine our political status and free to pursue our economic, social, health and well-being, and cultural development.
- We are connected to our lands and territories and have diverse cultures, founded on the ways of life, traditions and values of our ancestors, which include systems of governance, law and social organization.
- We have collective, sovereign and inherent authorities and jurisdictions over our children and families.
- We recognize and respect each other's commitment to our common responsibility for the well-being of our children.
- Cooperation, collaboration and mutual support is essential in making a measurable improvement in the lives of our children and families.
- Bringing our children home, and addressing the needs of our children and families, requires a holistic approach to addressing the full range of issues that impact our communities, including education, health, child care, housing, economic development, justice, and recreation.

Therefore we commit to:

- Maintain and uphold the provisions set out in this Declaration, including protecting and supporting our Indigenous children.
- A coordinated social justice framework that promotes a holistic approach to resolving the systemic disadvantages experienced by Indigenous children in British Columbia.
- Create an Indigenous Child at the Centre Caucus to assist Indigenous Nations in the development, finalization and implementation of an "Indigenous Child at the Centre Action Plan" and to work to coordinate and facilitate dialogue through regional and provincial forums.

Supported by Indigenous leaders on January 25<sup>th</sup>, 2008

This is Exhibit "C" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vanc  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

# OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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



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

UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
JUNE 1<sup>ST</sup>-2<sup>ND</sup>, 2016

SEABIRD ISLAND BAND GYM, STÓ:LÓ TERRITORY, B.C.

Resolution no. 2016-24

## RE: Reform of Indigenous Child Welfare System in BC

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This is Exhibit "D" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

# OUR LAND IS OUR FUTURE

## UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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



VANCOUVER OFFICE  
401 - 312 Main Street  
Vancouver, B.C. V6A 2T2  
Tel: 604-684-0231  
Fax: 604-684-5726  
1-800-793-9701  
Email: [ubcic@ubcic.bc.ca](mailto:ubcic@ubcic.bc.ca)  
Web: [www.ubcic.bc.ca](http://www.ubcic.bc.ca)

### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL

FEBRUARY 27<sup>TH</sup>-28<sup>TH</sup>, 2019

MUSQUEAM COMMUNITY CENTRE, X<sup>W</sup>MƏK<sup>W</sup>ƏYƏM (MUSQUEAM TERRITORY)

**Resolution no. 2019-20**

#### **RE: Federal Child Welfare Legislation**

**WHEREAS** the Truth and Reconciliation Commission's (TRC) 94 Calls to Action have been supported by the Chiefs of BC and Canada;

**WHEREAS** the TRC's first 5 Calls to Action address the legacy of residential schools and the ongoing humanitarian issues pertaining to the continued over-representation of First Nations children in provincial and territorial child welfare systems, as well as the systemic denial of rights of those children and of First Nations peoples and communities to protect the children and transmit the culture, language and family customs to those children, and to have proper legal recognition of the collective right to set family law and policy for First Nations peoples;

**WHEREAS** the Canadian Human Rights Tribunal has found Canada to be in breach of its human rights obligations to First Nations' children and has issued four compliance orders stating that Canada must improve its laws, policies and practices to allocate appropriate funds and support the rights of First Nations peoples, consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* (the *UN Declaration*) and other international and domestic human rights standards;

**WHEREAS** at an emergency meeting on Indigenous child welfare on January 25-26, 2018, the federal government committed to six points of action in working with Indigenous partners to address the over-representation of Indigenous children in care in Canada. These specific actions included continuing to fully implement all orders of the Canadian Human Rights Tribunal, reforming child and family services, and exploring the potential for co-developed federal child welfare legislation;

**WHEREAS** the *UN Declaration*, which the government of Canada has adopted unconditionally, and has, alongside the government of BC, committed to implement, provides the framework to address the underlying problems that have caused the legacy of residential schools, such as outmoded, racist and offensive doctrines of the cultural and moral superiority of European society, doctrines of discovery and *terra nullius*, and colonial approaches that impose the beliefs and will of the settler society on First Nations peoples;

**WHEREAS** the province and the First Nations Leadership Council (FNLC) signed a Reconciliation Charter that committed the parties to work in partnership to achieve First Nations Child Welfare Reform via a Tripartite Working Group (TWG) made up of Canada, British Columbia and the First Nations Leadership Council to implement concrete actions to support legislative reform, program and policy development and an effective fiscal model to support First Nations Child Welfare in BC;

**WHEREAS** by Resolution 2017-06, the UBCIC Chiefs Council recognized that each First Nation has the right to determine and develop their own child, youth and family safety and well-being models, legislation, regulations, policies and practice standards, and fully supported any and all First Nations in exercising their respective jurisdiction and authority over the care and well-being of their children, youth and families;

**WHEREAS** by Resolution 2018-20, the UBCIC Chiefs Council identified Canada's obligation to provide sustained, culturally-based and needs-based funding and co-developed legislation that will enable First Nations to fully exercise their right to care for their children, youth, and families. This legislation would provide a lasting framework for funding and supporting Indigenous children, youth and families, and would directly engage and involve First Nations as proper Title and Rights Holders;

**WHEREAS** Prime Minister Justin Trudeau told First Nation Chiefs at the December AFN Special Chiefs Assembly that an Indigenous child welfare bill would be tabled by the last week of January 2019; and

**WHEREAS** the proposed legislation, Bill C-92 *An Act respecting First Nations, Inuit and Métis children, youth and families* was tabled, and had first reading on February 28, 2019.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council supports the affirmation of inherent Aboriginal and treaty rights provided in Bill C-92 and welcomes the recognition based model to support First Nations self-determination for First Nations governments to pass laws, enforce laws and put in place coordination arrangements for all aspects of child and family services, based on First Nations laws, priorities, customs, traditions and practices;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to continue to advocate for a political transition process so that the First Nations Title and Rights holders can fully benefit immediately from a recognition-based approach in the legislation and this will lead to immediate and meaningful change, and a pathway to end the legacy of the child welfare system that has been imposed, with particular emphasis on appropriate short and long term fiscal arrangements, technical and other support mechanisms so that full benefit of change be made available to UBCIC member Nations and our children, youth and families;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive, working with the BC Assembly of First Nations and the First Nations Summit as part of the Tripartite Working Group on First Nations Child and Family Welfare in BC, to create a detailed transition strategy to meet the needs of First Nations in BC for review and input by the Chiefs in advance of the next UBCIC Chiefs Council meeting in June 2019, where a final draft transition strategy will be considered for endorsement through resolution; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive, working with the BC Assembly of First Nations and the First Nations Summit as the First Nations Leadership Council, to provide regular reports to First Nations in BC of any progress in the legislation.

**Moved:** Chief Fred Robbins, Esk'eteme  
**Seconded:** Cora Anthony, Neskonlith (Proxy)  
**Disposition:** Carried  
**Date:** February 28, 2019

This is Exhibit "E" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

# OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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



VANCOUVER OFFICE  
401 - 312 Main Street  
Vancouver, B.C. V6A 2T2  
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Fax: 604-684-5726  
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UNION OF B.C. INDIAN CHIEFS  
55<sup>TH</sup> ANNUAL GENERAL ASSEMBLY  
OCTOBER 4<sup>TH</sup> TO 6<sup>TH</sup>, 2023

CARIBOO MEMORIAL RECREATION COMPLEX, WILLIAMS LAKE (SECWPEPMC TERRITORY)

Resolution no. 2023-56

**RE: Support for Indigenous Child and Family Services Directors Our Children Our Way Society**

**WHEREAS** First Nations have an inherent right of self-determination including jurisdiction relating to the children and families of those Nations;

**WHEREAS** First Nations' inherent right of self-determination will only be achieved through the recognition of our inherent jurisdiction for our children and families, and our children and families are the cornerstone of our Nations' futures;

**WHEREAS** under an interim delegation model, over 120 First Nations communities (over 60% of the First Nations communities in B.C.) created their own Indigenous Child & Family Services agencies;

**WHEREAS** the 120+ First Nations communities affiliated with an Indigenous Child & Family Services agency have endorsed their agencies through Band Council Resolutions as their child & family service providers as an interim measure while they determine their pathways to resume jurisdiction and stand up their respective laws, legal orders and inherent and treaty rights regarding their children;

**WHEREAS** those Indigenous Child & Family Services agencies have operated for decades under colonial legislation and with inadequate funding, they have nonetheless developed culturally based programs and services to support wellness among First Nations children and families;

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Certified copy of a resolution adopted on the 6<sup>th</sup> day of October of 2023 in Secwepemc territory

Grand Chief Stewart Phillip, President

**WHEREAS** First Nations have accumulated extensive experience and expertise through the operation of their Indigenous Child & Family Services agencies and benefit from the broad-based expertise and mutual support of the Indigenous Child & Family Services Directors Our Children Our Way Society;

**WHEREAS** those First Nations that remain unaffiliated with an Indigenous Child & Family Services agency have not been supported to develop their own expertise in the development of child and family services;

**WHEREAS** the Indigenous Child & Family Services Directors Our Children Our Way Society has created a Secretariat to provide centralized support for operations, practice, governance and research related to Indigenous child & family services, and is building the Secretariat into a regional centre for excellence in Indigenous child & family services;

**WHEREAS** the Indigenous Child & Family Services Directors Our Children Our Way Society has expanded its membership criteria to include Nations not affiliated with an ICFSD agency, and membership remains optional for First Nations;

**WHEREAS** in 2017, the Government of Canada (represented by Indigenous Services Canada (ISC)), the Government of British Columbia (represented by the Ministry of Children and Family Development (MCFD)), and the B.C. Assembly of First Nations (BCAFN), the First Nations Summit (FNS) and the Union of B.C. Indian Chiefs (UBCIC), working collectively as the First Nations Leadership Council (FNLC) signed a Reconciliation Charter that committed the parties to work in partnership to achieve First Nations child welfare reform via a Tripartite Working Group (TWG) made up of Canada, the Province, and the FNLC to implement concrete actions to support legislative reform, program and policy development and an effective fiscal model to support First Nations children and families in B.C.;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of B.C., passed legislation committing to implement, affirms:

**Article 2:** Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

**Article 7(2):** Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

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

**Article 22(2):** States shall take measures, in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

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Certified copy of a resolution adopted on the 6<sup>th</sup> day of October of 2023 in Secwepemc territory




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Grand Chief Stewart Phillip, President

**Article 40:** Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights;

**WHEREAS** through resolutions at the Chiefs' Assemblies (UBCIC Resolution 2017-06, FNS Resolution #0217.19, BCAFN Resolution 06/2017) the Chiefs in B.C. endorsed and supported the work on Child Welfare reform under the Tripartite process between B.C., Canada, and the BCAFN, FNS, and UBCIC, working together as the FNLC, and effectively and fully collaborating with First Nations Sectoral Councils, Delegated Agencies, and the First Nations Directors Forum; and

**WHEREAS** in June 2023, Chiefs supported the development of a long-term funding agreement, that ensures the holistic transformation of First Nations Child and Family Services (FNCFS) to a new fiscal framework, which supports First Nations resumption of jurisdiction over their children and families and realizes the intention and spirit of the UN Declaration and recent legislation and judicial decisions, through UBCIC Resolution 2023-26.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs-in-Assembly recognize that First Nations have exercised their inherent self-determination and jurisdiction over their children since time immemorial and must have full control over the delivery of services for their children. The UBCIC Chiefs-in-Assembly uphold the ongoing work of traditional Knowledge Keepers and communities, and call for Nations to have full control over all funding for children and families service delivery to their communities;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs-in-Assembly recognize the Indigenous Child & Family Services Directors Our Children Our Way Society as an additional source of expertise in the development and delivery of Indigenous child & family services to support First Nations communities in establishing their own services;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs-in-Assembly direct the UBCIC, working with the B.C. Assembly of First Nations (BCAFN) and First Nations Summit (FNS) as the First Nations Leadership Council (FNLC) and with B.C. and Canada as the Tripartite Working Group on Children and Families (TWG), to support the Our Children Our Way Society in their work to be an optional resource available to support all First Nations in B.C. in accessing and delivering culturally-based child & family services;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs-in-Assembly call on Canada and B.C. to provide the resources needed for the Indigenous Child & Family Services Directors Our Children Our Way Society to provide operations, practice, governance and research support to all First Nations in B.C. who wish to access services from the Our Children Our Way Society, while continuing to fund First Nations who wish to access these supports in other ways; and

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Certified copy of a resolution adopted on the 6<sup>th</sup> day of October of 2023 in Secwepemc territory




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Grand Chief Stewart Phillip, President

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs-in-Assembly call on the UBCIC, working with BCAFN and FNS as the FNLC, and Canada and British Columbia as the TWG, to collaborate with the Indigenous Child and Family Services Directors Our Children Our Way Society in the TWG's ongoing work planning for the resumption of jurisdiction by Nations including developing policy and fiscal frameworks required for this resumption of jurisdiction.

**Moved:** Judy Wilson, Skawahlook First Nation (Proxy)  
**Seconded:** Kukpi7 Stu Jackson, Lower Nicola Indian Band  
**Disposition:** Carried  
**Date:** October 6, 2023

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Certified copy of a resolution adopted on the 6<sup>th</sup> day of October of 2023 in Secwepemc territory



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Grand Chief Stewart Phillip, President

This is Exhibit "F" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

# OUR LAND IS OUR FUTURE

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



VANCOUVER OFFICE  
5th Floor, 342 Water Street  
Vancouver, B.C. V6B 1B6  
Tel: 604-684-0231  
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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL

FEBRUARY 17<sup>TH</sup>-18<sup>TH</sup>, 2016

X<sup>W</sup>MƏK<sup>W</sup>ƏYƏM (MUSQUEAM TERRITORY), VANCOUVER, B.C.

Resolution no. 2016-04

**RE: Support for the Landmark Canadian Human Rights Tribunal Ruling in *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada***

**WHEREAS** on January 26, 2016, the Canadian Human Rights Tribunal issued a landmark ruling in *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*;

**WHEREAS** the Tribunal found that the Canadian government is racially discriminating against 163,000 First Nations children and their families by providing flawed and inequitable child welfare services and failing to implement Jordan's Principle which is designed to ensure equitable access to government services available to other children;

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

**Article 2:** Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity;

**Article 22(2):** States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination;

**WHEREAS** the Tribunal found that the federal funding formula provides First Nations child and family services agencies with fewer resources than their provincial counterparts;

**WHEREAS** the Tribunal noted that several years ago, federal funding formula provides First Nations child and family services agencies with fewer resources than their provincial counterparts; and

**WHEREAS** the Tribunal found that federal funding formulas and policies create a perverse incentive to place First Nations children in foster care and do not address the cultural needs of children.

**THEREFORE BE IT RESOLVED** that the UBCIC Chiefs Council directs the UBCIC Executive to send the federal government a letter urging Canada to:

(a) Not appeal, but uphold the landmark Canadian Human Rights Tribunal ruling in *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2; and

(b) Take immediate steps to implement all of the recommendations put forth by the First Nations Child & Family Caring Society and the Assembly of First Nations to address the fiscal inequities, deficiencies in human resource capacity and overall child and family funding inadequacies.

**Moved:** Chief Maureen Chapman, Skawahlook First Nation

**Seconded:** Chief Harvey McLeod, Upper Nicola Indian Band

**Disposition:** Carried

**Date:** February 18, 2016

This is Exhibit "G" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

# OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS  
54<sup>TH</sup> ANNUAL GENERAL ASSEMBLY  
SEPTEMBER 27<sup>TH</sup> TO 29<sup>TH</sup>, 2022

MUSQUEAM COMMUNITY CENTRE, x<sup>w</sup>məθk<sup>w</sup>əy<sup>ə</sup>m (MUSQUEAM TERRITORY)

Resolution no. 2022-67

**RE: Canadian Human Rights Tribunal Case on First Nations Child & Family Services, Jordan's Principle, and Reform of Indigenous Services Canada, and the Related Agreement in Principle Dated December 31, 2021**

**WHEREAS** numerous reports—including the *Joint National Policy Review Final Report*, June 2000—have documented federal/provincial jurisdictional disputes and the federal government's underfunding of the First Nations Child & Family Services (FNCFS) program and the resulting constraints on FNCFS agencies and egregious harms to children and families;

**WHEREAS** the First Nations Child & Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a discrimination claim in 2007 alleging Canada's inequitable funding of First Nations child and family services and its choice to not implement Jordan's Principle were discriminatory;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

**Article 2:** Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

**Article 7(1):** Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

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Certified copy of a resolution adopted on the 28<sup>th</sup> day of September of 2022 in x<sup>w</sup>məθk<sup>w</sup>əy<sup>ə</sup>m (Musqueam) territory

Grand Chief Stewart Phillip, President

2022-67  
Page 1 of 4

**(2):** Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

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

**WHEREAS** the United Nations Human Rights Council, along with numerous other international human rights bodies, has criticized Canada's implementation of human rights norms and standards;

**WHEREAS** the Canadian Human Rights Tribunal (CHRT) substantiated the discrimination claim in 2016 CHRT 2 and ordered Canada to immediately cease its discriminatory conduct towards First Nations children and families, including those who are members of First Nations in British Columbia;

**WHEREAS** the Canadian Human Rights Tribunal ruling establishes that First Nations children and families are legally entitled to receive prevention services and least disruptive measures in a manner that is free of discrimination and accounts for unique community circumstances;

**WHEREAS** Canada chose not to comply with the order resulting in 21 non-compliance and procedural orders and 3 Federal Court orders against Canada since 2016;

**WHEREAS** in the wake of First Nations and public pressure following the confirmation of unmarked graves near residential schools and the Federal Court's dismissal of two of Canada's appeals, the federal government finally admitted that the discrimination was ongoing in the fall of 2021 and asked the parties to negotiate a resolution;

**WHEREAS** the complainants (Caring Society & AFN) and the interested parties (Chiefs of Ontario & Nishnawbe Aski Nation) and Canada entered negotiations to resolve outstanding discrimination and prevent its recurrence pursuant to the Canadian Human Rights Tribunal orders;

**WHEREAS** on December 31, 2021, an Agreement in Principle (AIP) including funding commitments of \$19.08 Billion over 5 years was signed as a framework for the negotiation of a Final Agreement on First Nations child and family services, Jordan's Principle, and reform of Indigenous Services Canada;

**WHEREAS** the AIP establishes the culturally based safety and well-being of First Nations children, youth, young adults and families as the paramount consideration and sets December 31, 2022, as the end of the Canadian Human Rights Tribunal's jurisdiction and April 1, 2023, as the implementation date for the "fully reformed" First Nations child and family services;

**WHEREAS** building on previous orders, the Canadian Human Rights Tribunal issued an order (2022 CHRT 8) by consent of the parties providing prevention, post-majority and other immediate measures

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Grand Chief Stewart Phillip, President

coupled with an order on capital (2021 CHRT 41) securing in legal orders 75% of the \$19.08 billion over 5 years announced as part of the AIP;

**WHEREAS** community driven research to inform long term funding solutions for First Nations child and family services for First Nations, with and without agencies, is not due to be completed until the Spring of 2023 and dates for a final funding approach on Jordan's Principle are still being defined;

**WHEREAS** many First Nations not served by First Nations child and family service agencies are members of UBCIC and work to determine a long-term non-discriminatory funding approach for said First Nations is in the very early stages;

**WHEREAS** the Final Agreement will have a direct impact of unprecedented magnitude on the lives of First Nations children and their families and communities; and

**WHEREAS** the CHRT compensation orders are a minimum standard. No party is authorized to reduce or eliminate compensation amounts or supports for victims who are already legally entitled to \$40,000 plus interest in Canadian Human Rights Act compensation, and any changes must be aligned with the standard of Article 19 of the *UN Declaration and the Convention on the Rights of the Child*.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs-in-Assembly call on Canada to:

- a. Immediately release the full \$19.08 billion dollars in funding, in accordance with and as provided for in the Agreement-in-Principle on First Nations Child and Family Services (AIP), Jordan's Principle, and Indigenous Services Canada (ISC) departmental reform;
- b. Ensure that the Final Agreement must include provisions to cease Canada's operational and administrative discrimination in child and family services and Jordan's Principle and prevent the recurrence of discrimination on an ongoing basis beyond the 5-year funding provided for in the AIP;
- c. Ensure the Final Agreement protects the benefits for children, youth, and families as well as First Nations and First Nations agency service providers arising from the Canadian Human Rights Tribunal and associated orders as a minimum standard on an ongoing basis;
- d. Engage directly with British Columbia First Nations on proposed long-term funding approaches, including for First Nations without agencies and Jordan's Principle supports, and ensure that consultation and collaboration is informed and meets the requirements of Article 19 of the UN Declaration;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to advocate that:

- a. Implementation of the Final Agreement in areas affecting individuals who are First Nations children, youth and families who are citizens of First Nations in British Columbia be conducted with transparency and accountability to First Nations and permit First Nations an opportunity to engage with experts in British Columbia to assess the options and path forward;

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- b. The Assembly of First Nations take ongoing steps to include the National Advisory Committee on First Nations child welfare, Indigenous governing bodies and First Nation Title and Rights holders, and BC Indigenous Child & Family Services Directors in any proposals affecting First Nations' Child and Family Services and Jordan's Principle in British Columbia; and
- c. The Assembly of First Nations not sign any agreements that fetter its disclosure of information required by First Nations leadership to determine if they support the Final Agreement; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs-in-Assembly affirm that the Assembly of First Nations must advance positions consistent with the individual and collective rights of First Nations peoples, including a the standard of Article 19 of the UN Declaration and the Convention on the Rights of the Child.

**Moved:** Chief Greg Gabriel, Penticton Indian Band  
**Seconded:** Louise Gordon, Taku River Tlingit First Nation (Proxy)  
**Disposition:** Carried  
**Date:** September 28, 2022

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Grand Chief Stewart Phillip, President

This is Exhibit "H" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

# OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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



VANCOUVER OFFICE  
401 - 312 Main Street  
Vancouver, B.C. V6A 2T2  
Tel: 604-684-0231  
Fax: 604-684-5726  
1-800-793-9701  
Email: [ubcic@ubcic.bc.ca](mailto:ubcic@ubcic.bc.ca)  
Web: [www.ubcic.bc.ca](http://www.ubcic.bc.ca)

UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
FEBRUARY 21<sup>ST</sup> TO 22<sup>ND</sup>, 2024  
VIRTUAL MEETING

**Resolution no. 2024-02**

**RE: Continuation of Funding at Actuals for Capital for Child and Family Services and Jordan's Principle**

**WHEREAS** in 2021 CHRT 41 (para. 545), the Canadian Human Rights Tribunal (CHRT) ordered Canada to fund the actual cost of capital projects for child and family services and Jordan's Principle, as determined by First Nations and First Nations Agencies until:

- i. A "Nation (Indigenous)-to Nation (Canada) agreement respecting self-governance to provide its own child welfare services.
- ii. Canada reaches an agreement that is Nation-specific even if that Nation is not yet providing its own child welfare services and the provisions for major capital in the agreement for child and family services or Jordan's Principle are more advantageous for the Nation than the orders in the ruling.
- iii. Long-term reform is completed in accordance with best practices recommended by the experts and the parties and interested parties, and funding for the purchase or construction of major capital assets is no longer based on discriminatory funding formulas or programs, including as set out in a Final Order by the Tribunal approving a Final Settlement Agreement signed by Canada";

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of B.C., passed legislation committing to implement, affirms:

**Article 2:** Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous identity or origin.

**Article 7(2):** Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

**Article 22(1):** Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

**(2):** States shall take measures, in conjunction with Indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination;

**WHEREAS** the lack of capital funding for First Nations child and family services was found by the CHRT to be a major source of discrimination in 2016 CHRT 2;

**WHEREAS** pursuant to the Agreement-in-Principle on Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle, executed December 31, 2021, Canada agreed to fund capital costs for child and family services and Jordan's Principle at their actual cost as determined by First Nations and First Nations agencies;

**WHEREAS** Indigenous Services Canada has imposed a deadline of March 31, 2024, for the end of funding at actuals for capital and a move toward implementing capital funding based on a formula of "recapitalization"; and

**WHEREAS** most First Nations have not had the opportunity to access funding at actuals for capital for child and family services and Jordan's Principle due to short timelines, lack of awareness, and capacity challenges, despite the significant demonstrated need for capital.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls upon Indigenous Services Canada to comply with the provisions of the Canadian Human Rights Tribunal order 2021 CHRT 41, to withdraw its deadline to access funding at actuals for capital for First Nations and First Nations agencies for child and family services and Jordan's Principle, and to continue access to funding for capital at its actual cost until such time as a funding model can be developed that meets distinct community needs (including remoteness), that is consistent with substantive equality, and that is endorsed by First Nations.

**Moved:** Chief Greg Gabriel, Penticton Indian Band  
**Seconded:** Chief Victor Isaac, 'Namgis First Nation  
**Disposition:** Carried  
**Date:** February 21, 2024

This is Exhibit "I" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



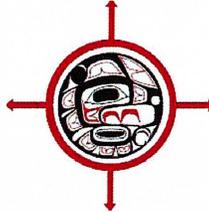
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A Commissioner for Taking Affidavits  
For British Columbia

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UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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



VANCOUVER OFFICE  
401 - 312 Main Street  
Vancouver, B.C. V6A 2T2  
Tel: 604-684-0231  
Fax: 604-684-5726  
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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL  
FEBRUARY 21<sup>ST</sup> – 22<sup>ND</sup>, 2024  
VIRTUAL MEETING

**Resolution no. 2024-17**

**RE: Ensuring Free, Prior and Informed Consent for FNCFS Long-Term Reform and Compensation Distribution**

**WHEREAS** the First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a discrimination at the Canadian Human Rights Tribunal in 2007 alleging Canada's inequitable provision of First Nations child and family services and its choice to not implement Jordan's Principle were discriminatory;

**WHEREAS** the Canadian Human Rights Tribunal substantiated the discrimination in 2016 CHRT 2 and ordered Canada to immediately cease its discriminatory conduct towards First Nations children and families, including those who are members of First Nations in British Columbia (B.C.);

**WHEREAS** consistent with the direction of the AFN Chiefs-in-Assembly (AFN resolution no. 85/2018) pursuant to the Canadian Human Rights Act, Canada has been ordered to pay \$40,000.00 per eligible victim for Canada's "willful and reckless" discrimination of the "worst order." In 2019 CHRT 30 and 2021 CHRT 7 as upheld by the Federal Court (T-1621-19 in 2021 FC 969);

**WHEREAS** on December 31, 2021, two Agreements-in-Principle (AIP) were signed, providing the frameworks for negotiations of the Final Settlement Agreements (FSA) on (1) Long-Term Reform of the FNCFS Program, Jordan's Principle, and Indigenous Services Canada (ISC) and (2) Compensation for victims of Canada's discrimination;

**WHEREAS** on April 3, 2023, the parties announced a revised FSA on compensation totaling \$23.34 billion, which was endorsed by the AFN Chiefs-in-Assembly (Resolution 04/2023); and approved by the Federal Court in a Settlement Approval Hearing on October 24, 2023;

**WHEREAS** AFN resolution 40/2022 ‘Final Settlement Agreement on Compensation for First Nations Children and Families’ calls on Canada to ensure Chiefs shall be provided with all available options and related supporting financial resources and materials to ensure First Nations can exercise their Free, Prior and Informed Consent on long-term reforms.

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of B.C., passed legislation committing to implement, affirms:

**Article 2:** Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

**Article 7(2):** Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

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

**Article 22(2):** States shall take measures, in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

**Article 40:** Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights;

**WHEREAS** at the direction of the First Nations-in-Assembly, the AFN Social Development Sector has been mandated to advance First Nations control and jurisdiction over social development programs and services as the foundation for the wellbeing of First Nations children, families and communities;

**WHEREAS** AFN Resolution 40/2022 directed Canada to fund the Assembly of First Nations National Advisory Committee (NAC) on First Nations Child and Family Services Reform and regional and other technical experts to inform the FSA;

**WHEREAS** the Federal Court of Canada, with the approval of the AFN, appointed Stuart Wuttke, Derek Nepinak, Duke Peltier, David Sterns and Robert Kugler to serve on the Settlement Implementation Committee to oversee the implementation of the FSA on Compensation in November 2023;

**WHEREAS** First Nations have been requested to provide input on compensation distribution by the end of February 2024 without yet receiving a draft distribution protocol to review, inhibiting the ability to provide free, prior, and informed consent; and

**WHEREAS** AFN Resolution 28/2022 directed for the AFN to return to the AFN First Nations-in-Assembly to provide regular progress reports and seek direction on any outstanding implementation issues.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls on the Assembly of First Nations (AFN) Settlement Implementation Committee to provide the draft compensation distribution protocol prior to

consultation, and to extend engagement timelines to allow for thorough consultation with Nations in B.C. and ensure free, prior, and informed consent;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council calls on the federal government to provide funding for regional engagement on the draft compensation distribution protocol to ensure free, prior, and informed consent; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council calls on the AFN to ensure direction and approval is sought from the AFN Chiefs-in-Assembly and the AFN Social Development Sector, and that such direction is adhered to in decision-making regarding long-term reform and compensation distribution.

**Moved:** Judy Wilson, Osoyoos Indian Band (Proxy)  
**Seconded:** Katisha Paul, UBCIC Youth Representative  
**Disposition:** Carried  
**Date:** February 22, 2024

This is Exhibit "J" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

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UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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



VANCOUVER OFFICE  
401 - 312 Main Street  
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Fax: 604-684-5726  
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UNION OF B.C. INDIAN CHIEFS  
CHIEFS COUNCIL

JUNE 2<sup>ND</sup> - JUNE 3<sup>RD</sup>, 2022

MUSQUEAM COMMUNITY CENTRE, X<sup>W</sup>MƏƏK<sup>W</sup>ƏYƏM (MUSQUEAM TERRITORY)

Resolution no. 2022-22

## RE: First Nations Involvement in Negotiations on New Tripartite Agreement for Emergency Management Services Funding

**WHEREAS** the impacts of climate change will continue to exacerbate emergency events in BC, including sudden and unprecedented wildfires, damaging storms, atmospheric rivers and floods, droughts and landslides.

**WHEREAS** wildfires in BC numbered over 1,642 from April 1, 2021 to March 28, 2022, with 869 million hectares of land burned, 181 evacuation orders, 304 evacuation alerts, a 56-day provincial state of emergency, and millions of dollars of costs (\$565 million) and estimated insurance damages (\$102 million) as a result of catastrophic loss to lands and critical infrastructure;

**WHEREAS** flooding in BC reached unprecedented levels in 2021, with extreme rainstorms caused by atmospheric river events hitting several regions of the province and resulting in mudslides, landslides, and catastrophic flooding causing damage to infrastructure, roads, bridges and homes in and around First Nations communities, with parts of BC being completely submerged in water causing at least \$450 million in damage with as many as 42 First Nations communities impacted;

**WHEREAS** significant resources, financial, natural, and human, were expended during both wildfire and flooding crises; however, these resources were insufficient and/or poorly managed and allocated to address First Nations' needs, challenges and priorities;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

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

**Article 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned

2022-22

Page 1 of 3

through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them;

**WHEREAS** the Union of BC India Chiefs (UBCIC), working with the First Nations Summit (FNS) and the BC Assembly of First Nations (BCAFN) as the First Nations Leadership Council (FNLC) entered into a tripartite memorandum of understanding (the MOU) in 2019 with the Government of Canada (represented by Indigenous Services Canada (ISC)), and the government of British Columbia (represented by Emergency Management BC (EMBC) and BC Wildfire Service (BCWS)) for the purpose of working collectively to advance meaningful recognition and enhanced capacity of First Nations within all pillars of emergency management (i.e., preparedness, mitigation, response, and recovery);

**WHEREAS** by UBCIC Resolution 2018-32 “Support-in-Principle for Tripartite MOU between the FNLC, Indigenous Services Canada, and Emergency Management BC/BC Wildfire Service,” the UBCIC Chiefs Council granted a support-in-principle for entering into, and negotiating, the terms of the MOU, to negotiate “permanent, reliable, and appropriate funding for the FNLC and First Nations Emergency Services Society to be full and equal partners in [the MOU], and also for substantive and meaningful funding to support First Nations to enhance their physical and human resources and capacity”;

**WHEREAS** Canada, represented by ISC, and British Columbia, represented by EMBC & BCWS, have in place a ten-year bilateral service agreement signed in 2017 providing for the delivery of services meant to “improve emergency management in First Nation communities and begin to negotiate service agreements with the provinces and territories to ensure First Nations received service equivalent to municipalities” (the Bilateral Agreement);

**WHEREAS** ISC and EMBC & BCWS sent a letter to the FNLC dated March 24<sup>th</sup>, 2022 expressing their intent to open discussions, and negotiations, regarding the Bilateral Agreement and include First Nations in a new relationship that implements the UN Declaration and respects First Nations’ jurisdiction and inherent right of self-government, and with the recognition that First Nations require resources, infrastructure and enhanced capacity in order to advance the practice of emergency management in a manner that supports and reinforces their own governance, institutions and decision-making authority; and

**WHEREAS** First Nations in BC must be supported by ensuring adequate financial and technical resources are in place to respond to climate change impacts and for First Nations-developed mitigation and adaptive measures (i.e., monitoring, impact assessments), and adequate financial and technical resources are identified for First Nations to begin creating a Chiefs Committee on flood, wildfire and marine.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council calls on the federal and provincial governments to commit to working in partnership with First Nations in BC to address all phases of emergency management and recovery, and to provide permanent, reliable, and appropriate capacity funding for First Nations and their representative organizations to address climate change and climate-related emergencies;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to request that all funding allocations submitted by First Nations for all emergencies be immediately finalized and reimbursed by Emergency Management BC (EMBC);

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council supports Canada and British Columbia expanding the Bilateral Agreement to a new trilateral agreement with First Nations in BC, for the purposes of ensuring satisfactory, effective and equitable funding and resourcing within the four pillars of emergency management in First Nations communities by December 2022;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive, working with the BC Assembly of First Nations and First Nations Summit as the First Nations Leadership Council, to engage with First Nations in BC and provide possible negotiation models for First Nations consideration in order for First Nations to engage in negotiation with Canada and British Columbia on the new trilateral agreement; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to report back to the UBCIC Chiefs Council with a final negotiation model for consideration.

**Moved:** Chief Maureen Chapman, Skawahlook  
**Seconded:** Chief Byron Louis, Okanagan Indian Band  
**Disposition:** Carried  
**Date:** June 2, 2022

This is Exhibit "K" referred to in the  
Affidavit #1 of Stewart Phillip  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



---

A Commissioner for Taking Affidavits  
For British Columbia

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401 - 312 Main Street  
Vancouver, B.C. V6A 2T2  
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UNION OF B.C. INDIAN CHIEFS  
55<sup>TH</sup> ANNUAL GENERAL ASSEMBLY  
OCTOBER 4<sup>TH</sup> TO 6<sup>TH</sup>, 2023

CARIBOO MEMORIAL RECREATION COMPLEX, WILLIAMS LAKE (SECWPEMC TERRITORY)

Resolution no. 2023-42

**RE: Support for International Engagement and Joint Climate Action Between First Nations in B.C. and Indigenous Peoples Worldwide**

**WHEREAS** Indigenous peoples worldwide have experienced consistent patterns of historical injustices and racism resulting from the colonization and dispossession of their lands, territories and resources, and the doctrines, policies and practices that supported colonialism. These ideologies often promoted the supposed superiority of certain groups or individuals based on national origin, race, religion, ethnicity, or cultural distinctions;

**WHEREAS** international action and solidarity between Indigenous Peoples have been immensely important in the struggle against colonialism, including in the drafting, advocacy and eventual adoption of the Declaration on the Rights of Indigenous Peoples in 2007 by the United Nations General Assembly;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of B.C., passed legislation committing to implement, affirms:

**Article 5:** Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

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Certified copy of a resolution adopted on the 4th day of October of 2023 in Secwepemc territory

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Grand Chief Stewart Phillip, President

2023-42  
Page 1 of 4

**Article 8(1):** Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

**(2):** States shall provide effective mechanisms for prevention of, and redress for: (a) any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (b) any action which has the aim or effect of dispossessing them of their lands, territories or resources; (d) any form of forced assimilation or integration.

**Article 25:** Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

**Article 29(1):** Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination;

**WHEREAS** international exchange between Indigenous peoples has provided opportunities for First Nations in British Columbia, including through the UBCIC, to learn about many diverse experiences from around the world and to mutually strengthen efforts to advance recognition of Indigenous rights here and elsewhere, including at the United Nations;

**WHEREAS** exchange between Indigenous peoples worldwide continue to be a source of inspiration and strategy in support of the struggle to end all forms of colonialism, to seek redress for the injustices suffered by Indigenous Peoples to date, and to realize the full implementation and respect for the United Nations Declaration on the Rights of Indigenous Peoples;

**WHEREAS** it is unequivocal that human activities have warmed the atmosphere, ocean and land, increasing the average temperature of the Earth's surface to 1.1°C above pre-industrial levels and will continue to increase as more GHG emissions are produced, and larger climatic extremes and changes are anticipated with every incremental increase in global warming, including more heatwaves, precipitation, wildfires, floods and droughts, and disruptions in the global water cycle;

**WHEREAS** in 2019, the UBCIC Chiefs Council declared a Climate Emergency (UBCIC Resolution 2019-02), recognizing that “the breakdown of the stable climate and sea level under which human civilization developed constitutes a climate emergency;”

**WHEREAS** Indigenous peoples worldwide are uniquely vulnerable to the climate emergency – as the alarming loss of biodiversity, ongoing environmental degradation, and the often-precarious living conditions endured by Indigenous communities worldwide compound and intersect. Climate destruction represents a dire and pressing threat to the very survival of Indigenous communities, particularly remote communities, women and children, whose territories face severe disruption, jeopardizing not only traditional food sources and livelihoods but also languages, traditions, cultures, and fundamental rights;

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Certified copy of a resolution adopted on the 4<sup>th</sup> day of October of 2023 in Secwepemc territory




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Grand Chief Stewart Phillip, President

**WHEREAS** the severity of climate change and its inequality urge bold and decisive actions, including establishing robust global partnerships and collaboration across sectors and societies at the global, national and local levels, actively recognizing and respecting Indigenous knowledge systems while fostering horizontal collaboration with non-Indigenous knowledge systems; and

**WHEREAS** building bridges and collaboration between Indigenous peoples across the globe is essential to fighting the climate emergency and empowering Indigenous communities to address shared challenges, protect rights, and assert self-determination and cultural identity in a rapidly changing world – by building partnerships, Indigenous peoples could:

- Find strength in unity and solidarity to strengthen efforts to end all forms of colonialism, seek redress for ongoing injustices, amplify collective voices and advocate more effectively for environmental integrity, Indigenous human and inherent rights, interests, and concerns at local, national and international forums. Partnerships could provide a platform for joint advocacy and influence on climate policies, legislation and decision-making at different levels and forums, including the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and other venues where Indigenous peoples are under-represented.
- Sharing Indigenous Knowledge, practices and wisdom accumulated over generations, which can be crucial for addressing climate challenges, including environmental conservation and sustainable resource management.
- Fostering the preservation and revitalization of languages, cultural practices, and traditions. Sharing cultural experiences and stories helps maintain cultural identities and strengthen connections to ancestral heritage.
- Enabling Indigenous communities to pool resources, both financial and human, to address shared issues such as land rights, economic development, healthcare, and education.
- Enhancing the climate resilience of Indigenous communities. Collective responses could lead to more robust strategies for climate adaptation and mitigation.
- Sovereignty and Self-Determination. By forming partnerships, Indigenous communities could assert their sovereignty and self-determination more effectively. This allows them to make decisions about their own governance, development, and future.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs-Assembly reaffirm that First Nations' traditional laws and legal orders, knowledge, teachings and practices of sustainable management and conservation serve as positive contributions in addressing climate change adaptation and mitigation strategies, as well as First Nations' community-based climate actions;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs-in-Assembly direct the UBCIC Executive, based upon our unceded and inherent rights to diplomacy, to support the advocacy and development of partnerships between First Nations in B.C. with Indigenous peoples abroad, and in particular for projects which:

- i. Build relationships to act in unity and solidarity for the well-being of Indigenous peoples and the integrity of the environment worldwide.

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Certified copy of a resolution adopted on the 4<sup>th</sup> day of October of 2023 in Secwepemc territory




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Grand Chief Stewart Phillip, President

- ii. Support collective action and advance climate leadership.
- iii. Strengthen the recognition of Indigenous peoples' knowledge systems, worldviews, and values as contributions to addressing the climate emergency.
- iv. Advance the recognition and protection of Indigenous rights, assert sovereignty and self-determination both domestically and internationally.
- v. Strengthen Indigenous Peoples' representation in climate change forums and intergovernmental fora.
- vi. Prioritize the voices of Indigenous women and gender-diverse peoples in climate action;

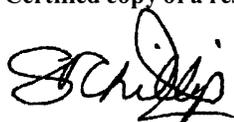
**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to work with like-minded organizations to engage in our inherent rights of diplomacy and international advocacy at multiple scales, including at the United Nations and through the UN Framework Convention on Climate Change and the Convention on Biological Diversity; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs-in-Assembly call on the Government of Canada and the Province of B.C. to recognize and support international Indigenous diplomacy and partnerships and to provide adequate funding for the representation of Indigenous peoples in international conferences, particularly youth, women and gender-diverse members from First Nations communities in British Columbia.

**Moved:** Judy Wilson, Skawahlook First Nation (Proxy)  
**Seconded:** Katisha Paul, UBCIC Youth Representative  
**Disposition:** Carried  
**Date:** October 4, 2023

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Certified copy of a resolution adopted on the 4<sup>th</sup> day of October of 2023 in Secwepemc territory




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Grand Chief Stewart Phillip, President

2023-42  
Page 4 of 4

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

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

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

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

Respondent

-and-

CHIEFS OF ONTARIO,  
AMNESTY INTERNATIONAL CANADA and NISHNAWBE-ASKI NATION

Interested Parties

-and-

FIRST NATIONS LEADERSHIP COUNCIL

Moving Party

**AFFIDAVIT #1 OF HUGH BRAKER, K.C.**

I, Hugh Braker, K.C., of 6075 Georgia Road, Port Alberni, British Columbia, V9Y 8K7,  
SOLEMNLY AFFIRM AND SAY AS FOLLOWS:

1. I work with the First Nations Summit ("FNS") as a political executive member of its Task Group. The FNS is a member organization of the First Nations Leadership Council ("FNLC"). I am also a citizen of the Tseshaht First Nation, which is located in Port Alberni on the west coast of Vancouver Island and is one

of fourteen tribes of the Nuu-Chah-Nulth Nation. I have personal knowledge of the facts and matters hereinafter deposed to save and except where the same are stated to be based on information and belief and where so stated I believe them to be true.

2. I am a former Chief Councillor of the Tseshaht First Nation and have served on numerous Indigenous boards of Directors and continue to serve on the boards of Directors for many Indigenous organizations. I practiced law for over 25 years, during which time I acted in many cases related to Indigenous child welfare, governance, and Indigenous rights, and have appeared before the Supreme Court of Canada on several occasions. I was elected in June 2022 for a three-year term on the FNS's Task Group.
3. This affidavit is in support of a motion by the FNLC to be granted interested party status in the motion filed by the First Nations Child and Family Caring Society of Canada on December 12, 2023, and the Government of Canada's cross-motion in the same proceeding filed March 15, 2024 (collectively, the "Motions").

#### **FNLC**

4. BC is home to 204 First Nations, representing approximately one third of all First Nations in Canada, each with their own cultures, languages, laws, and traditions. The FNLC was formed in 2005 by a historic Leadership Accord and is a collaborative political working relationship between the FNS, the Union of British Columbia Indian Chiefs ("UBCIC") and the BC Assembly of First Nations ("BCAFN"). UBCIC, BCAFN and FNS have come together to address issues of common concern to First Nations peoples in British Columbia ("BC").
5. Since its inception, the FNLC has engaged in strategic policy discussions with the governments of Canada and BC, seeking a common vision for systemic change by advocating for a government-to-government relationship based on respect and recognition of First Nations peoples' rights. This has included acting jointly as intervenors on a number of matters, engaging in legislative and policy

reform at the provincial and federal level, and sitting at bilateral and trilateral tables with the governments of Canada and BC.

### **THE FIRST NATIONS SUMMIT**

6. The FNS was established in 1990. It comprises a majority of First Nations and Tribal Councils in British Columbia ("BC"), and represents the collective positions taken by those First Nations that have chosen to pursue the negotiation of modern treaties with BC and Canada, with the oversight of the BC Treaty Commission.
7. The FNS's primary focus is to promote and support First Nations in their efforts to exercise and defend their rights, including their constitutionally protected Aboriginal and treaty rights, and their Indigenous human rights affirmed by the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP"). A central way we do this is by supporting and representing the interests of First Nations that are negotiating treaties, agreements, and other constructive arrangements with the Crown to reconcile First Nations' pre-existence on the land that is now BC and Canada with the assertion of Crown sovereignty.
8. The FNS is one of the three principals to the BC treaty negotiation process, along with the Government of Canada and the Government of BC.
9. The FNS collaborates and works cooperatively on matters of common concern with the BCAFN and the UBCIC, as the FNLC, pursuant to a Leadership Accord that the three organizations entered into in March 2005.

### **FNS/FNLC WORK ON LEGISLATIVE REFORM**

10. I was informed by Colin Braker, communications director of the FNS, and I believe it to be true, the FNS (as part of the FNLC) worked with the Government of Canada on the development of *An Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019 c. 24. Two of the objectives of this law are to affirm the inherent right of self-government and contribute to the

implementation of UNDRIP. The constitutionality of that enactment, and the significance of UNDRIP in Canadian law, were considered at length by the Supreme Court of Canada in *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5. FNS intervened in the case, together with its FNLC partners.

11. I was informed by Colin Braker, and I believe it to be true, the FNS (in collaboration with its FNLC partners) worked with the province of BC on the development of Bill 38, the *Indigenous Self-Government in Child and Family Services Amendment Act*, to ensure that inherent jurisdiction over children and families held by First Nations is recognized and upheld in BC. I am aware that the FNS also participated (in collaboration with its FNLC partners) in the development of the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021 c 14 (“UNDRIPA”).
12. Section 4 of UNDRIPA states that the purposes of the Act are to “(a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and (b) provide a framework for the Government of Canada’s implementation of the Declaration.” UNDRIPA includes similar requirements as DRIPA to, in consultation and collaboration with Indigenous peoples, ensure the laws of Canada are consistent with UNDRIP, to develop and implement an action plan to meet the objectives of UNDRIP, and to report annually on progress.

#### **FNLC/FNS WORK ON CHILD & FAMILY SERVICES AND JORDAN’S PRINCIPLE**

13. Indigenous children represent over 60% of the children in government care in BC. The FNS has been mandated by the FNS Chiefs-in-Assembly to work collectively with the UBCIC and the BCAFN as the FNLC to advance legislative, policy and fiscal reform in BC to support First Nations jurisdiction over child and family services. Attached as **Exhibit “A”** to my affidavit is FNS resolution #0616.21.
14. I was informed by Colin Braker, and I believe it to be true, in 2017, the FNS Chiefs-in-Assembly, endorsed the *Action Framework: Reconciliation, Self-*

*Determination, and Self-Government for Indigenous Children, Families and Nations in BC* (the “Action Framework”) which set out a path for the resumption of jurisdiction over child and family services by Indigenous Peoples in BC.

15. Pursuant to the Action Framework, the Chiefs-in-Assembly directed the FNS Task Group, as part of the FNLC, to engage with the governments of Canada and BC in a meaningful, Indigenous-driven process to reform Indigenous child welfare in BC. Attached as **Exhibit “B”** to my affidavit is a copy of FNS resolution #0217.19.
16. I was informed by Colina Braker, and I believe it to be true, that on April 7, 2017, the FNS (together with the BCAFN and the UBCIC as the FNLC), and the governments of Canada and BC, signed the *Reconciliation Charter for First Nations Child & Family Wellbeing in British Columbia* (the “Reconciliation Charter”). The Reconciliation Charter established a joint commitment to advance systemic change regarding First Nations child welfare and to support First Nations jurisdiction over children and families. Attached as **Exhibit “C”** to my affidavit is a copy of the Reconciliation Charter.
17. The Reconciliation Charter also established the Tripartite First Nations Child and Family Working Group (the “TWG”) to work on concrete actions for reform including:
  - a. Legislative reform;
  - b. Policy and program development; and
  - c. An effective fiscal model to support First Nations child and family wellbeing in BC.
18. I was informed by Colin Braker, and I believe it to be true, the FNLC, as part of the TWG, established working group focused on developing a new fiscal framework for First Nations child and family services in BC.
19. In 2022 the FNLC, as part of the fiscal working group of the TWG, published a discussion paper titled: *Developing a new funding model and approach for First*

*Nations children & families* to gather input from First Nations towards the development of an effective fiscal model to support First Nations child and family wellbeing, and jurisdiction in BC. The discussion paper is attached to my affidavit as **Exhibit “D”**. The FNS Chiefs-in-Assembly directed the preparation of the discussion paper by FNS resolution #1023.12, which is attached to my affidavit as **Exhibit “E”**.

20. In addition to its role at the TWG, the FNLC has actively participated in advocacy and transformation initiatives as they relate to First Nations child and family services and Jordan’s Principle in BC, including:
  - a. the BC Jordan’s Principle Committee, established in 2021;
  - b. First Nations Children and Youth in Care educational outcomes technical working group (informed by a political MOU with the Province);
  - c. Indigenous Early Learning and Child Care; and
  - d. children and youth with support needs.
21. As part of its work on child and family services and Jordan’s Principle, the FNLC has routinely engaged with First Nations leadership and rights holders in BC to gather feedback and seek direction regarding the distinct needs and challenges being experienced by First Nations in BC, and to inform strategic direction to be taken by the FNLC in its work on child and family services and Jordan’s Principle advocacy and policy development.
22. Through participation at these various political and technical tables, and through direct engagement with First Nations leadership and rights-holders in BC, the FNLC has developed knowledge and expertise regarding the distinct needs and priorities of First Nations children, families, and communities in BC.
23. This knowledge and expertise includes, but is not limited, to:
  - a. the problems faced by First Nations children and families in BC, including those directly related to inadequate funding and resourcing;

- b. the unique and distinct needs, challenges and priorities of First Nations children, families, and communities in BC;
- c. the unique relationship between First Nations in BC, and the Crown, as distinct from other areas of Canada;
- d. the exercise of jurisdiction over children and families, education, and health that is unique and distinct in BC;
- e. the complexity of Jordan's Principle administration and service delivery in BC; and
- f. the ongoing and substantial backlog of Jordan's Principle requests in the BC-region.

#### **FNLC/FNS'S INTEREST IN THIS MOTION AND PROPOSED SUBMISSIONS**

- 24. The FNS proposes to intervene in this motion jointly with the BCAFN and UBCIC, as the FNLC.
- 25. Indigenous children represent more than half of all children in government care in BC, and are disproportionately impacted by systemic inequities in health, education and social services. As such, First Nations in BC have a significant interest in any orders made by this Tribunal as sought in the Motions. Specifically, First Nations in BC are disproportionately impacted by backlogged Jordan's Principle requests and payment reimbursements compared to other jurisdictions in Canada. First Nations in BC are also disproportionately impacted by local states of emergency, as tied to the definition of urgent requests.
- 26. In the BC-region, there are 35 First Nations and First Nation organizations who have an enhanced service coordination agreement with Canada, including two provincial Jordan's Principle enhanced service coordination hubs. Several of the service coordinators are housed within Indigenous delegated agencies who are member agencies of the Our Children Our Way Society ("OCOWS"). OWOWS is a partner at the TWG. The issues raised in the Motions related to these enhanced service coordinators and service navigation have significant

implications for First Nations children, families, communities, and organizations in BC.

27. The FNLC seeks interested party status to make submissions on the unique and distinct perspective of First Nations in BC regarding the implementation and current state of Jordan's Principle in the BC-region.

## **RELEVANCE AND USEFULNESS OF THE PROPOSED SUBMISSIONS**

28. Our submissions are relevant to this Tribunal given the issues the Motions raise around the definition and identification of urgent requests, orders related to addressing the backlog of unopened and unassigned Jordan's Principle requests and the processing of payments, the self-determination of First Nations, and all related orders being sought from this Tribunal.
29. Our submissions will be useful to this Tribunal given our particular expertise and experience with law and policy reform as it relates to jurisdiction over child welfare and Indigenous rights; decades of experience in negotiating with the Crown on treaties and other constructive arrangements, which include jurisdiction over the health, education, welfare, and upbringing of our children; and the unique perspective of First Nations and BC.
30. As noted, the FNS Chiefs-in-Assembly have directed that FNS Executive, part of the FNLC, to ensure opportunities for First Nations in BC to provide input into the development of a new fiscal framework, and to ensure there is an accurate reflection of the needs and priorities of First Nations in BC. The orders of the Tribunal and negotiations between the parties on the long-term reform of Jordan's Principle will have a direct impact on First Nations in BC. Our proposed submissions will be information by the practicalities of the ongoing work related to the implementation of Jordan's Principle in BC, and the assertion and exercise of jurisdiction over child and family services, including in modern treaty negotiations. If granted interested party status in the Motions, the FNLC's submissions to the Tribunal will be useful as they will bring a unique and informed view on the challenges raised, and remedies sought, from the

perspective of First Nations in BC who have a unique relationship with the Crown, and who are disproportionately impacted by the issues raised.

**CONDUCT OF FNLC/FNS IN THE MOTION**

- 31. If granted interested party status, the FNLC/FNS:
  - a. will not file any additional evidence or add to the motion record without leave of the Tribunal;
  - b. will not expand the issues or raise new ones;
  - c. will not delay the hearing of the Motions;
  - d. will work with the parties and other interested parties to avoid duplicative submissions;
  - e. will abide by any schedule set by this Tribunal; and
  - f. will comply with any terms, conditions, or limitations that this Tribunal imposes on its participation in the appeal as an interested party.

**COSTS**

- 32. If granted interested party status, the FNLC/FNS will not seek costs of its participation before this Tribunal. It asks that none be awarded against it on this motion or on the hearing of the Motions.

SWORN (OR AFFIRMED) BEFORE ME )  
 at West Vancouver, British Columbia, on )  
 the 31<sup>st</sup> day of May 2024. )

 )  
 \_\_\_\_\_ )  
 A commissioner for taking affidavits for )  
 British Columbia )

 )  
 Hugh Braker, K.C. )

**Dawn Johnson**  
**Barrister & Solicitor**  
**422 - 1080 Mainland Street**  
**Vancouver, BC V6B 2T4**  
**Tel: 604-681-4146**

This is Exhibit "A" referred to in the  
Affidavit #1 of Hugh Braker  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia

# FIRST NATIONS SUMMIT

## RESOLUTION #0616.21

**SUBJECT: REFORM OF INDIGENOUS CHILD AND FAMILY WELFARE SYSTEM IN BC**

### WHEREAS:

- A. Indigenous Peoples have the right of self-determination, and legal orders and jurisdictions, related to children and families.
- B. Canada's constitutional framework recognizes and protects the continuity of Indigenous laws and traditions. Section 91(24) of the *Constitution Act, 1867* reflects the *Royal Proclamation of 1763* and confirms an enduring constitutional and solemn commitment for a lasting relationship between the federal Crown and Indigenous Peoples. Section 35 of the *Constitution Act, 1982* recognizes, affirms and protects Aboriginal and treaty rights. The purpose underlying section 35 is the reconciliation of the prior existence of First Nations societies, and First Nations sovereignty, with assumed Crown sovereignty.
- C. The *United Nations Declaration on the Rights of Indigenous Peoples* includes the following minimum standards relating to Indigenous human rights:
  - a. *Article 3*: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;
  - b. *Article 4*: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions;
  - c. *Article 18*: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions;
  - d. *Article 19*: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- D. Indigenous peoples' jurisdiction and right of self-determination over the well-being of children and families is not meaningfully recognized, reflected or integrated in the current child welfare system in British Columbia, which is premised on the assertion of provincial jurisdiction, control and colonial policies.

**PAGE TWO****RESOLUTION #0616.21****SUBJECT: REFORM OF INDIGENOUS CHILD AND FAMILY WELFARE SYSTEM IN BC**

- E. There continues to be a disproportionately and significantly high percentage of Indigenous children in care in BC, and the child welfare system as it relates to Indigenous children and youth is in a crisis state in BC.
- F. On December 14, 2015, the BC Government publicly released *Plecas Review, Part One: Decision Time* ("the Plecas Report"), which presented a wide-ranging survey of child welfare and politics, including a unilateral public assessment of the value of independent oversight and the performance of the current Representative for Children and Youth (RCY).
- G. The Plecas Report was criticized by the First Nations Summit, the Union of BC Indian Chiefs and the BC Assembly of First Nations, working collectively as the First Nations Leadership Council, on the basis that Mr. Plecas presented a heavily biased review, which overreached the initial mandate and terms of reference of the report and was conducted with no engagement of First Nations or the RCY Office.
- H. On June 2, 2015 the Truth and Reconciliation Commission (TRC) released 94 Calls to Action for specific and concrete action by all levels of government and others to substantively advance reconciliation. The TRC's first 5 Calls to Action are appropriately focused exclusively on Indigenous child welfare, as it was Indigenous children who were the target of state policies of assimilation, and were to be the instruments of the destruction of their cultures, languages and their ways of life. These Calls to Action focus on child welfare and call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care and set out clear steps for this to take place.
- I. The Crown has a legal duty to reconcile with First Nations and to act honourably in all of its dealings with First Nations people. It includes reconciliation with respect to the dark, shared history of the residential school program and child welfare system – as well as acting honourably today in establishing legislation, policy and practices affecting First Nations children, families and communities.
- J. This is underscored by the January 2016 Canadian Human Rights Tribunal (CHRT) decision in *First Nations Child and Family Caring Society of Canada*, which starkly found that the federal government has been racially discriminating against 163,000 First Nations children and their families by providing flawed and inequitable child welfare services ("FNCFS Program") and failing to implement Jordan's Principle to ensure equitable access to government services available to other children.
- K. The RCY's April 2016 Special Report, *Implementation of the Plecas Review, Part One: Decision Time*, recommends "that the ministry pause any implementation of the Plecas report that may be occurring and provide an opportunity for Aboriginal groups, stakeholders, and other communities of interest to provide comments on the report and recommendations through a transparent consultation process."
- L. On May 19, 2016, the BC provincial government announced that a group of independent advisors will work with government to action the Plecas Report. This advisory council was created without consultation with First Nations or the RCY.

PAGE THREE

RESOLUTION #0616.21

SUBJECT: REFORM OF INDIGENOUS CHILD AND FAMILY WELFARE SYSTEM IN BC

- M. Also in May 2016, Minister Bennett, Indigenous and Northern Affairs Canada, announced at the United Nations Permanent Forum on Indigenous Issues the Government of Canada's unqualified endorsement of the *United Nations Declaration on the Rights of Indigenous Peoples*. The Minister's mandate letter from Prime Minister Trudeau also confirms the Government's commitment to support the work of reconciliation, to implement the TRC Calls to Action, and to renew the relationship between Canada and Indigenous Peoples, which must be a nation-to-nation relationship, based on recognition, rights, respect, co-operation, and partnership. The Minister is mandated to make real progress on key issues, including child welfare.
- N. On May 30 – 31, 2016, a two-day BC First Nations Children and Family Gathering was held, at which First Nations leadership and child-serving organizations called for an end to unilateral decision making by the Province and Canada with respect to planning and decision making around First Nations children and families, and called for a unity-seeking approach to Indigenous child welfare in BC.
- O. Following the Gathering, the First Nations Leadership Council was notified that the BC Minister of Justice sent a letter to the RCY on May 27, 2016, setting out the Province's new commitment to "working collaboratively with First Nations in implementing new approaches to self-governance and delivery of child welfare services." The Minister also confirmed that, "As Canada's participation is also necessary, BC will be having discussions on child welfare jurisdiction and services with First Nations and Canada and will not be developing an express policy [for negotiation of jurisdiction transfer and exercise of government powers over child welfare as recommended by the RCY]".
- P. The First Nations Summit Chiefs in Assembly have consistently called for the recognition, respect and implementation of the self-determination of Indigenous Peoples with respect to their children, meaningful reconciliation under section 35 of the *Constitution Act, 1982*, and the full, unqualified implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*. Recent events, and new commitments of the federal and provincial governments, create a new opportunity for a robust and comprehensive review and reform of approaches to supporting child and family well-being.

**THEREFORE BE IT RESOLVED THAT** the First Nations Summit Chiefs in Assembly:

- a. support the call by First Nations leadership for wholesale reform of the current Indigenous child welfare system in British Columbia that was born from colonial policies that have utterly failed our children and families;
- b. direct the First Nations Summit Task Group, working with the BC Assembly of First Nations (BCAFN) and the Union of BC Indian Chiefs (UBCIC), to develop and advance, with First Nations and willing partners, an action-oriented First Nations family services action plan;
- c. call on the Province to pause implementation of Mr. Plecas' December 2015 report, *Part One: Decision Time* ("the Plecas Report") and, by extension, disband the BC Government's Advisory Council on Children and Families, which is intended to action the Plecas Report;

PAGE FOUR

RESOLUTION #0616.21

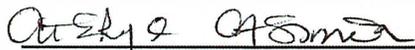
SUBJECT: REFORM OF INDIGENOUS CHILD AND FAMILY WELFARE SYSTEM IN BC

- d. direct the First Nations Summit Task Group, working with the BCAFN and UBCIC, to extend an invitation to both Canada and British Columbia to honourably engage in a robust and meaningful Indigenous-driven process to advance the action-oriented strategy; and
- e. support the efforts of First Nations in building and establishing their own children and family strategies and action plans.

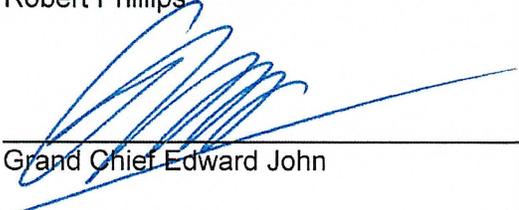
**MOVED BY:** President Debra Foxcroft, Nuu-chah-nulth Tribal Council  
**SECONDED BY:** Chief Maureen Chapman, Skawahlook First Nation  
**DATED:** June 10, 2016

Passed by consensus.

**ENDORSED BY:**

  
Cheryl Casimer

  
Robert Phillips

  
Grand Chief Edward John

This is Exhibit "B" referred to in the  
Affidavit #1 of Hugh Braker  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

# FIRST NATIONS SUMMIT

## RESOLUTION #0217.19

**SUBJECT: FIRST NATIONS JURISDICTION OVER CHILDREN AND FAMILIES**

### WHEREAS:

- A. Indigenous Peoples have the right to self-determination, which includes jurisdiction over our children and families. Canada's constitutional framework recognizes and protects the continuity of Indigenous laws and traditions.
- B. The inherent jurisdiction and authority of Indigenous Peoples over matters internal to them, including child welfare have been recognized in Canadian jurisprudence, such as *Connolly v. Wolrich*, *Casimer v. I.C.B.C.*, and *R. v. VanderPeet*.
- C. The *United Nations Declaration on the Rights of Indigenous Peoples* recognizes the right of Indigenous Peoples to flourish as Peoples caring for children and families according to our own languages, laws and social structures.
- D. First Nations and their representative organizations have continued to advocate for the reform of Child and Family Services due to the continued apprehension of First Nations children into foster care, and the lack of resources to assist families following apprehension.
- E. Many First Nations seek to exercise their inherent jurisdiction and authority in the management and development of their own Child and Family Services that respond to the unique needs of their communities.
- F. Removing First Nations children from their homes and placing them in foster care frequently leads to devastating outcomes, including: broken cultural and family ties, lack of academic achievement, substance abuse, suicides, and disconnection from language and territories.
- G. On May 30 and 31, 2016, the Province of British Columbia and the Political Executives of the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs (working together as the First Nations Leadership Council) co-hosted the First Nations Children and Families Gathering in Vancouver, BC. The purpose of the Gathering was to engage First Nations leaders, community organizations and service agencies, provincial and federal government representatives in a dialogue on short, medium and long term opportunities to improve outcomes for First Nations children, families and communities.

PAGE TWO

RESOLUTION #0217.19

SUBJECT: FIRST NATIONS JURISDICTION OVER CHILDREN AND FAMILIES

- H. At the close of the Gathering, the Province and the First Nations Leadership Council committed to initiate a working group focused on addressing current policy and legislative frameworks related to First Nations children and families. Subsequent to this, Canada agreed to participate in tripartite working group discussions.
- I. Through resolutions at Chiefs' Assemblies (UBCIC Resolution no. 2016-44, FNS Resolution #1016.11, BCAFN Resolution 22/2016), the Chiefs in BC support in principle the Draft Action Framework and have directed the First Nations Leadership Council to bring a revised Action Framework, incorporating First Nations' feedback, to our upcoming Assemblies in February and March 2017. In the meantime, the Chiefs have directed that we continue engagement with both Canada and British Columbia to honourably engage in a robust and meaningful Indigenous-driven process to reform Indigenous child welfare in BC, informed by the Draft Action Framework.
- J. The Tripartite Working Group, comprised of representatives of BC, Canada, and BC First Nations through the First Nations Leadership Council, will focus on identifying opportunities to influence and realize systemic change to British Columbia's child welfare system, including the development of recommendations for creating legislative and policy space related to governance and jurisdiction, and planning for implementation.
- K. The Working Group does not replace any existing discussions or negotiations respecting child and family well-being that any member agency or ministry may currently have underway with additional partners, including First Nation communities and/or Aboriginal organizations, nor does it preclude Working Group member agencies or ministries from initiating new discussions or negotiations as needed.
- L. In the case of *Campbell et. al. v. Nisga'a Nation et. al.* 2000 B.C.S.C. 1123 (Campbell), the Court found the Aboriginal right to self-government has not been extinguished and continues to exist. This includes jurisdiction over First Nations children and families.

**THEREFORE BE IT RESOLVED:**

That the First Nations Summit Chiefs in Assembly:

- a) Accept the decision of, and affirm their support for the decision of, the Supreme Court of British Columbia in the case of *Campbell et. al. v. Nisga'a Nation et. al.* 2000 B.C.S.C. 1123 (Campbell);
- b) call on the First Nations Summit Task Group to remind the Government of BC that the Court in the *Campbell* case found the Aboriginal right to self-government has not been extinguished and continues to exist, and the decision must be respected and followed;
- c) affirm that the unextinguished right to self-government includes jurisdiction over First Nations children and families;

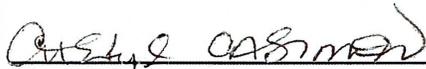
**PAGE THREE****RESOLUTION #0217.19****SUBJECT: FIRST NATIONS JURISDICTION OVER CHILDREN AND FAMILIES**

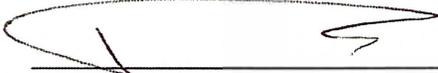
- d) reaffirm support for *First Nations Summit Resolution #1016.11* [Draft Action Framework: Reconciliation, Self-Determination and Self-Government for Indigenous Children, Families and Nations in BC];
- e) recognize that each First Nation has the right to determine and develop their own child welfare models, legislation, regulations, policies and practice standards, and fully support any and all First Nations in exercising their respective jurisdiction and authority over the care and well-being of their children and families;
- f) fully support any and all First Nations' efforts to exercise and secure recognition of their jurisdiction and authority over children and families;
- g) fully support all Indigenous Nations' inherent right to care for their children, a right protected by the Constitution of Canada and recognized by the *United Nations Declaration on the Rights of Indigenous Peoples*; and
- h) fully support the work on Child Welfare reform currently underway under the Tripartite process between BC, Canada and the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs, working together as the First Nations Leadership Council, and effectively and fully collaborating with First Nations Sectoral Councils, Delegated Agencies and the First Nations Directors Forum.

**MOVED BY:** Chief Willie Blackwater, Gitsegukla Band  
**SECONDED BY:** Chief Ann Louie, T'exelc (Williams Lake Indian Band)  
**DATED:** February 10, 2017

Passed by consensus.

**ENDORSED BY:**

  
 Cheryl Casimer

  
 Robert Phillips

  
 Grand Chief Edward John

This is Exhibit "C" referred to in the  
Affidavit #1 of Hugh Braker  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



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A Commissioner for Taking Affidavits  
For British Columbia



## RECONCILIATION CHARTER

for

### FIRST NATIONS CHILD & FAMILY WELL-BEING IN BRITISH COLUMBIA

#### *SHARED ACKNOWLEDGEMENTS*

The current child welfare system in British Columbia as it relates to First Nations children and youth is in a crisis state, as evidenced by the disproportionate number of children and youth in care, and the multitude of reports and recommendations relating to the ways the system has failed Indigenous communities.

This reality requires our focused attention, priority, sustained and genuine commitment, and shared purpose to take action for real change - as a matter of human rights, Aboriginal rights, and social justice.

We have a collective responsibility, based on our respective authorities and mandates, to work to provide the best supports and services possible to ensure the physical, emotional, mental health, safety and well-being of First Nations children and youth in British Columbia, provided in a flexible and culturally appropriate way that honours and nurtures their particular identities, capacities, needs and potential.

First Nations children have distinct rights internationally and domestically as children, and as First Nations, and they must benefit from the same fundamental rights and freedoms as every other person free, from discrimination in any form.

We acknowledge the tragic and wide-ranging impacts and legacy of the residential school program in Canada, which had as its purpose the full assimilation of First Nations people, well documented by the Truth and Reconciliation Commission (TRC).

We acknowledge the vital and urgent need for active and purposeful reconciliation between the Crown and First Nations in relation to children and families.

We acknowledge that there is a principled framework available to us for supporting First Nations and for reforming Indigenous child welfare and family services in BC – set out in the TRC Calls to Action, section 35 of the *Constitution Act, 1982*, and the *United Nations Convention on the Rights of the Child*, and the *United Nations Declaration on the Rights of Indigenous Peoples* (the “principled framework”).

We acknowledge that Aboriginal title, rights and/or treaty rights exist in British Columbia and that the Crown has corresponding duties when it contemplates a decision that may adversely affect these rights.

The Government-to-Government relationship is between each First Nation and the Crown. The Crown also has a fiduciary relationship with First Nations that has been described in Canadian case law.

We support the process of First Nations exercising greater authority with regard to child and family well-being. We acknowledge that First Nation peoples have governed themselves since time immemorial, continue to do so today, will do so into the future, and that their right of self-determination is affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples*.

We acknowledge that, currently, First Nations exercise varying degrees of authority over First Nation child and family well-being and are at varying stages of development of their vision and implementation of child and family well-being systems and supports. We will work collaboratively to create a range of flexible options that are responsive to First Nations' capacity and needs.

This Reconciliation Charter is a high-level political commitment of the three parties, within their respective mandates, to bring about systemic change in relation to First Nations child and family well-being in British Columbia. The First Nations Leadership Council serves as an advocacy body, directed by First Nations through resolutions of the three political organizations.

For clarity, this work does not replace any existing discussions or negotiations respecting child and family well-being that any agency or government department may currently have underway with additional partners, including First Nation communities and/or Aboriginal organizations, nor does it preclude such discussions or negotiations being initiated.

### ***SHARED OBJECTIVES***

We agree that our shared objective is for First Nations to govern their own children and families using approaches grounded in their own cultures and tradition. The safety and well-being of First Nations children are paramount. First Nations children's cultural identities, connections to their communities, kinship ties and attachments to their families must be supported and preserved. Going forward, we commit to take measures that are informed by the principled framework.

We seek to achieve: meaningful reconciliation in the caring of First Nations children and youth; to support First Nations exercise of self-governance and jurisdiction in the manner they choose with regard to the well-being of their children, youth and families; and to clarify the relationship between First Nations, the Province of British Columbia and the Government of Canada.

In so doing, we aim to:

- drastically reduce the number of First Nation children in care;
- prevent First Nations children from going into care;
- prioritize kinship and permanency placements where care is appropriately required;
- support First Nations youth to successfully transition out of care; and
- achieve family reunification and preservation.

### *MUTUAL COMMITMENTS*

We hereby commit to work in partnership and take specific and concrete actions to advance reconciliation. We commit to a robust tripartite, partnership process to achieve First Nations child and family welfare reform whereby we:

- 1) Share a common vision of First Nations child and family well-being that promotes positive outcomes, connected families and healthy communities, and is delivered through culturally appropriate approaches and relevant programs and services that are developed collaboratively in response to needs identified by First Nations;
- 2) Maintain an engaged and transparent political process and relationship, based on mutual respect and recognition, to provide leadership and direction for sustained and measurable progress on concrete actions based on the principled framework, and to facilitate and support First Nations in exercising self-governance and jurisdiction, with regard to First Nations children, youth and families well-being; and
- 3) Establish a tripartite working group of Canada, British Columbia and the First Nations Leadership Council with an appropriate terms of reference, to implement the concrete actions to support and seek, as appropriate:
  - a) Legislative reform;
  - b) Policy and program development; and
  - c) An effective fiscal model to support First Nation child welfare in BC.

The Reconciliation Charter is a high-level, long-term and serious political commitment by the three parties. It will go into effect once signed. A Tripartite Working Group of Canada, British Columbia and the First Nations Leadership Council will determine a work plan with short, medium and long term objectives. The work plan will be revisited at a minimum once per year.

In witness whereof, the parties have signed this Reconciliation Charter in the Province of British Columbia.

**SIGNED ON BEHALF OF THE GOVERNMENT OF CANADA:**



The Honourable Carolyn Bennett  
Minister of Indigenous and Northern Affairs Canada

APR 04 2017

Date (YYYY/MM/DD)

SIGNED ON BEHALF OF THE PROVINCE OF BRITISH COLUMBIA:

*Stephanie Cadieux*

Stephanie Cadieux, Minister, Ministry of Children and Family Development

*John Rustad*

John Rustad, Minister, Ministry of Aboriginal Relations and Reconciliation

2017/04/07

Date (YYYY/MM/DD)

SIGNED ON BEHALF OF THE BC ASSEMBLY OF FIRST NATIONS:

*Maureen Chapman*

Chief Maureen Chapman, Acting Regional Chief

2017/04/07

Date (YYYY/MM/DD)

SIGNED ON BEHALF OF THE FIRST NATIONS SUMMIT:

*Cheryl Casimer*

Cheryl Casimer, Political Executive Member

*Edward John*

Grand Chief Edward John, Political Executive Member

*Robert Phillips*

Robert Phillips, Political Executive Member

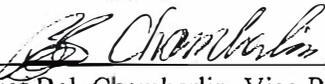
2017/04/07

Date (YYYY/MM/DD)

SIGNED ON BEHALF OF THE UNION OF BC INDIAN CHIEFS:



Grand Chief Stewart Philip, President



Chief Bob Chamberlin, Vice-President



Kukpi7 Judy Wilson, Secretary-Treasurer

2017/04/07

Date (YYYY/MM/DD)

This is Exhibit "D" referred to in the  
Affidavit #1 of Hugh Braker  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

## **DISCUSSION PAPER:**

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# **DEVELOPING A NEW FUNDING MODEL AND APPROACH FOR BC FIRST NATIONS CHILDREN & FAMILIES**

**BC FIRST NATIONS TRIPARTITE CHILDREN AND  
FAMILIES WORKING GROUP**

NOVEMBER 24, 2022

## INTRODUCTION

Since time immemorial, First Nations have provided for the well-being of their children, families, and citizens through advanced systems of law, medicine, social supports, justice, and environmental management, among other functions of governance. The imposition of colonialism intentionally undermined these systems. Colonial child welfare systems have been imposed to disrupt First Nations societies, cultures, and kinship and familial networks, and to maintain state control of First Nations peoples.

Through efforts to examine, resist, and address colonialism in Canadian society and institutions, progress is being made. In the recent past, new funding has been invested to address inequity and racism in the funding for First Nations children, and legislation has been passed provincially and nationally to recognize Indigenous human rights and enable First Nations jurisdiction with respect to children and families.

Part of the transformative work underway is supported by the Tripartite First Nations Children and Families Working Group. The TWG was initially formed in 2016 to focus on addressing current policy and legislative frameworks related to First Nations children and families in British Columbia. The TWG was then formally established in 2017 through the *Reconciliation Charter for First Nations Child and Family Wellbeing In British Columbia*, signed by representatives from the First Nations Leadership Council, the Province of British Columbia, and Canada. Membership in the TWG consists of executive and technical representatives from the Union of BC Indian Chiefs, the BC Assembly of First Nations, the First Nations Summit, the Ministry of Children and Family Development (MCFD), and Indigenous Services Canada (ISC).

One of the goals of the TWG has been to jointly develop a funding model applicable to First Nations child and family well-being in BC. A technical and legal-level working group, the Fiscal Framework Development Working Group (FFDWG), was formed in 2022 to focus on this goal. The purpose of the FFDWG is to work together to explore and develop a funding model applicable to First Nations child and family well-being in BC that adopts the principles of long-term, sustainable, needs-based funding to support jurisdiction and improved long-term outcomes for children, youth, and families.

Recent resolutions direct the FNLC organizations to prepare a comprehensive update to the Chiefs on the transformation of child and family services, including a new funding framework for all First Nations child and family services in BC, for the All-Chiefs Meeting on Children and Families in November 2022, and to seek a further mandate for key aspects of this work following this engagement with the Chiefs.

This discussion paper is informing these mandates by providing relevant context, describing options, and seeking direction on next steps. This paper is in three parts:

1. **Context:** Describes how the funding model currently works and the factors influencing a new approach.
2. **Approach:** Identifies preliminary concepts and principles to inform a new funding model and associated implementation considerations, and poses associated discussion questions.
3. **Process:** Identifies preliminary elements of the process of consultation and co-operation with BC First Nations on this important issue and poses associated discussion questions.

## PART 1: CONTEXT

Today, child and family services are delivered in several ways, based on the understanding that child and family services is a shared responsibility of Canada and the Province; the Province being responsible for funding for First Nations that reside off-reserve and Canada being responsible for funding for First Nations child and family services for on-reserve First Nations children, youth, and families.

A range of services are delivered by 20 Indigenous Child and Family Agencies (ICFSAs) which receive delegation status from the Province. ICFSAs serve 114 First Nations and some off-reserve Indigenous families. In the most simplistic terms, funding for on-reserve service delivery is provided by ISC and by

MCFD for off-reserve delivery. In practice, MCFD provides funding for a range of services for all Indigenous people in the Province regardless of whether they reside on or off reserve.

MCFD also provides funding to an additional four ICFSAs who provide a range of delegated and non-delegated services to urban Indigenous and Metis children, youth and families.

To provide for services in areas not served by ICFSAs, ISC provides funding to the Province to provide the services through funding agreements called Service Level Agreements (SLAs). The SLA provides funding to the Province for in care services on reserve only.

In BC, there is roughly an even split between the ICFSAs and MCFD in terms of child and family services being delivered to First Nations people. MCFD provides full services to 82 First Nations and partial services to 39 of the 114 First Nations served by ICFSAs. MCFD funds and provides a range of prevention and protective services to First Nations people living both on and off reserve.

As of April 1, 2022, ISC provides funding directly to First Nations for prevention, First Nations representative services, post-majority care, and capital-related expenditures.

See Appendix A and B for supplemental material describing current state.

## **Funding for Indigenous Child and Family Services Agencies**

ICFSAs are funded by ISC for most on-reserve services (excluding certain health services) and by MCFD for off-reserve services. In some cases, MCFD provides additional funding to ICFSAs for the delivery of services on reserve, such as child and youth mental health or family support. MCFD also provides each ICFSA with funding to support cultural connections for children, youth and families.

Prior to 2016, ICFSAs in BC were funded through the FNCFS Program in accordance with a funding methodology that was found to be discriminatory by the Canadian Human Rights Tribunal in 2016. Since a subsequent CHRT order in 2018, Canada has been funding ICFSAs based on actual costs and ICFSAs were retroactively reimbursed for previously unfunded costs to 2016. Since 2018 in BC, the ISC-funded ICFSAs have utilized a business plan model for all costs related to operations and prevention for on-reserve services, with maintenance costs for children in care based on actuals. This funding approach will be used until a new funding methodology is developed as part of the long-term reform of the FNCFS Program.

For the delivery of delegated services off reserve, MCFD uses a Standardized Funding Approach (SFA). This approach was implemented in 2017 to bring greater funding parity between MCFD and to ICFSAs and to recognize the cultural approaches to the work with their children and families. That same year, MCFD provided over \$2 million to ICFSAs for cultural funding which has now been included as baseline operational funding for the ICFSAs. The implementation of the SFA resulted in increased funding to most ICFSAs in the areas of staffing, infrastructure, and maintenance. Funding for staff is now automatically aligned with BCGEU rates. The SFA increased child maintenance funding by paying actual costs. This means all child maintenance costs are paid on actuals basis. Child maintenance includes residential placement, guardianship, independent living, alternatives to care and youth agreement costs.

## **Funding for First Nations**

ISC provides some child and family services-related funding directly to First Nations, as described below:

### ***Prevention funding***

In March 2022, the Canadian Human Rights Tribunal (CHRT) issued an order, on consent of the parties (2022 CHRT 8) and based on the Agreement-in-Principle on the long-term reform of the Child and Family Services Program, ordering ISC to provide enhanced prevention funding to support children and families and reduce the risk of maltreatment and the risk of children being taken into care. This prevention

funding, consisting of an annual per-capita amount of \$2,500, based on each First Nation's registered population on-reserve and on "Crown land", is being provided to First Nations directly and to ICFSAs and service providers, starting in April 2022. This enhanced prevention funding is one component of an integrated and needs-based funding approach outlined in the Institute of Fiscal Studies and Democracy's (IFSD) report *Funding First Nations child and family services (FNCFS): A performance budget approach to well-being* study written in collaboration with the National Advisory Committee on First Nations Child and Family Services Reform and the parties to the CHRT complaint. This new prevention funding approach replaces the prevention funding previously provided under what was called the Community Well-Being and Jurisdiction initiative.<sup>1</sup>

### **First Nations Representative Services**

From 2018 to March 31, 2022, in accordance with the CHRT's order 2018 CHRT 4, ISC provided funding for Band Representative Services in Ontario only. Beginning April 1, 2022, ISC expanded this funding to support First Nations in all provinces and in Yukon. Now referred to as First Nations Representative Services, the funding consists of a per-capita amount of \$283 based on each First Nation's registered population on-reserve and on-Crown land. In Yukon, the per-capita amount is based on a First Nation's total registered population. This funding supports First Nations to meaningfully participate in child and family services matters respecting their children, youth, and families.

### **Post Majority Support Services**

Funding for post-majority support services was enhanced on April 1, 2022, to support youth aging out of care and young adults formerly in care across all provinces and in Yukon, up to their 26<sup>th</sup> birthday. In the short-term, First Nations authorized service providers will submit claims for post-majority support services through the actuals process.

### **Capital for Child and Family Services and Jordan's Principle**

On November 16, 2021 (and further clarified in January 2022), the CHRT ordered Canada to fund the purchase and construction of capital assets that support the delivery of First Nations child and family services including First Nations Representative Services and Jordan's Principle.

### **Jordan's Principle**

Jordan's Principle makes sure all First Nations children living in Canada can access the products, services, and supports they need, when they need them. Funding can help with a wide range of health, social, and educational needs, including the unique needs that First Nations Two-Spirit and LGBTQIA children, youth, and those with disabilities may have. Jordan's Principle is named in memory of Jordan River Anderson. He was a young boy from Norway House Cree Nation in Manitoba.

In 2016, the CHRT determined the Government of Canada's approach to services for First Nations children was discriminatory. One way we are addressing this is through a renewed approach to Jordan's Principle. Since the ruling, the CHRT has issued a number of follow-up orders about Jordan's Principle. In May 2017, the CHRT ordered that the needs of each individual child must be considered, to ensure the following is considered under Jordan's Principle: substantive equality, providing culturally appropriate services, and safeguarding the best interests of the child.

### **Child and Family Services Jurisdiction Capacity development and Coordination Agreement Tables**

The *Act respecting First Nations, Inuit and Métis children, youth and families* came into force on January 1, 2020. The Act enables Indigenous groups, communities or Peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982* to exercise jurisdiction over child and family services. Recognizing that not all Indigenous groups, communities or Peoples have the same readiness or resources to exercise jurisdiction under the Act, federal funding is available to support Indigenous groups,

<sup>1</sup> In 2018, ISC created the Community Wellbeing and Jurisdiction Initiative (CWJI) fund (a five-year fund ending in 2022-23, which has been replaced by new prevention funding effective 2022-23). This funding was intended to support First Nations to place a greater focus on prevention activities to help families at risk stay together in their communities whenever possible. In BC Region, this funding was provided to First Nations not affiliated with an Agency. It was also used to provide capacity-building funding to a number of First Nations working towards the exercise of jurisdiction (prior to the creation of a dedicated stream of jurisdiction capacity development funding in 2021).

communities and Peoples and their Indigenous governing body wishing to explore readiness to exercise jurisdiction, or to develop Indigenous child and family service legislation, systems, and programs prior to entering into coordination agreement discussions.

### **Ministry of Children and Family Development**

The primary focus of the Ministry of Children and Family Development is supporting the well-being of all children and youth in British Columbia – both Indigenous and non-Indigenous – to live in safe, healthy, and nurturing families, and to be strongly connected to their communities and culture. The Ministry approaches its work through a Gender-Based Analysis Plus lens, delivering services that are inclusive, intersectional, responsive, accessible, and culturally safe.

The Ministry supports children, youth, and their families, emphasizing the principles of early intervention, prevention and cultural and community connections to keep families together, where possible, and to connect children and youth with permanent living arrangements when needed. Services include early childhood development, supporting children and youth with support needs, child and youth mental health, adoption, child protection, youth justice as well as helping youth transition to adulthood and adult services.

## **Federal Funding to Provinces**

Child and family services is a shared responsibility of Canada and the Province. The Province provides child and family services for their residents, including First Nations that reside off-reserve. ISC is responsible for providing funding for First Nations child and family services for on-reserve First Nations children, youth, and families and those First Nations people that are considered to be ordinarily on-reserve.

Funding for First Nations child and family services is provided as follows:

1. ISC provides FNCFS funding directly to ICFSAs for the delivery of services on-reserve.
2. In areas where ICFSAs do not exist, ISC provides funding to the Province to provide the services through funding agreements called Service Level Agreements (SLAs).
3. In some cases, ICFSAs only provide voluntary and prevention services, in which cases the Province provides protection services to those First Nations and receives funding to do so from ISC via a Service Level Agreement.

### **Service Level Agreements (SLAs)**

SLAs are in place between Canada and five jurisdictions, through which Canada reimburses Newfoundland and Labrador, Yukon, Alberta, British Columbia, and Ontario for costs associated with the delivery of services to First Nations on-reserve, where those First Nations are not served by an Agency. Under the SLA between Canada and BC, BC provides child and family services in 82 First Nations communities not served by an Agency, delivers some services in communities served by ICFSAs, and provides maintenance costs for children in care. In 2021-22, this agreement was for \$45.1 million.

## **Transformation**

All of these funding arrangements are currently being examined and transformed, largely due to the efforts by Indigenous Peoples and organizations to illuminate the inequitable funding models and service approaches that do not respect and uphold Indigenous rights. Key processes and frameworks supporting this transformation include:

### **International Human Rights Framework<sup>2</sup>**

Article 21 and 22 of the UN Declaration on the Rights of Indigenous Peoples call for specific attention to the needs of Indigenous children and youth when implementing the UN Declaration and taking measures to improve the economic and social conditions of Indigenous peoples. The UN Declaration also affirms

<sup>2</sup> [www.un.org/development/desa/indigenouspeoples/mandated-areas1/children-and-youth.html](https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/children-and-youth.html)

the right to live in freedom, peace and security including protecting children from being removed from their group by force (Article 7.2), the right to all levels of education without discrimination (Article 14.2), the right to be protected from economic exploitation or hazardous work, and the right to be protected for violence and discrimination (Article 22.2). The UN Declaration has been affirmed by both federal legislation (United Nations Declaration on the Rights of Indigenous Peoples Act<sup>3</sup>) and BC provincial legislation (Declaration on the Rights of Indigenous Peoples Act<sup>4</sup>).

The Convention of the Rights of the Child was ratified by the Government of Canada on December 12, 1991. The Convention in its totality includes Indigenous children and youth and also includes specific references to Indigenous children in ensuring their access to diverse media in their languages (Article 17.d), to education that is non-discriminatory (Article 29.d) and the right to their own culture, religion and language (Article 30).

### **Truth and Reconciliation Commission<sup>5</sup>**

The 2015 final report of the Truth and Reconciliation Commission made Calls to Action regarding child welfare, including calling for legislation to enable jurisdiction, and for adequate resources to enable Indigenous communities and organizations to keep families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.

### **Canadian Human Rights Tribunal and Agreement-in-Principle**

The Assembly of First Nations (AFN) and the Caring for First Nations Children Society of Canada (Caring Society) have, since 2007, been advancing work through the CHRT regarding the FNCFS Program and Jordan's Principle. Rulings of the CHRT have incrementally been advancing equitable funding approaches for First Nations children across Canada.

On December 31, 2021, Canada, the AFN, the Caring Society, the Chiefs of Ontario (COO), and Nishnawbe Aski Nation (NAN) signed an Agreement-in-Principle (AIP) on long-term reform of the FNCFS Program and a renewed approach to Jordan's Principle that commits to implementing a fully reformed Program on April 1, 2023. Through the AIP, Canada committed to an approach on long-term reform that is based on the methodology developed by the Institute for Fiscal Studies and Democracy (IFSD) as well as additional elements of reform. The AIP is being used as a framework for the parties to negotiate a Final Settlement Agreement which will detail the reformed FNCFS Program.

Implementation of early enhancement to the FNCFS Program began in April 2022, consisting of increased federal prevention funding, funding for First Nations Representative services in all provinces and in Yukon, and post-majority support services for youth formerly in care up to their 26<sup>th</sup> birthday.

A funding model and approach for BC will both inform and align with broad national considerations such as the negotiations on long term reform of ISC's First Nations Child and Family Services program and a renewed approach to Jordan's Principle.

### **An Act respecting First Nations, Inuit and Métis children, youth and families<sup>6</sup>**

The Act came into force on January 1, 2020. It enables Indigenous groups, communities or Peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982* to exercise jurisdiction over child and family services.

### **BC-Specific Policy & Legislation**

There is long-standing work in BC – locally, regionally, and provincially – to advance child and family jurisdiction and improved funding. This includes work by individual First Nations to reclaim jurisdiction using traditional laws and tools under the *Indian Act*, work by ICFSAs to deliver high-quality and

<sup>3</sup> <https://laws-lois.justice.gc.ca/eng/acts/U-2.2/>

<sup>4</sup> <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044>

<sup>5</sup> [https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls\\_to\\_action\\_english2.pdf](https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls_to_action_english2.pdf)

<sup>6</sup> [https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2019\\_24/](https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2019_24/)

culturally-appropriate services despite funding constraints, and collective work to develop action plans and strategies that serve all BC First Nations.

In 2016, a Tripartite First Nations Children and Families Working Group (TWG) was formed amongst Canada, BC, and First Nations (as represented by the First Nations Leadership Council) to focus on addressing current policy and legislative frameworks related to First Nations children and families in British Columbia. The TWG formalized a *Reconciliation Charter for First Nations Child and Family Wellbeing In British Columbia*, signed by representatives from the First Nations Leadership Council, the Province of British Columbia, and Canada. The TWG has continued to meet to advance shared work and strategies in support of First Nations children and families. The establishment of the TWG as a forum for dialogue has fostered the development of strong working relationships between the parties. It has also supported improved engagement on key issues such as development of legislation and legislative amendments.

Changes to the provincial *Child, Family and Community Service Act* (CFCSA) introduced in April 2018, focused on better supporting families to safely stay together. These changes allow for greater information sharing and involvement by Indigenous communities in child welfare matters so that children and youth can stay connected to their families, communities, and cultures. In 2018, the Province harmonized the rates for in care and out of care supports resulting in more out of care arrangements for Indigenous children. The Province now has the lowest number of Indigenous children in care in BC since this data began to be recorded.

In November 2022, historic changes were introduced to provincial legislation to support Indigenous Peoples to re-establish, develop, and exercise child-welfare laws for their community members and to recreate their own models for child and family service delivery, including family support, child protection and adoption services.<sup>7</sup> These changes in both practice and law will place new obligations on the Director when it comes to care for Indigenous children.

### **BC-Specific Engagement on Children & Families**

Throughout 2021 and 2022, Alderhill Planning carried out engagements amongst BC First Nations on the implementation of *An Act respecting First Nations, Inuit and Métis children, youth and families*. This engagement has provided guidance and conditions that are the foundation for this discussion paper and future work. Throughout this discussion paper, text boxes highlight key themes arising from that engagement process, so that deliberations on this paper can build upon the perspectives shared to date.

## **PART 2: APPROACH**

The foregoing context sets the stage for long-term transformation in children and family jurisdiction, decision-making, and service delivery for First Nations, including the associated funding model. This section describes and seeks input to some of the key aspects and considerations involved in developing a new funding model for First Nations child and family jurisdiction and services in BC.

The feedback provided to this discussion paper, along with other processes of engagement described in Part 3, will inform the work of the FFDWG in developing options for this new funding model to be reviewed by BC First Nations.

### **Scope & Deliverables**

Through the work of the TWG and its FFDWG, we envision developing an overarching and comprehensive funding model that can be given expression through a range of funding agreement options that meet First Nations where they are at in their exercise of jurisdiction and interests in providing direct service delivery.

<sup>7</sup> <https://news.gov.bc.ca/releases/2022PREM0061-001594>

To support this, one possible approach could be a new single tripartite agreement between Canada, the Province, and BC First Nations that describes a new funding model, how that funding model can be accessed by BC First Nations, and establishes associated implementation and process understandings covering governance, accountability to First Nations, measurement, dispute resolution, and similar measures.

In other words, this tripartite agreement would establish strategic processes and outline the funding model overall, which would help inform and advance the implementation of a range of funding agreements that Nations will directly negotiate with federal and provincial governments.

This agreement would need to meet the diverse needs of BC First Nations and enable their specific self-determined priorities. For example, this tripartite agreement would need to support:

- First Nations that wish to serve their members regardless of residence (on and off-reserve)
- Indigenous Governing Bodies seeking to reclaim and exercise jurisdiction, including passing laws, developing policies, and establishing intergovernmental agreements to coordinate decision-making
- First Nations and their mandated organizations seeking to build and enhance on-the-ground capacity in their communities to directly deliver services that reflect their cultural teachings and social priorities
- Interim arrangements for First Nations seeking to be involved in governance of the system of children and families services accessed by their citizens even if they are not yet directly exercising jurisdiction or delivering certain types of children and families services
- First Nations with specific priorities ranging from child and family well-being, prevention, reunification, adoption, protection, and others
- All of the associated capital, data, management, and administrative infrastructure needed to both “catch up” and equitably support First Nations children, families, and the services they need

This agreement must also guide and establish parameters for how funding is provided to the Province and by the Province to continue to deliver services for those First Nations they will serve directly.

Interim improvements should continue concurrent to the development of the tripartite agreement. This includes renewal of the SLA as per the resolution endorsed by the Chiefs to include more funding, incorporate principles from *An Act respecting First Nations, Inuit and Métis children, youth and families* and the *Reconciliation Charter*, and to enhance accountability to BC First Nations for funding flowed through this agreement (amounts, purpose, use, outcomes). This SLA must be updated again once a new funding model is in place.

## Guiding Principles

Any new tripartite arrangement must be principle-based. Guiding principles are a set of moral values that establishes a framework for decision-making. A list of thoughtful, non-negotiable principles provides the ethical compass to guide how choices are made.

History has shown us that the lack of core, values-based principles that are grounded on the respect of Indigenous rights results in harm, inequity, and indignity. Instead, Canada, BC, and First Nations are interested in co-developing and applying a set of shared principles that underpin funding model options and agreement to support system transformation and improved outcomes.

The following draft guiding principles have been drawn and thematically organized from a number of existing documents developed and/or endorsed collectively and/or by First Nations<sup>8</sup>: the following documents:

- **Safety and Wellbeing:** The safety and well-being of First Nations children, youth, and families is paramount.
- **The Best Interest of the Child:** The 'best interest of the child' determinations are generally made by considering a number of factors related to the child's circumstances and the parent or caregiver's circumstances and capacity to parent, with the child's ultimate safety and well-being the paramount concern.
- **Indigenous Human Rights:** Resourcing, systems, and processes must be developed specifically to enable the expression of Indigenous human rights, such as to exercise jurisdiction, support the dignity and well-being of children and families, and to receive services without discrimination.
- **Cultural Continuity:** First Nations children's cultural identities, connections to their communities, kinship ties and attachments to their families must be supported and preserved.
- **Substantive Equality:** The provision of essential child and family services shall be substantively equal and meet the distinct needs and circumstances of First Nations children, youth, and families – including their needs relating to historical disadvantage, structural racism, and geographical needs and circumstances.
- **First Nations Led:** Support First Nations to exercise jurisdiction with regard to child and family well-being.
- **Canada to End Discrimination:** The onus rests solely with Canada to end the discriminatory funding, funding structures, policies, procedures, and agreements identified by the CHRT impacting First Nations children, youth, and families and to prevent the recurrence of discrimination.
- **Collective Responsibility:** We have a collective responsibility, based on our respective authorities and mandates, to work to provide the best supports and services possible. We will work in the spirit of reciprocal accountability.
- **Recognition of Distinct Rights:** The distinct cultures, languages, and historical and current realities of distinct First Nations shall be recognized.

**Summary of Input to Date: Bill C92 Engagement**

- Uphold UNDRIP
- Uphold OCAP
- Hold children sacred
- Include all genders and embrace gender diversity in this work;
- Utilize a nested systems approach (relationships to self, family, community, Nation and land);
- Acknowledge the diversity of approaches to Indigenous child wellbeing;
- Center Healing; and
- Center Indigenous protocols and practice.
- Balance "substantive equality" with uniqueness of each child, youth, and family
- Acknowledge that Indigenous peoples continue to face systemic wealth inequalities and significant gaps in service provisions
- Funding applications need to be simplified and reporting requirements must be less stringent
- Funding must be equitable and provided to communities based on their actual need, not based on provincial or regional funding formulas
- Provide equitable funding to First Nations to build infrastructures and capacity in their communities.

<sup>8</sup> Agreement-in-Principle (AIP) on long-term reform of the FNCFS Program and a renewed approach to Jordan's Principle; An Act respecting First Nations, Inuit and Metis Children, Youth and Families; Reconciliation Charter for First Nations Child & Family Well-being in British Columbia; Arrangement for the Funding and Administration of Social Services Agreement in Alberta; Resolutions passed by BC First Nations with respect to children and families, and tripartite arrangements at a provincial level.

- **Rights are Held by Individual First Nations:** A tripartite arrangement must affirm and be entirely without prejudice to the title and rights of First Nations, including enabling (and not predetermining the outcome of) their individual government-to-government negotiations.

Guiding principles would then influence and shape the development of options for various aspects of a funding model. The types of questions to be answered include:

- How can the funding model take into account and incentivize the desired outcomes of kinship/cultural connection, substantive equality, and the exercise of jurisdiction?
- How can the funding model address the need to develop and enhance programs and services along the entire spectrum of child and family well-being needs (protection, permanency, cultural connection, kinship promotion, family and community well-being, etc.)?
- What capital, technology, and administrative requirements must be provided for?
- How will the funding model take into account the different contexts and circumstances of First Nations, in terms of population size, where their citizens are living, the remoteness of communities, and many more?
- What are the various forms of possible funding agreements that First Nations can enter into (e.g. block funding, etc.)?
- In addition to the core funding agreements that First Nations need to advance their priorities, what other special-purpose funds are needed to address emergency, one-time, and/or specific needs?
- What escalator needs to be applied to funding agreements to address key cost drivers such as inflation and population growth?

#### Summary of Input to Date: Bill C92 Engagement

Long-term funding streams are required for:

- Transfer of jurisdiction
- Service delivery for child and family wellbeing services
- Access to services for urban Indigenous people;
- Child and family navigator positions in communities;
- Long-term care for Elders' as their needs increase
- Community-based capacity for decision-making
- Funding to develop and code Indigenous Laws
- Capacity, training, and succession planning
- Legal liability issues
- Insurance
- Capital acquisitions and infrastructure
- Family housing
- Legal representation
- Evaluation and monitoring tools
- Databases and information management systems
- Jordan's Principle
- Community healing across the lifespan
- Prevention services
- On and off-reserve First Nations people
- Training around Bill C92
- Transition and safe houses
- Stable housing for at-risk families
- Connection programs for those away from home and for those needing to reconnect with their kin

## Implementation

Transition from the current model to a new model will require strong tripartite relationships to address problems and issues, assure progress is made, and that there is proper accountability of all involved for the commitments and outcomes we have collectively agreed-upon. Much of this appropriately and properly rests directly between First Nations title-holders, BC, and Canada. However, some of this work must also take place at a provincial level, to ensure that no one is left behind, that BC has a strong voice in national processes, and that problems can be quickly addressed.

This could take the form of a continuing process similar to the work that has been undertaken by the TWG – a tripartite senior officials table responsible for functions like:

- Overseeing smooth implementation of the tripartite agreement, such as by preparing and overseeing an implementation plan
- Discussing national and provincial policy and program matters, including ensuring a proper involvement of BC in any new funding and transformation efforts
- Creating technical and other working groups as needed on specific issues and priorities
- Preparing evaluation and accountability reports
- Hosting engagement processes with First Nations related to the tripartite agreement and children and families issues generally
- Holding knowledge exchange sessions amongst First Nations
- Supporting dispute resolution if/when the need arises

#### Summary of Input to Date: Bill C92 Engagement

- Host sessions to share ideas and successes about successful child wellness models
- Create a policy review table to examine and make recommendations on legislation and policies on child and family wellbeing
- Support the establishment of First Nations child and family services institutions and organizations
- Need increased coordination for advocacy purposes
- First Nations need to develop collective goals that can be advanced through shared advocacy processes
- Need to maintain a central repository for all funding and other information, and make support available to help Nations access the process

## Data, Measurement, Reporting, Evaluation

Data and information will be critical to coordinate services, monitor the impacts of a new children and families funding approach, implement improvements, address emerging needs, and celebrate progress. This will be needed at local, provincial, and national levels.

The foundation of this work must rest with title holders. Each First Nation will need support to identify the outcome measures that most matter to them, and to collect and utilize associated data.

At the same time, the principles of substantive equality means that we leave no one behind, and must track outcomes of the population as a whole and therefore need common data.

Therefore, we need to support individual rights-holders to collect data and monitor indicators that matter to them, and need to look at this and other data (such as that regarding service delivery to First Nations children and families served by the Province) collectively at a population level. This could take the form of periodic provincial-level reports on key outcome measures agreed upon by First Nations, BC, and Canada, summative evaluations on the effectiveness of the tripartite agreement, and annual accountability reports.

At a national level, the Agreement-in-Principle (AIP) on long-term reform of the FNCFS Program and a renewed approach to Jordan's Principle includes a commitment to a National First Nations Secretariat. This is envisioned to be an independent and technical Secretariat function to assist First Nations and FNCFS service providers through data collection, analysis, and operational support. The Secretariat will share research and tools to help in the transition to a reformed funding model. The Secretariat is not

#### Summary of Input to Date: Bill C92 Engagement

- Create a secretariat for implementation and monitoring of Bill C92
- Establish an information-sharing agreement to allow for timely and important information to be shared where it concerns the safety and quality of life of a child.
- Support First Nations in accessing and managing data related to their members in accordance with OCAP principles
- Develop capacity for Indigenous data management and collection
- Establish a monitoring and evaluation framework and annually publish data against agreed-upon indicators

necessarily envisioned as one organization, but rather could be a network that builds on existing First Nations regional and national capacity.

All this effort will require new types of information-sharing agreements. Some agreements need to facilitate the ethical sharing of data for the purposes of monitoring and reporting. Importantly, some agreements also need to facilitate the sharing of case file information to ensure coordinated service delivery. These agreements must all be compliant with applicable laws and the principles of Indigenous data sovereignty, data governance, and OCAP®.

## PART 3: PROCESS

All of this work in child and family reform and transformation of the funding model must be done jointly. The following elements guide our approach to consultation and cooperation:

- We do not have a pre-determined vision or outcome for a new funding model; this material draws on what has already been endorsed and is presented as a starting point to build from together.
- We are not starting from scratch; our people have made space for this transformation through many years of advocacy, legal action, and negotiation. These parameters as well as ideas, options, and information that First Nations have provided previously will be used within the process.
- We must engage directly and regularly throughout the process including providing rights and title holders access to all the information required to make informed decisions and participate in discussions on substantive policy matters.
- The role of First Nation organizations within the process will be based on direction given by proper title and rights holders through the established mechanisms that exist amongst First Nations for directing such work.
- Any final tripartite agreement must provide for the opportunity for free, prior, and informed consent by title and rights holders, and not inhibit their ability to advance government-to-government negotiations.

Informed by previous engagement, this discussion paper is a next step in the process of full engagement with BC First Nations. It will be provided at the All-Chiefs' Meeting on Children and Families taking place on November 24-25, 2022, and distributed to all BC First Nations for comment. Additional opportunities for individual meetings, smaller virtual gatherings, working groups, and other forms of input will be provided as they may be requested. The input provided to this paper will be summarized and circulated to all BC First Nations.

Input provided will inform the development of funding model options which will be summarized in another discussion paper shared with BC First Nations in 2023. Input will also inform interim improvements to the Canada-BC SLA. There will be opportunities created for working groups and review and engagement sessions related to both interim improvements (e.g. SLA) as well as long-term transformation (e.g. funding model and associated agreement) in the coming year.

## DISCUSSION QUESTIONS

1. A new funding model must transform the status quo on a principled basis. What do you think of the guiding principles presented? What are key foundations or elements of a new funding model that transforms the status quo, reflects First Nations worldviews, and is rights-based?

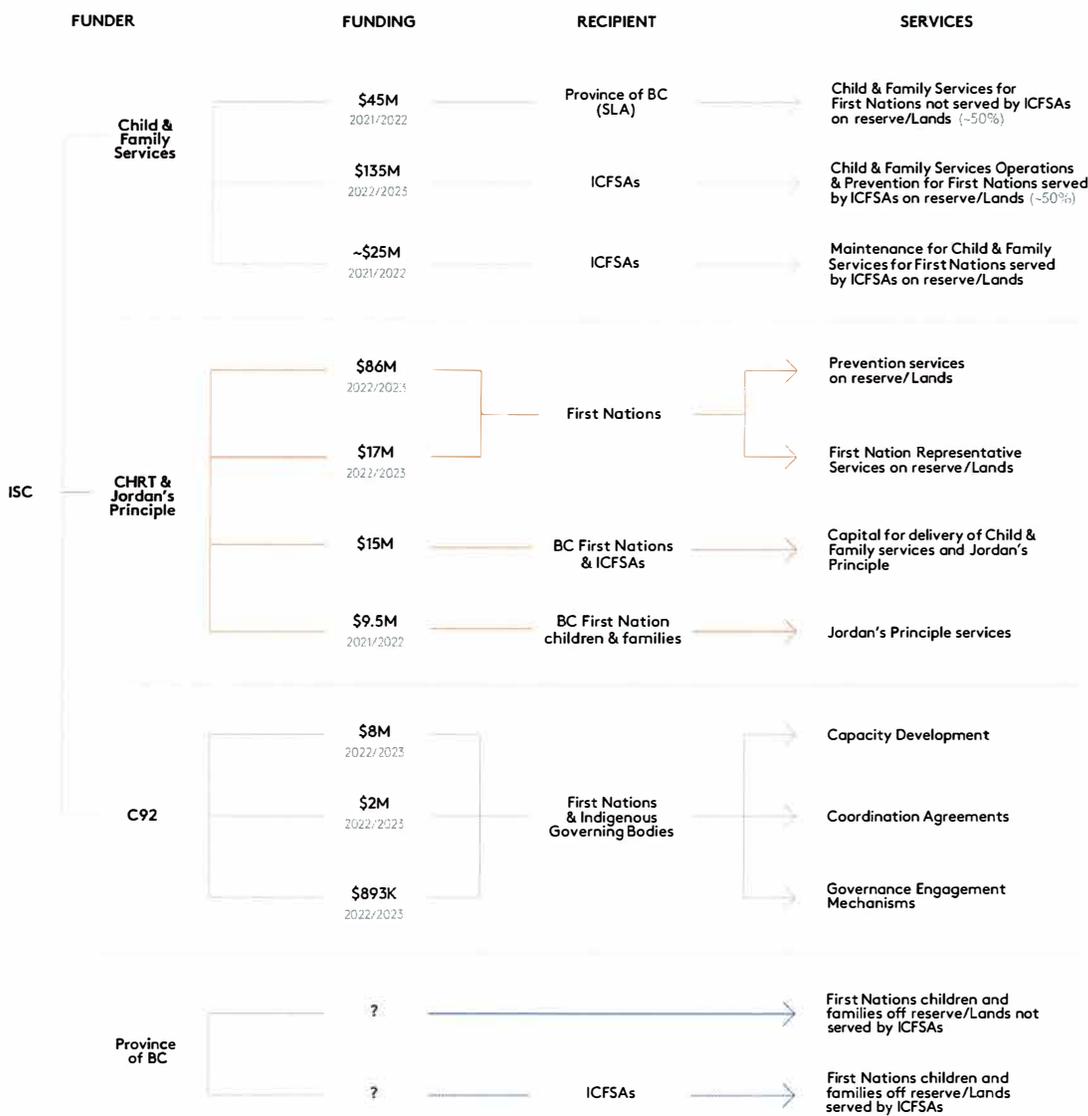
2. Some provincial-level oversight and coordination is needed to assure a strong role for BC in national transformation conversations, to support IGBs/Nations to leverage the same benefits and learn from one another's progress, and to maintain accountability for results. What should this oversight and coordination look like? Should this build upon the TWG structure already in place? How should IGB/First Nation governance be assured in this process?
3. The new funding model needs to provide for a range of possible situations, to meet First Nations where they are at, based on their priorities. Are there any models or examples you would like to highlight to ensure this is taken into account?
4. This work requires ongoing engagement. What are your preferred ways of being engaged moving forward (e.g. virtual sessions, collective meetings, working group formats, direct Nation-BC-Canada meetings, etc.)? Do you have feedback on this proposed engagement plan? How do we ensure BC First Nations provide their free, prior and informed consent?

Please share your input, questions, and suggestions with:

[allyssa@ubcic.bc.ca](mailto:allyssa@ubcic.bc.ca)

## APPENDIX A: CURRENT STATE DIAGRAM

The following graphic is an evolving representation of First Nations Child and Family Services funding in BC. There are obviously many unknowns and significant work yet to do to fill in gaps in our understanding. This diagram also does not yet represent the funding that is sunsetting, nor does it include Jordan’s Principle. This diagram is presented in full transparency to leadership about current understanding as a demonstration of the work yet to come, and the imperative for transformation.



**NOTES** Community Well-Being and Jurisdictional Initiative Funding sunsets this year. First Nations in BC unaffiliated with an ICFSA are entitled to \$104M in retroactive funding that will be distributed by March 2023

New for 2022/2023, as identified in the Agreement-in-Principle on Long-Term Reform of the FNCFS program, Post-Majority Support Services funding at actual costs up to the day a young adult formerly in care turns 26 to support to youth aging out of care and young adults formerly in care as they transition to adulthood and independence. First Nations and First Nation authorized service providers can submit funding requests for the reimbursement of costs through the actuals process.

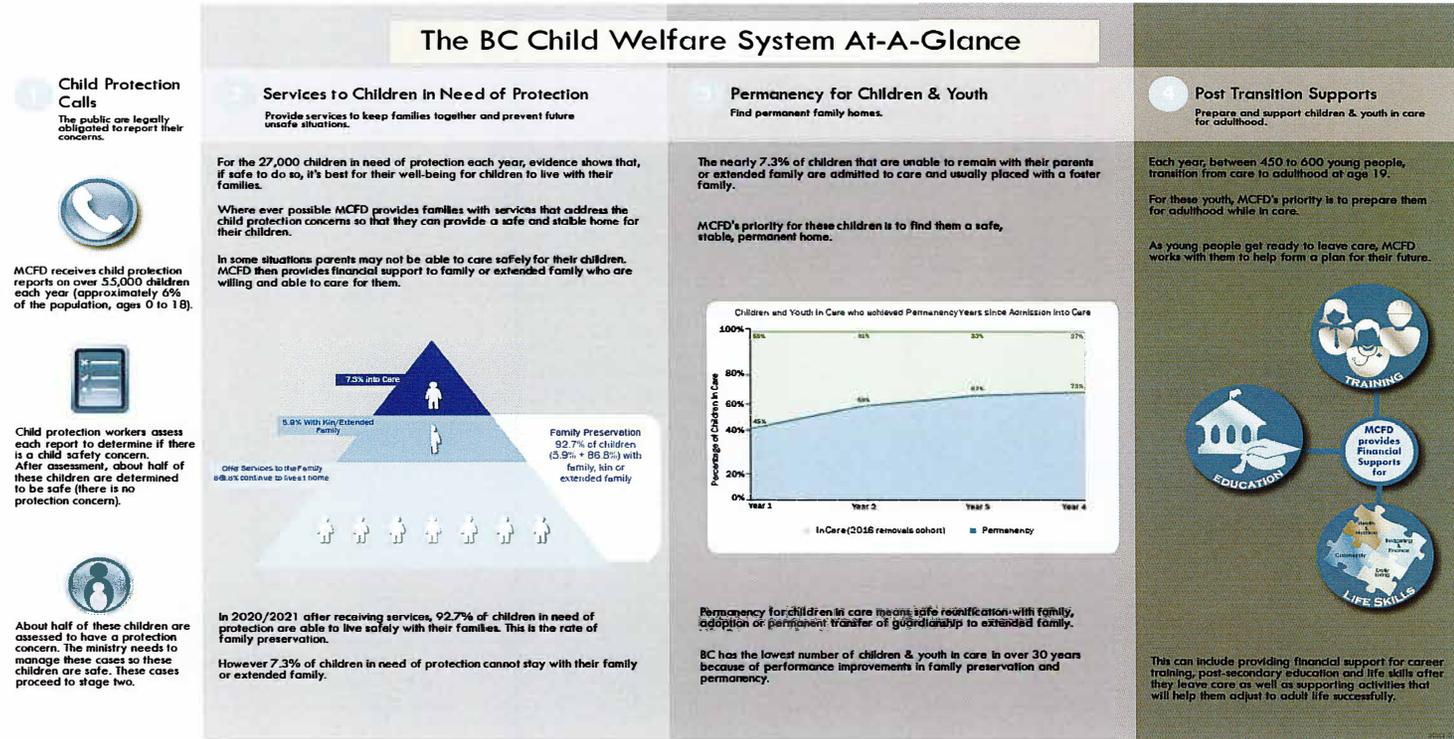
**APPENDIX B: MCFD STATEMENT OF CHILD & FAMILY  
SERVICES PROVIDED FOR INDIGENOUS CHILDREN AND  
YOUTH FISCAL YEAR 2020/2021**

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# Statement of Child & Family Services Provided for Indigenous Children and Youth Fiscal Year 2020/2021

## Introduction

This statement summarizes the services provided to Indigenous Children and Youth by the BC Child Welfare System. The statement is organized into sections to reflect the four stages of the system (see infographic below).



For provincial and regional data on these four stages of the BC Child Welfare System please go to <https://mcf.gov.bc.ca/reporting>.

For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.

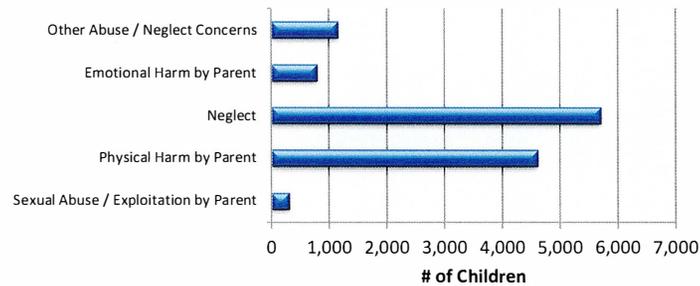
**Stages 1 & 2 Safety Assessments & Services to Children in Need of Protection**

Indigenous communities have told us that it is essential for their children's wellbeing that they live with their family or extended family. A key goal of the BC Child Welfare System is to help keep families safely together through supports and services.

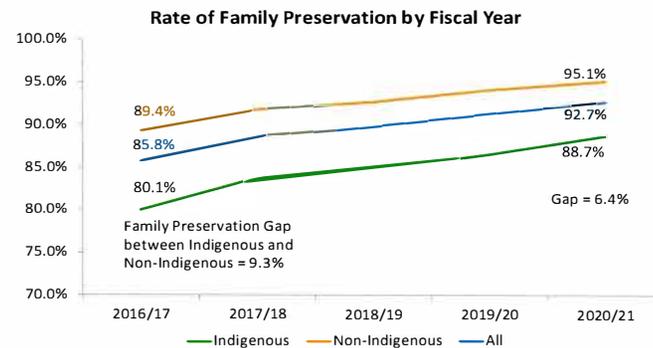
**Table 1 - Number of Children and Youth with Safety Concerns & Services Provided in Fiscal Year 2020/2021**

1	Family Preservation			In-Care
	2	3	4 = (2+3)/1	
Number of children and Youth found in Need of Protection After a Child Safety Response in Fiscal Year 2019/2020	Children/Youth with Assessed Safety Concerns Whose Safety was Managed through services over the next 12 months	Children/Youth with Assessed Safety Concerns Who were Admitted into Out of Care Options over the next 12 months	Rate of Family Preservation (BC = 92.7%)	Children/Youth with Assessed Safety Concerns Who were Admitted into Care over the next 12 months
10,240	8,013	1,069	89%	1,158

For more information and comparisons see <https://mcf.gov.bc.ca/reporting/services/child-protection#2>



Provincial Trend in Family Preservation



For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.

**Table 2 - Summary of Transfer of Guardianship, Out of Care, and Youth Services For Indigenous Children and Youth**

As at March 31, 2021	Youth Services	Out of Care	Transfer of Guardianship
<b>Total</b>	346	1,366	1,464
MCFD	201	894	1,191
ICFSA	145	472	273
<b>Direct Support Payments Fiscal Year 2020/2021 (MCFD only)</b>	\$2,602,699	\$10,449,468	\$16,760,764

Note: Expenditures are only those made directly on behalf of specific children for residential payments, by MCFD. Some children are cared for by Indigenous Child & Family Services Agencies (ICFSA). ICFSA expenditures are not reflected above.

**Out of Care** - the child is in the care of a person other than a parent by agreement or court order without the director having care or custody of the child. In these situations, the director's role is primarily that of providing financial support to the care provider, but the child is not a child in care of the director. The out of care agreement or order is placement specific - the child is in the care or custody of a specific person for a temporary period of time.

**Youth Support Services and Agreements** - A director may establish support services for youth, including but not limited to safe houses, outreach services and supported living arrangements. A director may enter into an agreement with a youth who cannot, in the director's opinion, be re-established in the youth's family, or )has no parent or other person willing or able to assist the youth.

The following sections of the CFCSA enable the out of care placement of a child or youth:

- Extended Family Program-Section 8
- Interim Custody Order -Section 35(2)(d)
- Temporary Custody Order - Section 41(1)(b)
- Temporary Custody Order (If the court does not make a continuing custody order) - Section 49(7)(b)
- Support Services for Youth - Section 12.1
- Agreements with Youth - Section 12.2

**Transfer of Guardianship** - The CFCSA under Section 54.1 (applies to children and youth under a Continuing Custody Order) and Section 54.01 (applies to children and Youth under an Out of Care Temporary Custody order or the Extended Family Program) enables the ministry to permanently transfer all parental rights to another important adult in the child or youth's life. Studies show considerable positive outcomes for children and youth when they have grown up with someone to whom they a significant relationship, or cultural connection. Permanent living arrangements for children foster self-esteem and identity, having a profoundly positive effect on their future development.

For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.

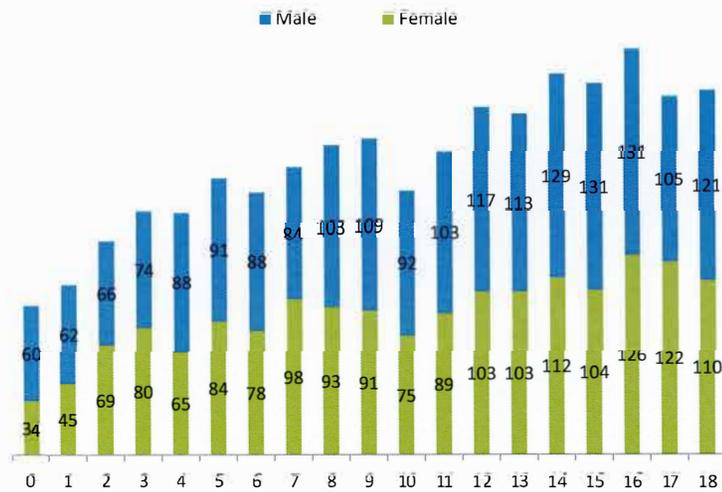
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**Stage 3 Permanency for Children & Youth in Care**

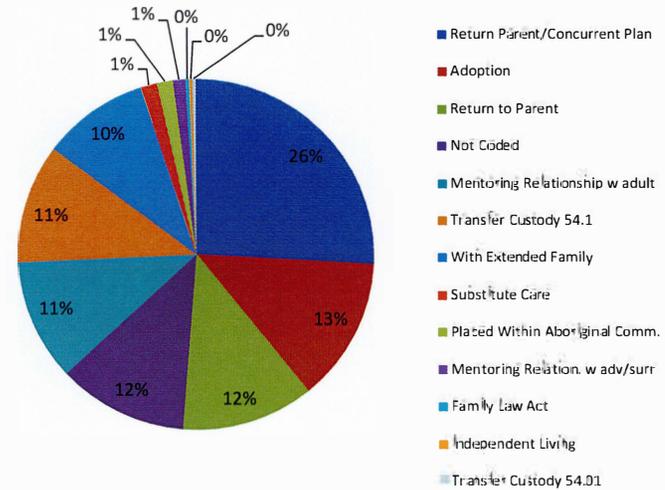
Table 3 - Summary of Children and Youth In Care For Indigenous Children and Youth

As at March 31, 2021	CYIC
Total	3,548
MCFD	1,658
ICFSA	1,890
Direct Residential Expenditures Fiscal Year 2020/2021 (MCFD only)	\$86,409,796

CYIC, as at March 31, 2021, by Age and Gender



Permanency Plans of CYIC



For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.



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Stage 4: Post Transition Supports

Table 5 - Former Youth in Care Supported Through AYA Within Fiscal 2020/2021

	Young Adults	AYA Benefits Received in Fiscal 2020/2021
<b>Total</b>	<b>393</b>	<b>\$3,796,598</b>
MCFD	373	\$3,562,344
ICFSA	20	\$234,253

\*Benefits cover Fiscal Year 2020/2021

For more information and comparisons see <https://mcfd.gov.bc.ca/reporting/services/child-protection#4>

Table 6 - Indigenous Child & Family Services Agencies

Indigenous Child and Family Services Agency	Indigenous Children and Youth CYIC on March 31, 2021
Fraser Valley Aboriginal Child&Family Service Society	429
Vancouver Aboriginal Child And Family Services Society	390
Secwepemc Child & Family Services	131
Usma Nuu-Chah-Nulth Community & Human Services	128
Kwumut Lelum Central Island Child & Family Service	102
Surrounded By Cedar Child & Family Services	93
Lalum'Utul'Smun'Eem Child & Family Services	90
Metis Family Services	74
Nezul Be Hunuyeh Child & Family Services	60
Carrier Sekani Family Services	58
Ktunaxa-Kinbasket Family & Child Services	52
Ayas Men Men Child & Family Services	48
Nil/Tu'O Child & Family Services	43
Northwest Inter-Nation Family Services Society	37
Scw'Exmx Child & Family Services	30
Nisga'A Family & Child Services	29
Knucwentwecw Society	21
Nlha'7kapmx Child & Family Services	20
Gitxsan Child & Family Services Society	19
Lii Michif Otipemisiwak	19
Denisiqi Services Society	12
Splatsin Stsmamit Services	5

For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.

Service	Fiscal 2020/2021			
	BUDGET	Indigenous (%)	Indigenous (\$)	Non-Indigenous (\$)
Early Childhood and Child Care	\$714,181,000	10%	\$71,418,100	\$642,762,900
Child and Youth Mental Health	\$122,642,551	35%	\$42,924,893	\$79,717,658
Children and Youth With Support Needs	\$359,662,954	15%	\$53,949,443	\$305,713,511
Family and Youth Supports	\$174,128,000	43%	\$75,607,936	\$98,520,064
Children and Youth In Care	\$644,441,892	50%	\$322,713,394	\$321,728,498
Adoption	\$36,072,249	35%	\$12,625,287	\$23,446,962
Youth Justice	\$50,150,354	40%	\$20,060,141	\$30,090,212
<i>Sub-Total</i>	<i>\$2,101,279,000</i>	<i>29%</i>	<i>\$599,299,195</i>	<i>\$1,501,979,805</i>
Overhead Supports	\$127,167,000	29%	\$36,268,901	\$90,898,099
<b>Total</b>	<b>\$2,228,446,000</b>	<b>29%</b>	<b>\$635,568,096</b>	<b>\$1,592,877,904</b>

Your questions and comments are welcome.  
 Please contact: MCF.Info@gov.bc.ca or call 1-877-387-7027 toll free or 250-387-7027 in Victoria.

This is Exhibit "E" referred to in the  
Affidavit #1 of Hugh Braker  
affirmed before me at West Vancouver  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

# First Nations Summit

## RESOLUTION #1023.12

**SUBJECT: FISCAL FRAMEWORK DEVELOPMENT FOR RESUMPTION OF JURISDICTION BY FIRST NATIONS OVER CHILDREN AND FAMILIES**

### WHEREAS:

- A. First Nations Title and Rights holders have the inherent right to self-determination, which includes jurisdiction over our children and families as constitutionally protected under Section 35 of the *Constitution Act, 1982*, described in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), and affirmed in Bill C-92: *An Act respecting First Nations, Inuit and Métis children, youth and families* (C-92).
- B. Work is underway to transform child and family services in BC, including development of a new fiscal framework to support resumption of jurisdiction by First Nations over their children and families in BC, but improved information sharing and opportunities for First Nation input and involvement are necessary to ensure that the framework reflects the needs and realities of First Nations in BC.
- C. The *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

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

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

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

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

**PAGE TWO**

**RESOLUTION #1023.12**

**SUBJECT: FISCAL FRAMEWORK DEVELOPMENT FOR RESUMPTION OF JURISDICTION BY FIRST NATIONS OVER CHILDREN AND FAMILIES**

**Article 37:** Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

- D. On January 26, 2016, and via subsequent rulings, the Canadian Human Rights Tribunal (CHRT) ordered Indigenous Services Canada (ISC) to cease its discriminatory practices and reform the national First Nations Child and Family Services (FNCFS) Program, policies, procedures, and agreements to comply with the CHRT's findings.
- E. Through resolutions at the Chiefs' Assemblies, the Chiefs in BC have supported and endorsed work to reform FNCFS by the BC Assembly of First Nations (BCAFN), First Nations Summit (FNS), and Union of BC Indian Chiefs (UBCIC), working collectively as the First Nations Leadership Council (FNLC), including the development of an Action Framework (UBCIC Resolution 2016-44, FNS Resolution 1016.11, BCAFN Resolution 22/2016), a tripartite process between BC, Canada and FNLC (UBCIC Resolution 2017-06, FNS Resolution 0217.19, BCAFN Resolution 06/2017), and a Reconciliation Charter.
- F. In 2019, the Government of Canada enacted C-92, affirming inherent Aboriginal and treaty rights, and supporting First Nations governments to pass laws, enforce laws, and put in place coordination arrangements for all aspects of child and family services, based on First Nations laws, priorities, customs, traditions, and practices.
- G. Canada provides funding to the Province through a bilateral Service Level Agreement (SLA) for costs of child and family service delivery for First Nations on-reserve that are not served by a Delegated Aboriginal Agency.
- H. While the broader transformation toward a new and effective fiscal model to support First Nations children and families in BC is taking place, as committed to in the Reconciliation Charter, an updated SLA continues to be used as an interim measure so that First Nations do not see disruptions in services.
- I. In 2018, the Institute of Fiscal Studies and Democracy (IFSD) was retained by the Assembly of First Nations and the First Nations Child & Family Caring Society to research and define a funding approach and performance measurement framework for FNCFS that aligns with the requirements articulated through legislation and judicial decisions.
- J. IFSD research, which is still underway, has informed negotiations on the current Agreement-in-Principle, on long-term reform of FNCFS, which was signed in 2021, and the revised Final Settlement Agreement (FSA) on FNCFS, Jordan's Principle, and the reform of Indigenous Services Canada (ISC), which was signed in 2023.

**PAGE THREE****RESOLUTION #1023.12****SUBJECT: FISCAL FRAMEWORK DEVELOPMENT FOR RESUMPTION OF JURISDICTION BY FIRST NATIONS OVER CHILDREN AND FAMILIES**

- K. IFSD research currently underway, builds on previous IFSD data collection and findings, and includes some BC-specific data. Next steps for IFSD are to: 1) Build examples of funding models (with consideration of different starting points) based on findings; 2) Request regional review meetings of the models to ensure they capture different needs; and 3) Prepare a final report for December 2023 with a summary of findings.
- L. Similarly worded resolutions were approved at recent 2023 BCAFN and UBCIC assemblies.

**THEREFORE, BE IT RESOLVED:**

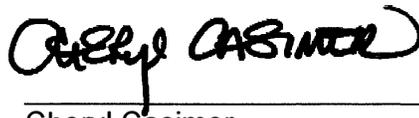
1. That the First Nations Summit Chiefs in Assembly fully support the development of a long-term funding agreement that ensures the holistic transformation of First Nations Child and Family Services (FNCFS) to a new fiscal framework which:
  - a) supports First Nations resumption of jurisdiction over their children and families; and
  - b) realizes the intention and spirit of the *UN Declaration on the Rights of Indigenous Peoples* and recent legislation and judicial decisions.
2. That the First Nations Summit Chiefs in Assembly call on the Institute of Fiscal Studies and Democracy (IFSD), which is completing cost modeling work, to:
  - a) develop a new fiscal framework, to ensure full alignment and engagement with First Nations in BC, in all aspects of development; and
  - b) engage in consistent communication with the First Nations Summit (FNS), BC Assembly of First Nations (BCAFN), and the Union of BC Indian Chiefs (UBCIC), working together as the First Nations Leadership Council (FNLC), to support engagement with First Nations in BC and ensure reviewal and analysis of IFSD reports, by FNLC contracted experts.
3. That the First Nations Summit Chiefs in Assembly direct the FNS Executive, working with the BCAFN and the UBCIC, as the FNLC, to work with IFSD to provide input and promote opportunities for First Nations in BC to provide direct input in the development of a new fiscal framework.
4. That the First Nations Summit Chiefs in Assembly call on Canada and the Province of BC, as members of the Tripartite First Nations Children and Families Working Group, to share information with and support IFSD's cost modelling work to ensure accurate reflection of and funding to address the needs and priorities of First Nations in BC.

**PAGE FOUR**  
**RESOLUTION #1023.12**  
**SUBJECT: FISCAL FRAMEWORK DEVELOPMENT FOR RESUMPTION OF**  
**JURISDICTION BY FIRST NATIONS OVER CHILDREN AND FAMILIES**

**MOVED BY:** Chief Maureen Chapman, Sq'ewá:lxw First Nation  
**SECONDED BY:** Shana Thomas, Lyackson First Nation  
**DATED:** October 19, 2023

Passed by consensus.

**ENDORSED BY:**



Cheryl Casimer



Robert Phillips



Hugh Braker

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

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

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

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

Respondent

-and-

CHIEFS OF ONTARIO,  
AMNESTY INTERNATIONAL CANADA and NISHNAWBE-ASKI NATION

Interested Parties

-and-

FIRST NATIONS LEADERSHIP COUNCIL

Moving Party

**AFFIDAVIT #1 OF TERRY TEEGEE**

I, Terry Teegee, of 1018 Landooz Road, Prince George, Province of British Columbia,  
SOLEMNLY AFFIRM AND SAY AS FOLLOWS:

1. I am the Regional Chief of the BC Assembly of First Nations (“BCAFN”) and a member of the Takla Nation. I have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be based on information and belief and where so stated I believe them to be true.

2. For the past 12 years, my professional life has been dedicated to serving my Nation and First Nations people in British Columbia ("BC") as a whole. I have held the position of Regional Chief of BCAFN since 2017. Prior to that, I was Tribal Chief of the Carrier Sekani Tribal Council from 2012 to 2017, and Vice Tribal Chief from 2009 to 2012.

3. This affidavit is in support of a motion by the First Nations Leadership Council ("FNLC") to be granted interested party status in the motion filed by the First Nations Child and Family Caring Society on December 12, 2023, and the Government of Canada's cross-motion in the same proceeding filed on March 15, 2024 (collectively, the "Motions").

### **FNLC**

4. BC is home to 204 First Nations, representing approximately one third of all First Nations in Canada, each with their own cultures, languages, laws, and traditions. The FNLC was formed in 2005 by a historic Leadership Accord and is comprised of the executive of its member organizations – UBCIC, the First Nations Summit ("FNS"), and the BC Assembly of First Nations ("BCAFN"). UBCIC, BCAFN and FNS have come together to address issues of common concern to First Nations peoples in BC.

5. Since its inception, the FNLC has engaged in strategic policy discussions with the governments of Canada and BC, seeking a common vision for systemic change by advocating for a government-to-government relationship based on respect and recognition of First Nations peoples' rights. This has included acting jointly as intervenors on a number of matters, engaging in legislative and policy reform at the provincial and federal level, and sitting at bilateral and trilateral tables with the governments of Canada and BC.

### **THE BCAFN**

6. BCAFN is a provincial organization representing the 204 First Nations in BC. BCAFN's mandate ("Mandate") includes the advancement of the rights and interests of First Nations people in BC and to develop and promote policies and resources for the benefit of First Nations in BC including, but not limited to, governance, lands, and resources, economic, environmental, social, education, health and cultural matters.

7. BCAFN's mission statement ("Mission Statement") includes, among other things, ensuring First Nations title, rights, and jurisdictions are recognized and respected and First Nations are empowered by governmental legislation, policies, programs and processes, with our efforts supporting nation building, collective action and a focus on solutions. BCAFN's vision is for First Nations governments to exercise title, rights, and jurisdiction for our lands, resources, and peoples in harmony with our customs, languages, and laws.

8. BCAFN provides support and advocacy on behalf of many Indigenous people. It does so in furtherance of the Mandate and the Mission Statement, and with due regard for the fact that having a strong, unified voice on issues of concern to all Indigenous people is important in furtherance of reconciliation. BCAFN support and advocacy includes advancing the rights and well-being of First Nations children and families.

9. BCAFN has long been tasked with ensuring Indigenous people are empowered by government legislation and policies. This often includes making submissions to the provincial and federal governments and participating in discussions surrounding the development of new legislation regarding its impact on Indigenous peoples and their rights. It has also meant that BCAFN has participated in various legal proceedings as an intervenor to speak to issues of Indigenous peoples and their rights, including with its FNLC partners. Some of the legal proceedings where we have intervened as part of FNLC are: *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5; *Mclvor v Canada (Registrar of Indian and Northern Affairs)*, 2009 BCCA 153; and *British Columbia (Attorney General) v Davies*, 2009 BCCA 337.

10. BCAFN and its partners in FNLC have, for several years now, been actively engaged in discussions and negotiations with the government of BC aimed at achieving implementation of the UN Declaration on the Rights of Indigenous Peoples ("UNDRIP") in BC law. We have also been involved in similar efforts with the Government of Canada to achieve UNDRIP implementation in the laws of Canada. The result of these efforts is that in November 2019, BC passed the *Declaration on the Rights of Indigenous Peoples Act*, and on June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples Act* ("UNDRIPA") received Royal Assent and came into force.

11. As part of UNDRIPA, Canada developed, in coordination and consultation with Indigenous peoples, an action plan to meet the objectives of UNDRIP (“Action Plan”). FNLC was engaged by Canada in the development of the Action Plan. Some of the priority areas of the Action Plan are for Canada to address injustices, prejudice, violence, systemic racism and discrimination, and to continue to implement the *Act respecting First Nations, Inuit and Métis children, youth and families*. Another priority area is to ensure there is oversight and accountability on the implementation of UNDRIP, including thorough establishing an independent Indigenous rights monitoring, oversight, recourse or remedy mechanism or mechanisms. The purpose of these mechanisms are to provide Indigenous peoples with access to effective remedies for infringements or violations of Indigenous peoples individual and collective rights.

#### **WORK OF THE FNLC/BCAFN ON CHILDREN & FAMILIES IN BRITISH COLUMBIA**

12. In 2016, the Chief's-in-Assembly of the FNLC organizations directed the creation of an All Chiefs Task Force on Children and Families, whose mandate was to consider the current landscape of service delivery for First Nations children and families, to engage with organizations and agencies that have an interest in children and families issues, identify priorities and provide recommendations address those priorities. One of the priorities included addressing issues related to the implementation of Jordan's Principle in British Columbia, along with other key priorities such as supporting First Nations jurisdiction over child and family services.

13. Also in 2017, the BCAFN Chief's-in-Assembly directed the BCAFN Regional Chief, together with its FNLC partners, to support child welfare reform in BC, in collaboration with the governments of Canada and BC, in a manner that recognizes the inherent right of First Nations to care for their children, a right protected by UNDRIP. Attached as **Exhibit “A”** to my affidavit is a copy of BCAFN resolution 2017-06.

14. As part of this work, the FNLC confirmed a tripartite political commitment between Canada, BC, and the FNLC is the signing of a Reconciliation Charter committing to legislative, policy, and fiscal reform of the child and family services system for First

Nations in BC and the development of the First Nations Tripartite Working Group on First Nations Child And Family Wellbeing (“TWG”).

15. Since the Reconciliation Charter was signed and the TWG was formed, BCAFN, as a part of the FNLC, has been involved in direct efforts to wholly reform the child and family services system for First Nations in BC through tripartite discussions with Canada and BC, and through advancing the goals set out in the Reconciliation Charter and the TWG workplan.

16. As part of the work of the TWG on fiscal reform and a new fiscal framework, the BCAFN Chiefs-in-Assembly directed that the work of the Institute for Fiscal Studies and Democracy, whose work is informing the Reformed Child and Family Services Funding Approach, include the needs and priorities of First Nations in BC. The BCAFN further directed that a new fiscal framework support the resumption of First Nations jurisdiction over child and family services in a manner that realizes the intention and spirit of UNDRIP. Attached as **Exhibit “B”** to my affidavit is BCAFN resolution 2023-19.

17. In addition to its joint work with the FNLC, BCAFN is involved in advancing the needs, priorities, and interests of First Nations at national tables hosted by the AFN. The BCAFN Chief’s-in-Assembly nominated a representative to sit at the AFN Jordan’s Principle Operations Committee (“JPOC”). In 2020, we also nominated a representative to sit at the Jordan’s Principle Action Table (“JPAT”), and the AFN Chiefs Committee on Children and Families and Self-Determination. Attached as **Exhibit “C”** to my affidavit is the BCAFN resolution nominating a representative to sit at the JPOC and attached as **Exhibit “D”** to my affidavit is the BCAFN resolution nominating a representative to sit at the JPAT.

18. Also, in 2022, the BCAFN held several gatherings with First Nations leadership in BC regarding the FSAs on Long-Term Reform and Compensation. Following these engagements, BCAFN produced an engagement report setting out BC First Nations’ priorities and perspectives. Attached as **Exhibit “E”** to my affidavit is a copy of the Engagement Report.

## **FNLC/BCAFN'S INTEREST IN THE MOTIONS**

19. The FNLC's recent work on law and policy reform has been in areas that are central to the issues raised in the Motions before this Tribunal. This advocacy work is grounded in the principles and rights recognized and affirmed in UNDRIP, including that of free, prior, and informed consent. The FNLC is guided by the recognition that our children are central to the continuation of our languages, culture, and resources as First Nations people, and as such, First Nations children and families must be adequately supported and resourced to thrive.

20. FNLC/BCAFN's reform work has been on behalf of First Nations in BC, who form the membership of the FNLC organizations. First Nations in BC have a significant interest in any orders made by this Tribunal as sought in the Motions. Specifically, First Nations in BC are disproportionately impacted by backlogged Jordan's Principle requests and payment reimbursements compared to other jurisdictions in Canada. I am informed by BC representatives at the JPOC, and I believe it to be true, that BC has a substantially higher number of backlogged requests than other jurisdictions in the country, and that there are significant payment delays for approved requests. This places additional burdens on First Nations families who are already impacted by social and health inequities.

21. The issues before the Tribunal regarding the identification and definition of urgent requests also has a substantial impact on First Nations in BC. In particular, climate emergencies in BC have become catastrophic over the past several years, with some of the greatest impacts being on First Nations children and communities. In 2019, the BCAFN Chief's-in-Assembly passed a resolution emphasizing the climate emergency in BC. Attached as **Exhibit "F"** to my affidavit is a copy of BCAFN resolution 2019-04.

22. This resolution directed the BCAFN Regional Chief, as part of the FNLC, to develop a BC First Nations Climate Change Strategy. Attached as **Exhibit "G"** to my affidavit is the *20 Calls for Climate Action* excerpt from the *BC First Nations Climate Strategy and Action Plan*, published in 2022. It is important for the Tribunal to have the

perspective of BC First Nations in respect of how climate emergencies impact First Nations children and the relationship to Jordan's Principle requests.

23. The BCAFN, as directed by the Chief's-in-Assembly, has consistently advocated that any final settlement relating to the long-term reform of FNCFS and Jordan's principle must be done with the free, prior and informed consent of First Nations in BC. For example, the BCAFN Chiefs-in-Assembly passed a resolution on September 23, 2022, directing that the Assembly of First Nations ("AFN") negotiators seek the free, prior and informed consent of BC First Nations Chiefs before making any legal representations on any Final Agreement on Compensation that may have an impact on First Nations children, youth and families in British Columbia, and that any negotiations with Canada or class action counsel on any matters arising from 2016 CHRT 2 and subsequent orders or legal proceedings affecting BC First Nations children, youth, and families must be conducted in an open and transparent manner consistent with free, prior and informed consent of First Nations. A copy of BCAFN resolution 2022-33 is attached as **Exhibit "H"** to my affidavit.

#### **RELEVANCE AND USEFULNESS OF FNLC/BCAFN'S PARTICIPATION IN THE HEARING OF THE MOTIONS**

24. BCAFN, through the FNLC, seeks interested party status to make submissions on the unique and distinct perspective of First Nations in BC regarding the implementation and current state of Jordan's Principle in BC.

25. FNLC's participation in the hearing of the Motions is necessary given the issues raised in the Motions, including: the definition and identification of urgent requests in BC, including requests related to First Nations children impacted by states of emergency; the backlog of unopened and unassigned Jordan's Principle requests and the processing of payments; the self-determination of First Nations in respect of child and family services; and all related orders being sought from this Tribunal.

26. As well, the Final Settlement Agreement on long-term reform of Jordan's Principle has not yet been finalized. Negotiations between Canada and the First Nations parties to

the agreement are ongoing and could be affected (positively or negatively) by any orders of the Tribunal in the context of the motion and cross-motion. The orders of the Tribunal and negotiations between the parties on the long-term reform of Jordan's Principle will have a direct impact on First Nations in BC. As such, it is important that the Tribunal hear from bodies such as FNLC who are working to support long term reform for BC First Nations with respect to child and family services, including the implementation of Jordan's Principle, and who have a distinct perspective to share.

27. If granted interested party status with respect to the Motions, our proposed submissions will be useful to this Tribunal given our particular expertise and experience with law and policy reform as it relates to jurisdiction over child welfare, and our longstanding work on fiscal reform related to child and family services. We would also be of assistance to the Tribunal given our expertise and record of advocacy with respect to the implementation of UNDRIP into provincial and federal laws, the common-law, and its application in the context of Crown-First Nations relations.

#### **CONDUCT OF THE FNLC/BCAFN IN THE HEARING OF THE MOTIONS**

28. If granted interested party status, FNLC/BCAFN:

- a. will not file any additional evidence or add to the record of the Motions, without leave of the Tribunal;
- b. will not expand the issues or raise new ones;
- c. will not delay the hearing of the Motions;
- d. will work with the parties and other interested Parties to avoid duplicative submissions;
- e. will abide by any schedule set by the Tribunal; and
- f. will comply with any terms, conditions, or limitations that this Tribunal imposes on its participation as an Interested Party in the Motions.



This is Exhibit "A" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

**DARLENE KAVKA**  
Barrister & Solicitor  
**PRINCE GEORGE COMMUNITY LEGAL CLINIC**  
102-1268 5TH AVENUE  
PRINCE GEORGE, BC V2L 3L2



## BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

312-345 Chief Alex Thomas Way  
 Kamloops, BC V2H 1H1  
 Telephone: 250-828-9757  
 Facsimile: 250-828-9893  
 Website: www.bcafn.ca

**BCAFN SPECIAL CHIEFS ASSEMBLY**  
**Moccasin Square Garden, Kamloops, BC**  
**March 27-28, 2017**

**Resolution 06/2017**

**SUBJECT: INDIGENOUS NATIONS JURISDICTION OVER CHILDREN AND FAMILIES**

**MOVED BY: CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND**

**SECONDED BY: CHIEF DON TOM, TSARTLIP FIRST NATION**

**DECISION: CARRIED**  
**OPPOSED: CHIEF WILF ADAM, LAKE BABINE FIRST NATION**

**WHEREAS:**

- A. Indigenous Peoples have the right to self-determination, which includes jurisdiction over our children and families. Canada's constitutional framework recognizes and protects the continuity of Indigenous laws and traditions;
- B. Canada's common law continues to recognize the inherent jurisdiction of Indigenous Peoples over matters internal to them, including child welfare: *Connolly v. Wolrich*; *Casimer v. I.C.B.C.*; *R. v. VanderPeet*; *Campbell v. BC(AG)*, and *Re Kaden Decision (1961)*;
- C. Provincial Minister of Justice Suzanne Anton sent a letter on May 27<sup>th</sup>, 2016, to the BC Representative for Children and Youth which commits the Government of British Columbia to work collaboratively with First Nations in implementing new approaches to self-governance, as well as to begin discussions on child welfare jurisdiction and services with First Nations;
- D. The *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* recognizes the rights of Indigenous Peoples to flourish as Peoples caring for children and families according to our own languages, laws and social structures;

**Certified copy of a resolution adopted on the 28<sup>th</sup> day of March, 2017, Tk'emlúps te Secwépemc**

**Maureen Chapman, BC Acting Regional Chief**

- E. As per BC Assembly of First Nations (BCAFN) Resolutions 04(b)/2014, 04(d)/2015, and 22/2016, First Nations and their representative organizations have continued to advocate for the reform of Child and Family Services due to the continued apprehension of First Nations children into foster care, the lack of resources to assist families following apprehension, and the need for First Nations jurisdiction over children and families;
- F. The Province, Canada, and the First Nations Leadership Council committed to work together in a Tripartite Working Group to address current policy and legislative frameworks related to First Nations Children and Families;
- G. It has been recognized that many First Nations want to assert their inherent jurisdiction in the management and development of their own Child and Family Services that respond to the unique needs of their communities; and
- H. Removing First Nations children from their homes and placing them in foster care frequently leads to devastating outcomes, including: broken cultural and family ties, lack of academic achievement, substance abuse, and suicidal tendencies along with other negative indicators.

**THEREFORE BE IT RESOLVED THAT:**

1. The BC Assembly of First Nations Chiefs-in-Assembly reaffirm their support for BCAFN Resolution 22/2016, "Draft Actions Framework: Reconciliation, Self-Determinations and Self-Government for Indigenous Children, Families and Nations in BC."
2. The BC Assembly of First Nations Chiefs-in-Assembly recognize that each First Nation has the right to determine and develop their own child welfare models, legislation, regulations, policies and practices standards, and fully support any and all First Nations in exercising their respective jurisdiction and authority over the care and wellbeing of their children and families.
3. The BC Assembly of First Nations Chiefs-in-Assembly support any and all First Nations' efforts to exercise and secure recognition of their jurisdiction and authority over children and families.
4. The BC Assembly of First Nations Chiefs-in-Assembly fully support all Indigenous Nations' inherent right to care for their children, a right protected by the Constitution of Canada and recognized by *UNDRIP*.
5. The BC Assembly of First Nations Chiefs-in-Assembly direct the Acting Regional Chief to communicate to the governments of BC and Canada their full support for the work on Child Welfare reform currently underway under the Tripartite processes between Indigenous Nations, BC, and Canada, in full collaboration with BCAFN, First Nations Summit and the Union of BC Indian Chiefs (collectively known as the "First Nations Leadership Council"), First Nations Sectoral Councils, Delegated Agencies and the First Nations Directors Forum.

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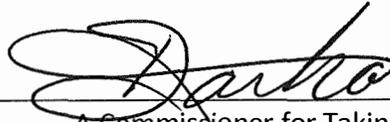
**Certified copy of a resolution adopted on the 28<sup>th</sup> day of March, 2017, Tk'emlúps te Secwépemc**




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**Maureen Chapman, BC Acting Regional Chief**

This is Exhibit "B" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

**DARLENE KAVKA**  
Barrister & Solicitor  
**PRINCE GEORGE COMMUNITY LEGAL CLINIC**  
102-1268 5TH AVENUE  
PRINCE GEORGE, BC V2L 3L2



## BC ASSEMBLY OF FIRST NATIONS

1004 Landooz Road  
 Prince George, BC V2K 5S3  
 Website: www.bcafn.ca

**BCAFN ANNUAL GENERAL MEETING**  
**September 19, 20 & 21, 2023**  
**Hybrid - In person & online via zoom**

**Draft Resolution 19/2023**

**SUBJECT: FISCAL FRAMEWORK DEVELOPMENT FOR THE RESUMPTION OF JURISDICTION  
 BY FIRST NATIONS OVER CHILDREN AND FAMILIES**

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**MOVED BY: JUDY WILSON, PROXY, SKAWAHLOOK FIRST NATION**

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**SECONDED BY: CHIEF LEE SPAHAN, COLDWATER INDIAN BAND**

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**DECISION: CARRIED**

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**WHEREAS:**

- A. First Nations Title and Rights holders have the inherent right to self-determination, which includes jurisdiction over our children and families as constitutionally protected under Section 35 of the *Constitution Act, 1982*, described in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), and affirmed in Bill C-92: *An Act respecting First Nations, Inuit and Métis children, youth and families* (C-92);
- B. Work is underway to transform child and family services in British Columbia, including the development of a new fiscal framework to support the resumption of jurisdiction by First Nations over their children and families in BC, but improved information sharing and opportunities for First Nation input and involvement are necessary to ensure that the framework reflects the needs and realities of First Nations in BC;
- C. The UN Declaration, which the government of Canada has adopted without qualification, and has, alongside the government of BC, passed legislation committing to implement, affirms:

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**Certified copy of a resolution adopted on the 20<sup>th</sup> day of September 2023**

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**Terry Teegee, BC Regional Chief**

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

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

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

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

**Article 37:** Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements;

- D. On January 26, 2016, and via subsequent rulings, the Canadian Human Rights Tribunal (CHRT) ordered Indigenous Services Canada (ISC) to cease its discriminatory practices and reform the national First Nations Child and Family Services (FNCFS) Program, policies, procedures, and agreements to comply with the CHRT's findings;
- E. Through resolutions at the Chiefs' Assemblies, the Chiefs in BC have supported and endorsed work to reform FNCFS by the BC Assembly of First Nations (BCAFN), First Nations Summit (FNS), and UBCIC, working together as the First Nations Leadership Council (FNLC), including the development of an Action Framework (UBCIC Resolution 2016-44, FNS Resolution 1016.11, BCAFN Resolution 22/2016), a Tripartite process between BC, Canada and FNLC (UBCIC Resolution 2017-06, FNS Resolution 0217.19, BCAFN Resolution 06/2017), and a Reconciliation Charter;
- F. In 2019, the Government of Canada enacted C-92, affirming inherent Aboriginal and treaty rights, and supporting First Nations governments to pass laws, enforce laws, and

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Certified copy of a resolution adopted on the 20<sup>th</sup> day of September 2023




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Terry Teegee, BC Regional Chief

put in place coordination arrangements for all aspects of child and family services, based on First Nations laws, priorities, customs, traditions, and practices;

- G. By Resolution 01/2019, the Chiefs-in-Assembly directed the BCAFN Regional Chief, working with the UBCIC and FNS as part of the TWG, to create a detailed transition strategy to meet the needs of First Nations in BC for review and input by the Chiefs, which is ongoing;
- H. Canada provides funding to the Province through a bilateral Service Level Agreement (SLA) for costs of child and family service delivery for First Nations on-reserve that are not served by a Delegated Aboriginal Agency;
- I. While the broader transformation toward a new and effective fiscal model to support First Nations children and families in BC is taking place, as committed to in the Reconciliation Charter, an updated SLA continues to be used as an interim measure so that First Nations do not see disruptions in services;
- J. In 2018, the Institute of Fiscal Studies and Democracy (IFSD) was hired by the Assembly of First Nations and the First Nations Child & Family Caring Society to research and define a funding approach and performance measurement framework for FNCFS that aligns with the requirements articulated through legislation and judicial decisions;
- K. IFSD research, which is still underway, has informed negotiations on the current Agreement-in-Principle, on long-term reform of FNCFS, which was signed in 2021, and the revised Final Settlement Agreement (FSA) on FNCFS, Jordan's Principle, and the reform of Indigenous Services Canada (ISC), which was signed in 2023; and
- L. IFSD research currently underway, builds on previous IFSD data collection and findings and includes some BC-specific data. Next steps for IFSD are to 1) Build examples of funding models (with consideration of different starting points) based on findings; 2) Request regional review meetings of the models to ensure they capture different needs; and 3) Prepare a final report for December 2023 with a summary of findings.

**THEREFORE BE IT RESOLVED THAT:**

- 1. The BCAFN Chiefs-in-Assembly fully supports the development of a long-term funding agreement, that ensures the holistic transformation of First Nations Child and Family Services (FNCFS) to a new fiscal framework, which supports First Nations resumption of

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Certified copy of a resolution adopted on the 20<sup>th</sup> day of September 2023




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Terry Teegee, BC Regional Chief

jurisdiction over their children and families and realizes the intention and spirit of the UN Declaration and recent legislation and judicial decisions;

2. The BCAFN Chiefs-in-Assembly calls on the Institute of Fiscal Studies and Democracy (IFSD), which is completing cost modelling work to develop a new fiscal framework, to ensure full alignment and engagement with First Nations in British Columbia, in all aspects of development;
3. The BCAFN Chiefs-in-Assembly calls on IFSD to engage in consistent communication with BCAFN, the Union of BC Indian Chiefs (UBCIC), and the First Nations Summit (FNS), working together as the First Nations Leadership Council (FNLC), to support engagement with First Nations in BC and ensure review and analysis of IFSD reports, by FNLC contracted experts;
4. The BCAFN Chiefs-in-Assembly directs the Regional Chief, working with the UBCIC and the FNS, as the FNLC, to work with IFSD to provide input and promote opportunities for First Nations in BC to provide direct input in the development of a new fiscal framework; and
5. The BCAFN Chiefs-in-Assembly calls on Canada and the Province of British Columbia, as members of the Tripartite First Nations Children and Families Working Group, to share information with and support IFSD's cost modelling work to ensure an accurate reflection of and funding to address the needs and priorities of First Nations in BC.

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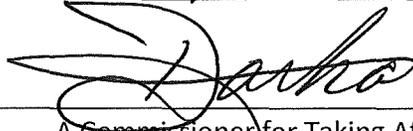
Certified copy of a resolution adopted on the 20<sup>th</sup> day of September 2023



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Terry Teegee, BC Regional Chief

This is Exhibit "C" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

**DARLENE KAVKA**  
Barrister & Solicitor  
**PRINCE GEORGE COMMUNITY LEGAL CLINIC**  
102-1268 5TH AVENUE  
PRINCE GEORGE, BC V2L 3L2



## BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

1004-Landooz Road  
 Prince George, BC V2K5S3  
 Telephone: 250-962-1603  
 Facsimile: 250-962-9552  
 Website: www.bcafn.ca

**BCAFN 17<sup>th</sup> ANNUAL GENERAL MEETING**  
**November 17 & 18, 2020**  
**Online Via Zoom**

**Resolution 04/2020**

**SUBJECT: APPOINTMENT TO AFN JORDAN'S PRINCIPLE OPERATIONS COMMITTEE**

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**MOVED BY: CHIEF RAY GEROW, BURNS LAKE BAND**

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**SECONDED BY: KUKPI7 WAYNE CHRISTIAN, SPLATSIN**

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**DECISION: CARRIED**

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**WHEREAS:**

- A. The Assembly of First Nations (AFN) has a number of policy/issue portfolios that are supported by working groups or committees;
- B. working groups or committees are created by AFN Chiefs Committees;
- C. AFN Resolutions 40/2017, Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders, 83/ 2016, National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy and 62/2016, Full and Proper Implementation of the Historic Canadian Human Rights Tribunal Decisions in the Provision of Child Welfare Service and Jordan's Principle, calling on Canada to fully and immediately comply with Tribunal rulings to end discriminatory funding of child and family services and to properly implement Jordan's Principle.
- D. To encourage increased dialogue and advise on Jordan's Principle implementation and planning activities, the Jordan's Principle Operations Committee (JPOC) was struck. AFN Resolution 15/2019, *Jordan's Principle Operations* was passed at the AFN AGA in July 2019 and directs AFN

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Certified copy of a resolution adopted on the 17<sup>th</sup> day of November 2020

Terry Teegee, BC Regional Chief

to ensure ongoing coordination between the JPOC and Jordan's Principle Action Table (JPAT) for long-term implementation goals of all regions.

- E. The November 5, 2019 Terms of Reference for the JPOC mandates the JPOC to:
- Provide operational guidance on the implementation of the Jordan's Principle;
  - Provide input into the development of a longer-term approach;
  - Champion Jordan's Principle within the Department of Indigenous Services Canada ("ISC"), other federal departments, among First Nations partners and the broader community;
  - Discuss and provide input on key policy and operational issues;
  - Periodically review updates on progress, performance, and the achievement of key milestones; and
  - Keep participating organizations and the wider community informed about the work accomplished by the Jordan's Principle Operations Committee.
- F. On August 30, 2019 the BCAFN received a letter from AFN CEO Paulette Tremblay, requesting the BCAFN to consider an individual from the BC Region who "will best present a regional perspective on Jordan's Principle implementation and the path forward;"
- F. Per section 9.4 of the BCAFN Governance Manual, representatives are appointed to AFN Chief and Technical Committees by the Regional Chief and Board of Directors,
- 9.4 The AFN delegates to the Regional Chief specific portfolios relating to national policy matters. These portfolios are held by the Regional Chief and supported by various AFN Committees. The Regional Chief and the Board jointly appoint member delegates or external technical experts to sit on AFN Committees from time to time to represent BCAFN; and
- G. In an effort to increase transparency and accountability, the Regional Chief determined to bring the appointment of one (1) representative to the AFN Jordan's Principle Operations Committee to the BCAFN Chiefs-in-Assembly for determination.

**THEREFORE BE IT RESOLVED THAT:**

1. The BCAFN Chiefs-in-Assembly directs the Regional Chief and BCAFN Board of Directors to appoint the following one representative to the AFN Jordan's Principle Operations Committee:
  1. Warner Adam
2. The BCAFN Chiefs-in-Assembly calls on the BCAFN representatives to the AFN Jordan's Principle Operations Committee to provide regular updates to the BCAFN Chiefs-in-Assembly.

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Certified copy of a resolution adopted on the 17<sup>th</sup> day of November 2020




---

Terry Teegee, BC Regional Chief

This is Exhibit "D" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

**DARLENE KAVKA**  
Barrister & Solicitor  
**PRINCEGEORGE COMMUNITY LEGAL CLINIC**  
102-1288 5TH AVENUE  
PRINCEGEORGE, BC V2L 3L2



## BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

1004-Landooz Road  
 Prince George, BC V2K5S3  
 Telephone: 250-962-1603  
 Facsimile: 250-962-9552  
 Website: www.bcafn.ca

**BCAFN 17<sup>th</sup> ANNUAL GENERAL MEETING**  
**November 17 & 18, 2020**  
**Online Via Zoom**

**Resolution 05/2020**

**SUBJECT: APPOINTMENT TO AFN JORDAN'S PRINCIPLE ACTION TABLE**

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**MOVED BY: KUKPI7 JUDY WILSON, NESKONLITH INDIAN BAND**

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**SECONDED BY: CHIEF DON TOM, TSARTLIP FIRST NATION**

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**DECISION: CARRIED**

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**WHEREAS:**

- A. The Assembly of First Nations (AFN) has a number of policy/issue portfolios that are supported by working groups, tables or committees;
- B. working groups, tables or committees are created by AFN Chiefs Committees or created via resolution at the AFN Chiefs Assemblies;
- C. The AFN Jordan's Principle Action Table (JPAT) operates out of the National Advisory Committee on First Nations Child and Family Services (NAC) within the NAC Terms of Reference. The Table was developed as an effort to organize the workplan of the NAC to oversee and provide recommendations for medium and long term reform of First Nation Child and Family services;
- D. The JPAT is oriented towards proposing policy options for federal program authorities, service delivery models and funding to fully implement Jordan's Principle;

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**Certified copy of a resolution adopted on the 17<sup>th</sup> day of November 2020**

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**Terry Teegee, BC Regional Chief**

- C. AFN Resolutions 40/2017, Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders, 83/ 2016, National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy and 62/2016, Full and Proper Implementation of the Historic Canadian Human Rights Tribunal Decisions in the Provision of Child Welfare Service and Jordan's Principle, calling on Canada to fully and immediately comply with Tribunal rulings to end discriminatory funding of child and family services and to properly implement Jordan's Principle.
- D. To encourage increased dialogue and advise on Jordan's Principle implementation and planning activities, the Jordan's Principle Operations Committee (JPOC) was struck. AFN Resolution 15/2019, *Jordan's Principle Operations* was passed at the AFN AGA in July 2019 and directs AFN to ensure ongoing coordination between the JPOC and Jordan's Principle Action Table (JPAT) for long-term implementation goals of all regions.
- F. On April 20, 2018 the BCAFN received a letter from AFN CEO Paulette Tremblay, requesting the BCAFN to consider an individual to represent the BC Region for JPAT;
- F. Per section 9.4 of the BCAFN Governance Manual, representatives are appointed to AFN Chief and Technical Committees by the Regional Chief and Board of Directors,
- 9.4 The AFN delegates to the Regional Chief specific portfolios relating to national policy matters. These portfolios are held by the Regional Chief and supported by various AFN Committees. The Regional Chief and the Board jointly appoint member delegates or external technical experts to sit on AFN Committees from time to time to represent BCAFN; and
- G. In an effort to increase transparency and accountability, the Regional Chief determined to bring the appointment of one (1) representative to the AFN Jordan's Principle Action Table to the BCAFN Chiefs-in-Assembly for determination.

**THEREFORE BE IT RESOLVED THAT:**

1. The BCAFN Chiefs-in-Assembly directs the Regional Chief and BCAFN Board of Directors to appoint the following one representative to the AFN Jordan's Principle Action Table:
  1. Gena Edwards
2. The BCAFN Chiefs-in-Assembly calls on the BCAFN representatives to the AFN Jordan's Principle Action Table to provide regular updates to the BCAFN Chiefs-in-Assembly.

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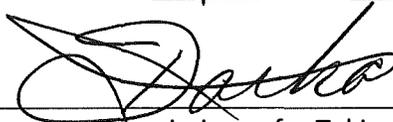
Certified copy of a resolution adopted on the 17<sup>th</sup> day of November 2020




---

Terry Teegee, BC Regional Chief

This is Exhibit "E" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

**DARLENE KAVKA**  
Barrister & Solicitor  
**PRINCE GEORGE COMMUNITY LEGAL CLINIC**  
102-1268 5TH AVENUE  
PRINCE GEORGE, BC V2L 3L2

# **BC AFN FORUM ON LONG-TERM REFORM OF THE FIRST NATIONS CHILD AND FAMILY SERVICES PROGRAM AND JORDAN'S PRINCIPLE**

## **ENGAGEMENT REPORT**

FEBRUARY 2023



BRITISH COLUMBIA  
ASSEMBLY OF FIRST NATIONS



# CONTENTS

PURPOSE OF REPORT .....	4	Part 3. Jordan's Principle – Administrative and Operational Capacity .....	13
ENGAGEMENT SUMMARY .....	5	Nation Led Administration .....	13
<b>FIRST ROUND OF ENGAGEMENT: AUGUST MEETING OVERVIEW</b> .....	5	Family Led Administration .....	13
<b>SUMMARY OF PRESENTATIONS</b> .....	5	Two-Way Communications .....	13
<b>KEY CONSIDERATIONS: FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA – CANADIAN HUMAN RIGHTS TRIBUNAL UPDATES – DR. CINDY BLACKSTOCK</b> .....	6	Part 4. Accountability Measures .....	14
Presentation Summary .....	6	Data Ownership and Sovereignty .....	14
<b>REGIONAL PERSPECTIVES ON LONG-TERM REFORM AND JORDAN'S PRINCIPLE – MARY TEEGEE</b> .....	7	First Nations Indicators of Wellness .....	14
Presentation Summary .....	7	Mixed Indicators .....	14
<b>SUMMARY OF DIALOGUE</b> .....	7	Indicators of Success Question – Survey Results .....	15
Timing .....	7	APPENDIX A .....	16
Oversight .....	8	<b>FSA AND AIP BACKGROUND AND SUMMARY</b> .....	16
Preventative Funding .....	8	<b>TIMELINE</b> .....	17
Trauma-Informed Supports .....	8	<b>WHO IS INVOLVED</b> .....	19
<b>SECOND ROUND OF ENGAGEMENT: SURVEY, INTERVIEW AND VIRTUAL ROUNDTABLE DISCUSSIONS</b> .....	9	Compensation for First Nations Child and Family Services and Jordan's Principle <sup>4</sup> .....	19
<b>SUMMARY OF KEY THEMES</b> .....	9	1. Children taken into care: .....	19
Part 1: Agreement in Principle on Long-Term Reform .....	9	2. Jordan's Principle: .....	19
Access to Supports and Services .....	9	3. Trout Class Action Group: .....	19
Communications .....	9	4. Family Class Action Group: .....	19
Processes and Procedures .....	10	<b>AGREEMENT-IN-PRINCIPLE ON LONG-TERM REFORM</b> .....	20
Transportation .....	10	APPENDIX B .....	21
Prevention and Youth Aging out of Care .....	10	<b>METHODS OF ENGAGEMENT</b> .....	21
Affordable, Accessible and Transitional Housing .....	10	Part 1: Survey Results – What We Heard .....	21
Wrap-around Services and Supports .....	11	Part 2: Virtual Roundtable Discussions .....	21
Community and Cultural Connection .....	11	Part 3: Interview .....	21
Specialized Training and Local Professionals .....	11	APPENDIX C .....	22
Capacity Development – Education and Training .....	11	<b>ONLINE SURVEY RESULTS</b> .....	22
Community-Based Professionals .....	11	APPENDIX D .....	40
Cultural Competency .....	12		
Part 2. Funding and Resources .....	12		
Funding Transparency .....	12		
Bottom-Up Funding Approach .....	12		
Lived Experience Funding Approach .....	12		

# PURPOSE OF REPORT

In the late summer and early fall of 2022, the British Columbia Assembly of First Nations (BCAFN) hosted a series of engagement activities to seek feedback and input from First Nations in BC regarding the Agreement in Principle on the Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle. Throughout this work, dialogue also emerged regarding the Final Settlement Agreement on compensation for children and caregivers of children removed from their homes.

This report is a thematic summary of all input shared during a hybrid meeting, interview, virtual roundtable discussions and an online survey. BCAFN worked to identify perspectives, priorities, recommendations and concerns from BC Chiefs, leadership, and First Nations with expertise and experience in this area in order to inform discussions related to long-term reform and the finalization of the Agreement-in-Principle (AIP) on long-term reform. See Appendix A for more background information.

Given the range of familiarity with subject matter and different opinions shared across engagements, this report does not make conclusions or suggest consensus among participants. Rather, the report summarizes what was heard during the engagement process.

# ENGAGEMENT SUMMARY

## First Round of Engagement: August Meeting Overview

On August 16, 2022, BCAFN held a meeting to provide Chiefs, staff and service providers with information on the Long-Term Reform of the First Nations Child and Family Services (FNCFS) Program and Jordan's Principle and invite feedback in order to inform discussions towards a final agreement. Information was also provided on the Final Settlement Agreement (FSA) on compensation. The meeting was held in downtown Vancouver, on the territories of the Musqueam, Squamish and Tsleil-Waututh people, and was also available online for participants. The meeting was attended by approximately 100 people, 30 in person and 70 online.

## Summary of Presentations

The following presentations were delivered during the meeting, and are summarized here:

- ▶ Key Considerations: First Nations Child and Family Caring Society of Canada – Canadian Human Rights Tribunal Updates – Dr. Cindy Blackstock, Caring Society
- ▶ Regional Perspectives on LT Reform and Jordan's Principle – Mary Teegee

The agenda for the meeting was as follows:

- ▶ Context setting – welcome, work of BC AFN, Compensation FSA, Long-Term Reform and Jordan's Principle AIP
- ▶ Key Considerations presentation from the First Nations Child and Family Caring Society of Canada (Dr. Cindy Blackstock)
- ▶ BC Regional Perspectives on LT Reform and Jordan's Principle (Mary Teegee)
- ▶ Dialogue on long-term reform and Jordan's Principle
- ▶ Long Term Reform Discussions
- ▶ Jordan's Principle Discussion
- ▶ Summary and closing remarks

A full copy of the agenda is provided in Appendix D.

## Key Considerations: First Nations Child and Family Caring Society of Canada – Canadian Human Rights Tribunal Updates – Dr. Cindy Blackstock

### PRESENTATION SUMMARY

- ▶ Overview of the FSA on compensation, the AIP on long-term reform of Jordan's Principle, and the class action compensation
- ▶ Raised key questions for compensation, with regards to potential claw backs of the \$40,000 in compensation funds
- ▶ Provided an overview of the three key elements of discriminatory funding: funding structure, enforcement of funding obligations and funding level
- ▶ Of the \$19.08 billion in compensation funding over 5 years: 75% is locked in, 10% is for remoteness, 6% is old money.
- ▶ Believe that the timeframes for ending the Tribunal's jurisdiction and implementing a fully reformed funding approach need to be extended a further 12 months to implement the AIP measures to end Canada's discriminatory conduct and prevent its recurrence.<sup>1</sup>
- ▶ Canada is saying they will not pay the remoteness money and other financial resources unless the final agreement is signed. This intimidation tactic must be rejected and does not bode well for their compliance after the Tribunal is gone. Canada has a legal duty to address the discrimination facing our children.
- ▶ The Caring Society believes that prior to signing off on a Final Agreement or ending the Tribunal's jurisdiction, we must do the following:<sup>2</sup>
  - Ensure Nations and agencies have a meaningful opportunity to participate in the research to establish a long-term funding approach for child and family services and Jordan's Principle.
  - Ensure Nations and agencies have an opportunity to fully understand and have input into any proposed long-term reform solution.
  - That the solutions are described in sufficient detail in a legally binding final order by the Tribunal that Nations or Agencies could seek orders to address non-compliance by Canada.
  - That there is a robust and effective alternative dispute resolution mechanism to hold Canada accountable.
  - Canada needs to comply with the existing orders and fix its conduct.

<sup>1</sup> BC AFN Resolution 34/2022 includes the same timeline

<sup>2</sup> BC AFN Resolution 33/2022 and 34/2022 include the same provisions

## Regional Perspectives on Long-Term Reform and Jordan's Principle – Mary Teegee

### PRESENTATION SUMMARY

- ▶ Provided an overview of her history with child and family services in BC and her experience with the Canadian Human Rights Tribunal (CHRT) court cases
- ▶ Highlighted prevention funding – baseline funding plus prevention at \$2,500 per capita – but notes that other provinces received prevention funding under the Enhanced Prevention Focussed Approach (EPFA) in 2001, whereas BC did not receive that funding until 2018 or 2021
- ▶ Agencies and Nations in BC have not had time to fully establish prevention programs and services and the infrastructure to support them
- ▶ Explains that the FSA assumptions are not valid in BC
- ▶ Suggests more time is needed for BC Nations and agencies to fully establish prevention programs and services; develop a baseline level of funding needed to address the overrepresentation of First Nations children in care; and ensure baseline level of funding is informed by fully developed and responsive prevention services
- ▶ Highlights the need to create a structured process for decision-making
- ▶ In BC, any agreement needs to take into account the Declaration on the Rights on Indigenous Peoples Act (DRIPA), and the United Nations Declaration on the Rights on Indigenous Peoples (UNDRIP), while ensuring the principles of Free, Prior and Informed Consent (FPIC) are followed
- ▶ On long-term reform, it is essential that there is clear direction given to Canada from BC
- ▶ Expresses concerns about the transition from CHRT to the new oversight mechanism and argues more time is needed to develop First Nations-led mechanisms
- ▶ Is requesting 12-18 months to continue to do the work and to go back to community

### Summary of Dialogue

During the question and dialogue portions of the meeting, the following five topics were shared as concerns from both in-person and online meeting participants:

- ▶ Timing for signing a final agreement;
- ▶ Oversight;
- ▶ Preventative funding;
- ▶ and Supports for individuals.

The following section summarizes those discussions and concerns, however, some overall concerns and suggested additional work regarding both long-term reform and compensation included:

- ▶ Concerns about the process for distributing the settlement funding, and that some funds won't go toward properly protecting children
- ▶ Ensuring that unhoused people have a voice in any decisions
- ▶ Replacing a broken system with one that we take over that is broken as well

### TIMING

The timing of negotiating the Final Settlement Agreement on compensation was the largest topic of discussion during the meeting, shared across presenters and meeting participants.

At the time of the meeting, a CHRT hearing for the FSA on compensation was scheduled for September 15 and 16, with a Final Agreement slated to be reached in December 2022. In October 2022, the CHR released a written decision stating that the Final Settlement Agreement substantially but not fully satisfied the compensation orders. This written decision has the potential to increase the timeline to get compensation flowing to First Nations under the FSA.

The perspective shared by the AFN at the hybrid meeting was that the risk of re-profiling funding under the AIP for long-term reform should be taken seriously, and that while children are still being apprehended, it makes sense to provide First Nations and agencies with tools to tackle the problem. They shared a concern that children could continue to be apprehended if a Final Agreement on long-term reform is delayed.

The Caring Society, Mary Teegee, Regional Chief Terry Teegee, along with some other meeting attendees, however, shared concerns that the timeline for the FSA was too fast and that there is the potential that important details could be missed. The goal of this work is to ensure that any new system removes the discrimination of the old systems, and it was suggested that an additional 12 to 18 months is needed to take the time necessary to ensure that the content of the Final Agreement on compensation being negotiated includes the necessary measures and so that Nations understand what is in it and can provide informed consent.

## OVERSIGHT

If the Final Agreements are signed, the CHRT will no longer have oversight into the process. Participants in the meeting shared concern with transitions, given the history that Canada has had of unfulfilled obligations regarding the FNCFS program and Jordan's Principle.

To these concerns, the AFN representative, Stuart Wuttke, responded that:

- ▶ The CHRT oversight function will be replaced with a binding oversight tribunal that will function similar to the Tribunal for Jordan's Principle and Non-Insured Health Benefits

- ▶ In the current process, First Nations communities must have the assistance of the AFN or the Caring Society to access the oversight functions that the CHRT provides
- ▶ These actions are not appropriate going forward, so the dispute resolution process the AFN is pushing for will provide each Child and Family Services society the ability to go directly to the dispute resolution mechanism
- ▶ The CHRT is currently limited to the remedies they can order, in that they must be based on Human Rights, whereas the new model will have a broader scope

## PREVENTATIVE FUNDING

There were concerns raised in the meeting about the preventative funding model that was ordered to commence immediately. Participants expressed concerns that the \$2,500 amount was not sufficient for First Nations in BC and that it was unclear what data the funding level was based on.

In response to those comments, the AFN representative provided the following response:

- ▶ There is still the opportunity to advocate for a higher amount in a final settlement agreement, and the \$2,500 was used for this year only
- ▶ The funding level was developed by the Institute of Fiscal studies and Democracy (IFSD), the same body who is currently engaged on funding models for long-term reform of Jordan's Principle, and
- ▶ IFSD has indicated that this fiscal year, they will have the funding models for long-term funding will be complete.

## TRAUMA-INFORMED SUPPORTS

It is currently unclear what level of attention has been given in the final agreement for supports to be in place before the compensation process has begun. There were concerns raised in the meeting about the need for oversight and intervention for those who are most vulnerable, and that the work must be done through a trauma-informed approach, applying the lessons that were learned through the residential school settlements.

## Second Round of Engagement: Survey, Interview and Virtual Roundtable Discussions

In October 2022, BCAFN held a second round of engagements on long-term reform of the First Nations Child and Family Services Program and Jordan's Principle. Several objectives were established for this engagement including:

- ▶ Seeking feedback from First Nations in BC on the topics of long-term reform of the First Nation Child and Family Services Program and Jordan's Principle
- ▶ Understanding First Nations in BC's priorities and concerns related to long-term reform
- ▶ Guiding discussions towards a Final Settlement Agreement on long-term reform

See Appendix B for an overview of engagement methods.

## Summary of Key Themes

Through the second round of engagements, BCAFN invited First Nations to provide their perspectives in multiple ways including a survey, interviews and engagement sessions. First Nations shared their perspectives, feedback and questions on four components, including:

- ▶ Part 1 - Agreement-in-Principle on Long-Term Reform
- ▶ Part 2 - Funding and Resources
- ▶ Part 3 - Jordan's Principle – Administrative and Operational Capacity
- ▶ Part 4 - Accountability Measures

During the second engagement, 10 people responded to the survey, 18 participants attended the virtual sessions and interviews were held with two participants.

Below is a summary of the key themes identified by First Nations.

### PART 1: AGREEMENT IN PRINCIPLE ON LONG-TERM REFORM

Through the survey and in the virtual engagement sessions First Nations were asked to respond to the questions, "what are your First Nation's priorities related to child and family services and Jordan's Principle," and "based on these priorities, what

does your Nation need to support these actions (capital and infrastructure development, IT, human resources)?" The key themes and issues that emerged during this section included:

- ▶ Access to Supports and Services
- ▶ Prevention and Youth Aging out of Care
- ▶ Specialized Training and Local Professionals

### Access to Supports and Services

Many survey and engagement participants emphasized the need for greater access to supports and services for children and families. Several priority areas identified by participants included communications, processes and procedures and transportation.

### COMMUNICATIONS

Several participants shared that a lack of communications and information were a barrier for communities and families trying to access child and family services and Jordans Principle supports. Insufficient communications on existing services and a lack of up-to-date information were two key issues identified by participant. "Communications is a priority," shared a participant, "it is important that Nations and service organizations know what is going on." A number of participants described attempts at contacting service providers, specifically

regional coordinators of Jordans Principle in BC and being redirected to the wrong resource or not being able to find reliable contact information.

#### PROCESSES AND PROCEDURES

Participants shared that for families undertaking the processes required to access services and supports their experiences were often non “user-friendly” and unclear. Issues identified by participants on processes to access services included a lack of timely responses from service providers on critically needed supports, complicated application systems, issues finding staff to support the navigation of applications, gathering correct documentation, and submitting forms. Without proper advocacy and support navigating these systems, participants expressed that many families end up giving up throughout the process. More streamlined processes for removing barriers for filling out forms, easier applications, and reliable tracking and reporting systems were priorities identified by participants. Shifts in management of Jordan’s Principle was also identified as an area of frustration with participants stating that the transitions between the First Nations Health Authority (FNHA) and Indigenous Services Canada (ISC) have caused challenges in approvals and consistency.

#### TRANSPORTATION

Transportation for families living in remote communities without access to local services and supports was another priority area often mentioned by participants. Participants explored the idea of strategic job creation to fill the need for transportation for families, with many families in remote communities often having to navigate ways to access services in larger neighbouring communities. One participant living in a remote community shared, “this is an isolated area, with even more isolated villages surrounding us, we need access and knowledge on who and where to access support and navigation of this territory.” In addition to difficulty accessing services and supports, many participants also expressed that once a service is identified outside of their community there are often long waitlists for immediate or important needs. “You face long waitlists so often for specialty services that our children go without, and this has a long-term negative impact on their development and success in life,” shared a participant, “they fall through the cracks in the system due to residency.” For other

participants transportation service frequency was another identified issue, with public transportation often passing through their community only twice a day during day-time hours. “Rural communities are last to see supports,” said a participant. Another participant shared that of their Nation, three communities are remote, and as a result they have operationalized inclusivity by using many forms of transportation including travel by boat, water taxi and airplanes for their members. The participant flagged that these are expensive tasks funded directly by their Nation.

#### Prevention and Youth Aging out of Care

Youth aging out of care and prevention was a pre-identified topic for discussion and also a topic emphasized by participants. Participants shared that children and youth services and supports focus predominantly on the age ranges of 0-6 and 16-18, however gaps in services are often missing for youth aging out of care or youth aging into adulthood. Prevention was referenced often as a key area for focus in the new funding and services model with strategic planning required for youth aging out. Opportunities for prevention and to support youth aging out of care included affordable, accessible and transitional housing, wrap around services and supports, and community and cultural connection.

#### AFFORDABLE, ACCESSIBLE AND TRANSITIONAL HOUSING

A supply of affordable, accessible, and transitional housing were housing gaps identified by participants. Participants emphasised that a lack of safe housing structures for youth aging out of care had direct correlations to future experiences of homelessness and re-entry into “systems” via correctional facilities. One participant highlighted the need for more emergency infrastructure in communities, such as safe houses for youth at risk or youth experiencing homelessness. In addition to a supply of youth housing, targeted housing programs for youth, such as ongoing services to support youth transitioning into adulthood and access to familial supports were also identified as opportunities to support youth journeys to success. Participants shared that funding for programs for youth in reserves or from remote communities should match those of off reserve and non-Indigenous youth.

### WRAP-AROUND SERVICES AND SUPPORTS

Participants shared a need for wrap-around services and supports for families supporting youth and youth aging out of care to ensure that youth are set up to succeed through a case-by-case approach rather than a one-size-fits-all approach. Participants emphasized that while there are broad resources available to youth, there are little to no resources available to support each youths' individual circumstances. Youth require wrap-around supports to succeed in a variety of areas such as mental health, trauma, mentorship, legal and justice preventative supports, and consistent transportation to services. A wrap-around model would provide youth with the services and supports required to meet their specific needs. Life skills programming such as self-esteem building programming, training for employment, worksite safety skills and certification were often mentioned as specific homelessness prevention programs by participants. One participant mentioned that life-skills programming must go hand-in-hand with cultural programming. "How do we truly develop life skills in children beyond the day-to-day teachings of children and Elders," asked the participant.

### COMMUNITY AND CULTURAL CONNECTION

A meaningful connection to familial ties, community and culture were identified by many participants as an important determinant of the health of youth. For First Nations youth in the foster care system, participants shared that efforts should be made for children and youth to stay connected or reconnect to their traditional territories, family and culture. "Resources that are about connection, real-life connectivity and meaningful relationship building, support the process of building relationships and reconnections to community, culture, family and language," shared one participant. Another participant shared the story of a child removed from their parents at the age of two who had a culturally rich family and are now aging out of care with no connection to their culture. Safe one-to-ones with Knowledge Keepers, Elders and family, were also identified as opportunities for preventing experiences of homelessness, addiction and suicide. Funding for locating youth was another identified priority by participants. One participant shared that significant resources are required to locate youth experiencing homelessness; the efforts required to bring them home and provide them with appropriate supports.

### Specialized Training and Local Professionals

For participants joining or sharing from remote communities, the theme of a lack of access to qualified and specialized professionals was an identified priority, with many children and families struggling to meet their needs in areas such as healthcare, specialized evaluations, social development, education and more. Several priority areas were identified by participants such as access to training and education, community-based professionals and cultural competency.

### CAPACITY DEVELOPMENT – EDUCATION AND TRAINING

Barriers identified throughout this report such as transportation, long waitlists and difficulty writing and submitting applications all contributed to a lack of available and accessible services for children and families. To better respond to these issues, participants expressed an interest for building more local community capacity through training and education programs. Participants shared a need for long-term training, remote access to training and an overall increase of existing professional training. Participants expressed that by increasing their capacity they felt that they would be able to connect better with other organizations and support groups, and strengthen relationships with community members. One participant shared the idea of developing virtual networks for funding administrators using platforms such as Zoom. The participant shared that these networks would be able to connect professionals regionally and create a space for them to discuss streamlining processes and building their experiences, knowledge and capacity.

### COMMUNITY-BASED PROFESSIONALS

An increased supply of local doctors, healthcare professionals and specialists were a shared priority for many remote participants. Participants shared that due to a lack of access to qualified professionals, children and families were experiencing long-term negative impacts to their health and development. "In elementary schools you're waiting 3 to 4 years for an assessment," shared a participant, "it is \$1000 to wait for one year." Reliable and consistent travel of professionals into remote communities was mentioned as one option to fulfill current gaps in services.

### CULTURAL COMPETENCY

While acknowledging the need for more local professionals, participants also mentioned that for communities to connect with professionals' a variety of training, skills and competencies must also be authentically practiced. Skills and practices mentioned by participants included the ability to develop relationships with community members in a positive and long-lasting way and trust building. Cultural competency, an understanding of long-term systemic trauma, and trauma informed practices were other skills mentioned by participants. With these understandings a community member is quicker to connect with a new professional, shared a participant.

## PART 2. FUNDING AND RESOURCES

Through the survey and in the virtual engagement sessions First Nations were asked to respond to the questions, "Do you have any specific questions, recommendations, or concerns regarding funding for long term reform," and "what resources would be required to support First Nations in transitioning to a different funding model?" The key themes and issues that emerged during this section included:

- ▶ Funding Transparency
- ▶ Bottom-up Funding Approach
- ▶ Lived-Experience Funding Approach

### Funding Transparency

The topic of transparency was discussed in many forms over the course of engagement including funding disbursement and administration. Participants expressed the need for current and ongoing transparency on any changes to funding and the effects of reform. Participants shared a lack of understanding and a need for more information on the role of the Ministry of Children and Family Development (MCFD), on changes to policies and procedures, and what partnership may look like in the future. While interacting with MCFD or other service agencies, one participant shared that they have developed strict engagement protocols. If a problem arises in their community with a service provider, a complaint process is initiated, and parties must then meet with their community on their traditional territory to hold them accountable.

### Bottom-Up Funding Approach

Core funding distributed directly from within communities was a funding model discussed by several participants. Participants shared that funding toward children and family services and programming were sometimes provided through a top-down approach whereas if funding was provided directly to communities, some participants believed that they would be able to accurately distribute funds based on their communities' priorities and needs. "It would be helpful to have local funding allocations within the Nation, about what can be approved and what can not," shared a participant. A participant also explained that although previous funding models would "look really good" initially, in practice these models were top heavy and when funds became available to communities not much funding would be left over. Several participants shared apprehensions on the \$19 billion budget not being enough funds for First Nations in the long-term and that commitments must be made to sustain existing and emerging programs and services. Participants also discussed the option of extending funding authority to local non-profits and grassroots organizations with no attachments to other service providers.

### Lived Experience Funding Approach

Engaging directly with individuals with lived and living experience on what funding they require and how it should be administered was another funding model suggested by participants. By connecting directly with individuals at risk of or experiencing vulnerabilities, participants emphasized that this would be the best approach on planning for the allocation of funds and funding distribution. One participant expressed that they felt the First Nations in BC had become a commodity, with non-Indigenous organizations planning for and working within communities, while employable, educated and valuable Indigenous employees were not being considered for the same opportunities.

### **PART 3. JORDAN'S PRINCIPLE – ADMINISTRATIVE AND OPERATIONAL CAPACITY**

Through the survey and in the virtual engagement sessions First Nations were asked to respond to the questions, “what role does your Nation want to take in the administration of Jordan’s Principle, if any,” and “what resources would be required to support First Nations in transitioning to a different funding model?” The key themes and issues that emerged during this section included:

- ▶ Nation Led Administration
- ▶ Family Led Administration
- ▶ Two-way Communications

#### **Nation Led Administration**

Many participants discussed that not all Nations have the same level of capacity to exercise authority over the administration and implementation of Jordan’s Principle. One participant expanded on this by stating that although administrative authority could be granted to all Nations, not all Nations may want that duty or be able to deliver on it. Funding and capacity development were identified as two key supports required to ensure that First Nations administrative departments would be properly staffed and able to manage Jordan’s Principle funding. Some participants were skeptical regarding the potential for cooperation with ISC in sharing adjudication processes with Nations. Another participant flagged that if the administration was shared with ISC, they would be worried of further bureaucratic barriers such as specialized training and specific reporting out. “Our community sees what is needed,” shared a participant, “having to ask for permissions makes the work very difficult.”

#### **Family Led Administration**

Participants discussed the opportunity of providing more authority to caregivers and parents by implementing user-friendly administration systems and forms centered around usability. Caregiver and family kiosk systems within offices and agencies was one example shared by a participant. Participants agreed that simplified processes must be implemented. For many, the current system and its processes are intimidating and only add roadblocks for individuals in difficult situations.

#### **Two-Way Communications**

More frequent, clear and efficient communications between current Jordan’s Principle administrators and Nations was requested by participants. Participants shared that BC has the highest level of denials for Jordan’s Principle and that a helpful procedure would be for ISC to provide information on why an application was not approved and guidance on how to improve future applications. Participants explained that many applications are not approved due to a misalignment between the application and funding, or because an application is not properly filled out. Another identified issue was a lack of communication and understanding of application timelines. Due to long waiting periods, relationships between community staff and individuals applying for funding are jeopardized, leading to mistrust.

## PART 4. ACCOUNTABILITY MEASURES

Through the survey and in the virtual engagement sessions First Nations were asked to respond to the questions, “what other indicators should be measured to ensure the long-term reform produces positive results,” and “how does your First Nation capture information about the wellbeing of children, families, and communities?” The key themes and issues that emerged during this section included:

- ▶ Data Ownership and Sovereignty
- ▶ First Nations Indicators of Wellness
- ▶ Mixed Indicators

### Data Ownership and Sovereignty

Participants discussed data sovereignty and community ownership of data as critical accountability measures. Participants highlighted that no governing body should have the sole right to a community’s data. For one participant, an inability to access their community’s data from the government has caused setbacks in their abilities to measure what is and isn’t working in their community. One participant shared of a community pilot project where they have begun collecting local data through a virtual hub, with hopes of other Nations joining in. Currently, the hub has a one-to-two-year timeline of data collection planned. By comparing their local data with the data of the federal government, they are seeking to validate and/or identify potential biases in existing data. To support data sovereignty and ownership, participants expressed the need for funding for the collection of foundational data, data training, and increased human resources to support community databases.

### First Nations Indicators of Wellness

For this area of discussion participants were asked to review and provide feedback on 11 out of the 75 wellness indicators of the *Measuring to Thrive performance measurement framework*. The indicators of this framework have been designed to help First Nations identify priority areas to focus funding allotments for greatest impact as well as capturing and analyzing information to generate evidence. In review the wellness indicators, participants indicated a need for more culturally appropriate terminology and positive wellness indicators. Several participants felt that

the indicators presented themselves as negative measurements of data collection. The inclusion of more positive language and measurements was suggested, with an emphasis on indicators of cultural transmission, such as regular opportunities for relational connections to community, the number of children connected to their culture, and individual feelings of connection to one’s family. One participant spoke of the inclusion of a “grandmother happiness index,” a measurement based on a grandmother’s connection or reconnection to their removed grandchild. “I’ve been taught by elders that children are precious, they are their reason for living and breathing. If you take them away that creates some severe impacts,” shared a participant. Due to some of the root causes of children in care, participants expressed that the indicators of wellness must be built on the foundation of healing and rebuilding families from the intergenerational traumas of colonization, residential schools, and the sixties scoop. “Removing our people from our land and cultural practices has had a long-term effect,” said a participant, “traditional family systems that supported our people for tens of thousands of years need to be reinstated and modernized to meet the current times, from this our families can begin to heal and rebuild.”

### Mixed Indicators

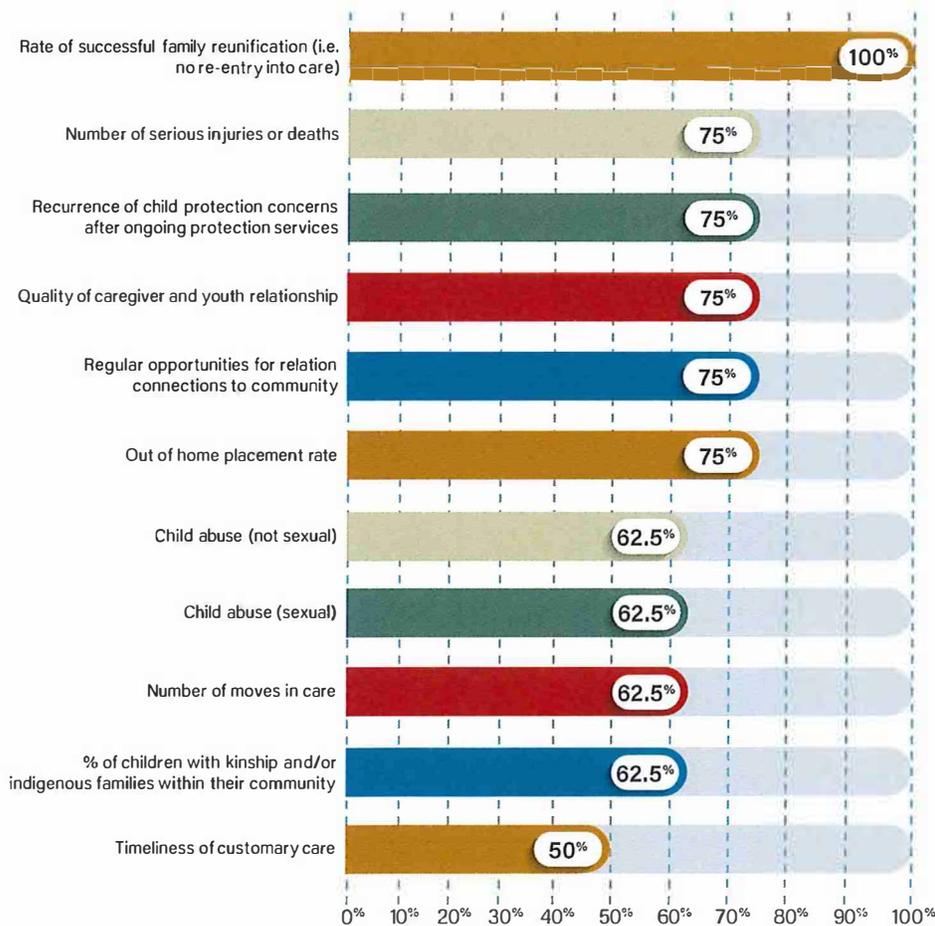
Among the two accountability and measurement themes above, participants shared and emphasized several other indicators of wellness and measurement opportunities such as:

- ▶ Frequency of use of services and supports
- ▶ Measurement of risks of poverty
- ▶ Robust evaluation and review processes of ISC and Jordan’s Principle programming
- ▶ Funding to collect data on transient populations
- ▶ Number of reduced cases of children and youth in care
- ▶ Number of successful transitions out of care (youth aging out of care)
- ▶ Number of families having their basic needs met
- ▶ Number of affordable family housing units
- ▶ Number of graduating students

### Indicators of Success Question – Survey Results

In the survey First Nations were asked to respond to the following question and select all that apply, “which of the following proposed indicators do you support using to measure the success of long-term reform of the FNCFS when ISC reports to Parliament?” 8 participants responded to this question, below are the results.

- ▶ Rate of successful family reunification (i.e. no re-entry into care) (100% of participants supported this indicator)
- ▶ Number of serious injuries or deaths (75% of participants supported this indicator)
- ▶ Recurrence of child protection concerns after ongoing protection services (75% of participants supported this indicator)
- ▶ Quality of caregiver and youth relationship (75% of participants supported this indicator)
- ▶ Regular opportunities for relation connections to community (75% of participants supported this indicator)
- ▶ Out of home placement rate (75% of participants supported this indicator)
- ▶ Child abuse (not sexual) (62.5% of participants supported this indicator)
- ▶ Child abuse (sexual) (62.5% of participants supported this indicator)
- ▶ Number of moves in care (62.5% of participants supported this indicator)
- ▶ % of children with kinship and/or indigenous families within their community (62.5% of participants supported this indicator)
- ▶ Timeliness of customary care (50% of participants supported this indicator)



# APPENDIX A

## FSA and AIP Background and Summary

On December 31, 2021, the Assembly of First Nations (AFN), the Government of Canada and other parties to negotiations signed two historic Agreements in Principle (AIP) on compensation and long-term reform of the First Nations Child and Family Services (FNCFS) Program and Jordan's Principle. On July 4, 2022, the draft Final Settlement Agreement (FSA) on compensation was released.

The FSA proposes a settlement of \$20 billion in compensation to First Nations children and families impacted by discrimination through the FNCFS Program and the improper implementation of Jordan's Principle. The compensation acknowledges that too many First Nations children were unnecessarily apprehended from their parents and communities and suffered harms that include abuse, the loss of language, culture and attachment to their families. In addition, compensation will be made available to certain individuals who were subjected to a delay, denial or disruption of services, supports, treatment and products as a result of the federal government's narrow application of Jordan's Principle.

The long-term reform AIP outlines a framework to correct the many discriminatory aspects of the FNCFS program and Jordan's Principle. The Canadian Human Rights Tribunal found that the current program contains an incentive for child welfare agencies to apprehend children. Specifically, a child welfare agency would not be reimbursed for expenses incurred to provide

services unless the child was removed from their home and placed into state care. The federal government's narrow implementation of Jordan's Principle resulted in First Nation children being denied medical and other services which, in some cases, forced parents to place their children into care. The intent of the AIP on long-term reform is to eliminate these structural forms of discrimination.

The Government of Canada has committed \$19.807 billion to overhaul the current FNCFS Program and narrow application of Jordan's Principle. Reforms to the FNCFS Program and Jordan's Principle will require a complete overhaul of how child protection and least-disruptive measures are delivered in First Nations.<sup>3</sup>

<sup>3</sup> The preceding information was sourced from the AFN website: <https://www.afn.ca/afn-bulletin-agreements-in-principle-on-compensation-and-long-term-reform-related-to-child-and-family-services-and-jordans-principle/>

## Timeline



### FEBRUARY 2007

February 2007, the AFN and the First Nations Child and Family Caring Society filed a complaint under the Canadian Human Rights Act stating the Government of Canada was discriminating against First Nations children and families by underfunding the First Nations Child and Family Services Program on-reserve and in the Yukon, and by applying a narrow interpretation of Jordan's Principle.

### JANUARY 2016

January 2016, the Canadian Human Rights Tribunal (CHRT) agreed with the AFN and the Caring Society and ordered the federal government to end its discrimination, immediately reform the FNCFS Program, and fully implement Jordan's Principle. In the years since that decision, the CHRT has issued more than 13 non-compliance orders because the Government of Canada has not been following the CHRT's orders.

The Tribunal ordered Canada to fund agencies at actual costs for prevention services. However, due to court and bureaucratic delays, prevention funding did not begin to flow to BC ICFS agencies until 2018 and Jordan's Principle continues to not be fully implemented.

### SEPTEMBER 2019

September 2019: Two class action lawsuits were filed seeking compensation for First Nations children and family members who were discriminated against through underfunding of the FNCFS Program and narrow application of Jordan's Principle. These class actions concern compensation back to 1991, which means they cover more First Nations children and caregivers than the CHRT's orders. In the fall of 2021, the Government of Canada agreed to enter into negotiations to settle the class action lawsuits.

### SEPTEMBER 2019

September 2019, at the request of the AFN, the CHRT issued a Compensation Decision ordering the Government of Canada to pay eligible First Nations children and their parents and caregivers \$40,000 in compensation.

### DECEMBER 31, 2021

December 31, 2021: The two AIPs were signed.

### SEPTEMBER 23, 2022

September 23, 2022: BC AFN Resolution 33/2022 resolved that BC Chiefs-in-Assembly:

- "Call upon Canada to immediately pay the CHRT-ordered compensation in the amount of \$40,000 plus interest owed to eligible victims."
- "Affirm that AFN negotiators are not authorized to seek a reduction in the compensation amounts for eligible victims who are members of BC First Nations and must respect the compensation framework agreement and compensation entitlement order."
- "Direct that any negotiations with Canada or class action counsel on any matters arising from 2016 CHRT 2 and subsequent orders or legal proceedings affecting BC First Nations children, youth, and families must be conducted in an open and transparent manner consistent with free, prior and informed consent of First Nations."



### SEPTEMBER 23, 2022

September 23, 2022: BCAFN Resolution 34/2022 resolved that BC Chiefs-in-Assembly call on Canada to

- Immediately release the funding associated with the AIP on long-term reform
- Ensure the Final Agreement on long-term reform included provision to “cease Canada’s operational and administrative discrimination in child and family services and Jordan’s Principle and prevent the recurrence of discrimination on an ongoing basis”
- Ensure that the Final Agreement on long-term reform protects benefits for children, youth and families as well as First Nations and First Nations agency service providers
- Extends the timeframe to end the CHRT’s jurisdiction and fully implement the reformed funding approach until First Nations “are aware of the proposed long-term funding approaches and have had sufficient time to exercise their free, prior, and informed consent” and “a fully developed and transparent Alternative Dispute Resolution mechanism is implemented and approved”
- The Resolution directs the BCAFN Regional Chief to advocate that: any negotiations on the Final Agreement that impact citizens of First Nations in British Columbia are conducted with meaningful consultation with appropriate Nations, leaders and service providers; the AFN ensures the meaningful participation of the National Advisory Committee on First Nations child welfare, Indigenous governing bodies, First Nation title and rights holder and BC Indigenous Child and Family Services Directors; the AFN only sign a Final Agreement after receiving in writing the free, prior and informed consent of First Nations in British Columbia and, that the AFN not sign any agreements that includes any non-disclosure agreements, liability waivers or clauses requiring AFN to take “any public or legal position that impacts First Nations children, youth and families that is not specifically authorized by the BCAFN Chiefs in Assembly”
- The Resolution affirms that the AFN must have the free, prior and informed consent of First Nations in BC on these matters

### OCTOBER 24, 2022

October 24, 2022: The CHRT rejects the final agreement on compensation in a summary letter decision; which found that the FSA does not satisfy the CHRT’s orders related to compensation.

### DECEMBER 7, 2022

December 7, 2022: The AFN First Nations-in-Assembly passed Resolution 16/17 which supports compensation as proposed by the FSA at \$40,000 for all victims, direct Canada to fund post-majority supports to the needs of each child and youth and immediately place the minimum of \$20 Billion earmarked for compensation in an interest bearing account held by an independent financial institution and immediately pay the compensation to all victims as quickly as possible, and that AFN seek a minimum of 12 months following the announcement of a revised FSA to determine whether they will participate in the class actions.

### DECEMBER 20, 2022

On December 20, 2022 the CHRT released its full reasons providing further details with respect to its decision to not endorse the FSA. The CHRT criticized Canada for limiting compensation to \$20 Billion and found that the orders on compensation are the “floor” and if it is to satisfy the orders, the FSA cannot exclude any individual or pay less to individuals who are entitled to compensation. Further, the CHRT articulated a concern that the AFN did not seek the full prior and informed consent of First Nations

## Who is Involved

The parties involved AIP on long-term reform are:

- ▶ Government of Canada
- ▶ Assembly of First Nations
- ▶ First Nations Child and Family Caring Society
- ▶ Chiefs of Ontario
- ▶ Nishnawbe Aski Nation (NAN)

The parties involved in the negotiation agreement on compensation are:

- ▶ Government of Canada
- ▶ Assembly of First Nations
- ▶ Mushroom and Trout class action

### COMPENSATION FOR FIRST NATIONS CHILD AND FAMILY SERVICES AND JORDAN'S PRINCIPLE<sup>4</sup>

The amount of compensation for individuals is being negotiated with the AFN, Government of Canada and other parties and will be determined as part of a Final Settlement Agreement.

There are four groups of people who qualify for compensation under the FSA:

#### 1. Children taken into care:

First Nations individuals who were under the age of majority who were taken into out-of-home placement under the Government of Canada's FNCFS Program between April 1, 1991 and March 31, 2022 and who were ordinarily resident on a reserve, or were living on-reserve or in the Yukon.

#### 2. Jordan's Principle:

All First Nations individuals who were under the age of majority (18 years old) and who, during the period between December 12, 2007 and November 2, 2017:

- ▶ Were denied essential services and products relating to a confirmed need because of the Government of Canada's failure to implement and uphold Jordan's Principle, and/or
- ▶ Were subjected to a delay by the Government of Canada in the receipt of essential services and products because of lack of funding or a jurisdictional dispute between the federal and provincial/territorial governments.

#### 3. Trout Class Action Group:

First Nations individuals who were under the age of majority and who, during the period between April 1, 1991 and December 11, 2007:

- ▶ Were denied essential services and products relating to a confirmed need, and/or
- ▶ Were subjected to a delay by the Government of Canada in the receipt of essential services and products on grounds such as, but not limited to, lack of funding or jurisdictional dispute between the federal and provincial/territorial governments.

#### 4. Family Class Action Group:

Individuals who are the primary caregiver of:

- ▶ A member of the Removed Child Class at the time of removal;
- ▶ A member of the Jordan's Principle Class at the time of delay, denial or service gap; and/or
- ▶ A member of the Trout Class at the time of the delay, denial or service gap.

<sup>4</sup> Information in this section has been informed by information provided by The Caring Society: <http://www.fnchildcompensation.ca/wp-content/uploads/2022/06/22-05-10-Compensation-Brochure-Online-Final-EN.pdf>

## Agreement-in-Principle on Long-Term Reform

The Agreement-in-Principle on Long-Term Reform dedicates \$19.807 billion over five years for reforming the FNCFS Program and for major capital relating to the FNCFS Program and Jordan's Principle. Specific provisions include:

- ▶ A baseline amount to cover the actual costs of a child in care. This amount will be increased over time to match population growth, as determined by First Nations, and inflation.
- ▶ Funding to address poverty, improve housing, ensure families have enough food and safe water, as well as meeting other challenges that can result in child and family services becoming involved.
- ▶ Prevention funding for cultural and community-based programs and services that help First Nations children and families thrive.
- ▶ Funding that considers the higher costs of providing services to First Nations in remote areas.
- ▶ Capital and infrastructure funding to ensure that First Nations and FNCFS agencies have the funds they need to purchase, maintain, renovate and repair the buildings, vehicles, and other property they use to provide services to First Nations.
- ▶ Information technology (IT) funds for FNCFS providers to buy, upgrade and maintain computers, hardware and software and other equipment.
- ▶ Funds to support the implementation of the Measuring to Thrive framework and data system to measure, track and report on results.
- ▶ Emergency funds for when an unexpected crisis puts additional demands on FNCFS.
- ▶ Administrative funds for a First Nations-led, non-profit secretariat to support First Nations and FNCFS agencies with technical and operations support, as well as serving as a national-level data collector.

- ▶ Funds for First Nations and Band Representative Services to ensure that child and family services are culturally appropriate and truly meet the needs of First Nations.

(For more information on the provisions of the Agreement-in-Principle see the AFN Legal Affairs and Justice Presentation "2022-08-16 AIP on Long-Term Reform of the FNCFS Program")

# APPENDIX B

## Methods of engagement

BC AFN invited First Nations to complete an online survey and to participate in virtual roundtable discussions; if requested, First Nations or their representatives could also request a one-on-one interview to provide feedback.

### PART 1: SURVEY RESULTS – WHAT WE HEARD

From October 19, 2022, to November 18, 2022, First Nations in BC were invited to fill out an online survey. The survey consisted of 17 questions based on content and suggested questions from the *Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle: First Nations Workbook*. The survey was distributed to all Chiefs and participants in the Forum, and a total of ten responses were provided. The survey was laid out in three parts:

- ▶ Part A. Agreement-in-Principle on Long-Term Reform
  - Long-Term Reform Priorities and Needs
  - Funding and Resources
  - Jordans Principle – Administrative and Operational Capacity
  - Accountability Measures
- ▶ Part B. Negotiations Process and Timeline
- ▶ Part C. General (General Comments)

Survey questions were delivered in a 'checkbox' and 'question and comment' design, giving participants the option to provide lengthy and detailed answers. This approach allowed participants to provide as little or as much discussion as they desired.

See Appendix C for all survey results.

### PART 2: VIRTUAL ROUNDTABLE DISCUSSIONS

Three virtual roundtable discussions were held on October 20th, 25th and 27th. In total, 18 participants attended the sessions. BCAFN staff provided opening remarks to welcome participants at each session, along with an overview of the purpose of the engagement project. Each session was held in four-parts, with facilitators providing background information and discussion questions for each part. During each session, First Nations were able to ask questions live by using their microphone or the chat function.

### PART 3: INTERVIEW

A virtual interview was held for two participants who were unable to join the virtual roundtable discussions. The interview followed the four-part structure of the virtual roundtable discussion.

# APPENDIX C

## Online Survey Results

Q1 What are your First Nations priorities related to child and family services and Jordan's Principle?

Answered: 10 Skipped: 0

#	RESPONSES	DATE
1	Ensuring ease of access and timely responses to critically needed support services for our children and families. Lose the bureaucracy so families can easily access timely supports when needed.	11/16/2022 2:56 PM
2	Access to services and equipment acquisition	11/14/2022 3:20 AM
3	Projected planning for aged out youth. Equal services for on reserve fn children in care, especially for rural and remote FN.	11/7/2022 4:57 PM
4	Reinforced basic needs (shelter, clothing, food, belonging) Transportation services, to promote extracurricular activities. Funds for cultural activities or paying elders to pass knowledge to the children. Support for dental hygiene and care.	11/4/2022 9:48 AM
5	Children and families receive adequate access to local supports and resources. There is programming available to lowincome families.	11/3/2022 9:35 AM
6	Prevention Child development Learning culture and traditions	11/2/2022 7:40 PM
7	Supports for children with special needs (CYSN services delivered in community) Funding for orthodontics Access to services in smaller communities	10/28/2022 3:42 PM
8	Families require adequate affordable housing, social development manager, language & culture, recreation center, educational supports.	10/21/2022 12:32 PM
9	CLARITY AND EASE (USER FRIENDLY) IN PROCESS. Having our families aware of and accessing the service, identifying the local coordinator/navigator for assisting with applications, correct documentation, forms, etc.	10/20/2022 3:45 PM
10	Structured care within the system that is First Nations based for First Nations children	10/20/2022 12:29 PM

## Q2 Based on these priorities, what does your Nation need to support these actions (capital and infrastructure development, IT, human resources)?

Answered: 10 Skipped: 0

#	RESPONSES	DATE
1	Human capacity to navigate the system to access the funding and also lessen the burden of having to jump through numerous hoops to receive funding and services. Ability to provide internal programing to support the needs of children in community instead of trying to compete for limited services in surrounding communities, which are very restrictive and often already waitlisted, so our children literally go without services.	11/16/2022 2:56 PM
2	Local training/more qualified professionals in the community	11/14/2022 3:20 AM
3	Adequate Core funding to support the "needs" of the children and family.	11/7/2022 4:57 PM
4	Job creation to provide transportation and front line support to assist families. Network and marketing support to inform of these services. The ability to develop relationships with community members in a positive and long-lasting way to build trust. This then leads to community members willing to go with a worker.	11/4/2022 9:48 AM
5	Local doctors, transportation or further supports to get families to resources that aren't available locally.	11/3/2022 9:35 AM
6	Capital Qualified staff Operational Funding	11/2/2022 7:40 PM
7	Capital costs (building to house services) Funding/resources to bring in Occupational therapy, physical therapy, Speech and Language and education regarding Autism	10/28/2022 3:42 PM
8	Sustainable funding beyond 3-5 years.	10/21/2022 12:32 PM
9	All of the above - there has been such a lacking and misguidance or miscommunication throughout the years of JP processes and inconsistency and follow up are a must. For ex: a letter from Ottawa (form letter) rejecting an applicant is not acceptable. Human coordinators and supports in correct process to application completions, navigation, on hands support and real connections. A building would be an excellent resource, along with consistent human coordinators who are educated and up to date with their knowledge and high successes in the helping families. This is an isolated area, a lot of even more isolated villages surrounding us, we need access and knowledge to who and where and how to access support and navigation for this territory.	10/20/2022 3:45 PM
10	All of the above. Sinixt people's were thought to be extinct until recently and as a Metis Sinixt we don't have any reserve and deal with the colonial system daily with no services	10/20/2022 12:29 PM

Q3 What are the challenges your First Nation faces in developing capital assets (e.g., lack of developable land, water supply, difficulty with transport of building materials)? How have you managed those challenges?

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	Lack of infrastructure dollars to actually build, lack of appropriate water and waste disposal. Always lots of funding for feasibility and limited funding for building the infrastructure required to move projects forward.	11/16/2022 2:56 PM
2	In adequate housing conditions .and water..ISC Reconciliation and lack of support from delegated agencies, due to Provincial legislation.	11/7/2022 4:57 PM
3	Lack of developable land is lacking. Current infrastructure of the band is underdeveloped. Housing is behind by 30-50 years and lacks support, finances, and legal allowances to remodel or repair.	11/4/2022 9:48 AM
4	Capital Fundinv	11/2/2022 7:40 PM
5	Lack of land, cost of rental space	10/28/2022 3:42 PM
6	Challenges are the bureaucracy and red tape at ISC, national AFN, MCFD. The limited supports and resources are not reaching the families due to bureaucratic entities.	10/21/2022 12:32 PM
7	funding. land. aged water and sewer systems needing updating. as isolated, transport of building materials tends to increase expenses. the challenges are managed by proposals and so far unsuccessfully. presently awaiting grounds scanning for IRS St. Michael's lands in our community specifically - any development is hard to plan due, which limits applications as unknown dates of completion etc.	10/20/2022 3:45 PM
8	No water transport building materials a system of tourism that is colonial based. I haven't been able to tackle any of the challenges we don't even have a phone to call for emergency situations.	10/20/2022 12:29 PM

Q4 Are there specific challenges your First Nation experiences in delivering services to children and families in relation to remoteness and/or geography? If so, please explain.

Answered: 10 Skipped: 0

#	RESPONSES	DATE
1	Lack of support services in community or even neighboring township. Small community and you have to take children and youth to larger centers to get adequate services and programming, and there you face long waitlists so often for specialty services our children go without, and this has a long-term negative impact on their development and success in life. They fall through the cracks in the system due to residency. The impacts to our youth who age out of care and systems available to them as youth are immense and directly impact successful transitioning into adulthood where there is even less services in our area. This leads to all kinds of challenges for the community, families and youth and young adults that the community has no ways or means to address and create services to support the individuals into adulthood.	11/16/2022 2:56 PM
2	Yes. Being a remote community there is a lack of consistent access to qualified professionals	11/14/2022 3:20 AM
3	Lack of revenues for services in remote locations, also, assistance in providing services for children in care on reserve.	11/7/2022 4:57 PM
4	Splatsin children are spread through North America. It is difficult to truly support all the children, and having a roaming worker would be difficult to manage and expensive. Possible development of relationships with First Nations bands through North America could help with assisting one another with supporting children that are not within Splatsin's own community.	11/4/2022 9:48 AM
5	Services are often offered in adjacent communities not a huge amount of resources available in town. Often services have long waitlists	11/3/2022 9:35 AM
6	Transportation is an issue our transit system runs twice in the day time.	11/2/2022 7:40 PM
7	Being in Enderby, community members need to travel to Salmon Arm, Vernon or Kelowna to access most therapeutic supports. This creates barriers for children and families.	10/28/2022 3:42 PM
8	Rural communities are last to see supports.	10/21/2022 12:32 PM
9	yes, 3 of our communities are remote isolated, and we do our best to be inclusive, however commute is by boat/water taxi, plane or if they have to live in nearby communities (schooled and special needs) vehicle/fuel expenses high for our geographical location.	10/20/2022 3:45 PM
10	Most of the Sinixt nation is in rural BC. And having a vehicle is a must.	10/20/2022 12:29 PM

## Q5 What supports and services are critical to transition youth out of care?

Answered: 10 Skipped: 0

#	RESPONSES	DATE
1	affordable housing and transitional housing, targeted housing programs for youth, ongoing support and services to support the transition, access to family supports so family can support youth with transition as well, funding supports that match what is available to off reserve/non indigenous youth, access to cultural supports, transportation costs to larger centers for educational/employment programs. Ongoing service navigation supports, helping navigate and advocating for services where and when needed.	11/16/2022 2:56 PM
2	Life skills and job training	11/14/2022 3:20 AM
3	Continued support and self esteem/life skills training	11/7/2022 4:57 PM
4	Life skills, but what does this mean? How do we truly develop life skills in children beyond the day to day teachings of children and elders? I speak in metaphor because I truly don't know, but I hope this sparks conversation and insight. Housing is a crisis right now, and this is also easy to say but truly hard to ensure. Work skills are something we can provide through programs that teach and develop worksite safety, skills, and certifications. Teaching children HOW to learn, is also just as important as teaching children what to learn.	11/4/2022 9:48 AM
5	Adequate housing, life skills workers, one on one support workers.	11/3/2022 9:35 AM
6	Prevention and work more closely with families.	11/2/2022 7:40 PM
7	Housing, on reserve CLBC services and caregivers to support those in young adulthood.	10/28/2022 3:42 PM
8	Life skills, training for employment, connections to culture & language	10/21/2022 12:32 PM
9	WRAP AROUND SERVICES/SUPPORTS/NAVIGATION - however there are little to no resources in this area such as youth mental health, mentorship, legal/justice preventative supports/services, transportation to counselling (hours away and ferries) depending on where they access mental health, post in-care. CONNECTION to family/community/language/health/social networking. I have met youth who have been in care since age 2yo and have met their families/community once at a ceremony, however have not received a familial connection when I personally know these children come from a culturally rich and strong family. The eldest sibling told me he was ageing out and his brother who was 2 years younger was going to leave with him so they can stay together as the foster home was elderly. Connection supports and language and family should have been offered throughout these young men's lives, they are grateful to the foster home but know they do not have connection to culture/community/family/language - without these, where will they end up? WRAP AROUND AND SUPPORTS FOR CONNECTING THEM TO THEIR COMMUNITY with supports for housing, trauma and attachment awareness, safe one-to-one with either Knowledge Keepers, Elders, or family, awareness for CFCSA and the Legislation C-92 for their own preventative of cycle continuing. Resources that are about connection and real life connectivity, meaningful relation building and supports for the process of these relationships and reconnections to community/culture/family/language - rather than allow ageing out to occur and no supports and wrap around, where relationships have no process and more often additions/homelessness/suicide/re-entering system by corrections happens.	10/20/2022 3:45 PM
10	Every avail one. Counseling, life skills teachers, support people for those who don't meet "societies" standard Medical dental ride sharing and job strategists	10/20/2022 12:29 PM

Q6 Provide us with any details on First Nations Representative Services (FNRS). How can FNRS support First Nations families? Does your First Nation already provide FNRS? What do you call that service provider and what is their role? How has it been funded?

Answered: 7 Skipped: 3

#	RESPONSES	DATE
1	We do not have FNRS	11/14/2022 3:20 AM
2	Never...	11/7/2022 4:57 PM
3	I believe that this would be my role, however it is difficult because I operate out of a child protection. To be able to refer and have a service like my role be independent and truly able to advocate and support the families I encounter would be extremely helpful. I sometimes feel locked, and restrained by superiors who have child protection biases and focuses. Statistics show that family preservation is extremely unsuccessful. I wish I had a miracle answer about how to solve that, but adults don't change unless provoked with a traumatic event. Baby steps are needed with growth and change, but having parents truly want to change is the critical component. Informing, empowering, and educating families on alternate paths and ways of living or thinking is the first step. Helping them on that path is the second, and sometimes that path can take years.	11/4/2022 9:48 AM
4	Never heard of FNRS	11/2/2022 7:40 PM
5	Oddly I am not aware of FNRS and not sure what they do for supports	10/21/2022 12:32 PM
6	no idea. never heard of the FNRS, but am sure they're in the territory somewhere, however unknown to my service delivery area.	10/20/2022 3:45 PM
7	Na	10/20/2022 12:29 PM

## Q7 Do you have any specific questions, recommendations, or concerns regarding funding for long term reform?

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	take holistic approach and ensure all basic need are considered. Aging out into poverty and homelessness is unacceptable. Has to be always founded in the recognition of Jurisdiction being held by communities/nations.	11/16/2022 3:06 PM
2	More is needed in my community	11/14/2022 3:22 AM
3	Easier access to funding, and streamlined process, for parental services and respite.	11/7/2022 5:04 PM
4	Without knowing the exact numbers, current services that are offered and funded, and what and how those will be replaced/enhanced, I can't say. Rate of inflation has seen extreme high levels as we are all aware. There is also issues with unregulated business mark ups sky rocketing (not inflation, but general percentage markup). So just wondering about how the rate of inflation is being considered with developing a five year funding model.	11/4/2022 10:37 AM
5	5 year funding isn't going to make a huge difference it's going to take generations. It's a good start as long as the work stays focused.	11/2/2022 7:49 PM
6	For long term reform, it be disappointing to have funds tied up at ISC and National AFN and not reach the communities it's intended to support.	10/21/2022 12:43 PM
7	Accessing, specific guidelines for front line workers and agencies/organizations, ease and user-friendly, updates and transparency on what's working and not working by consistently connecting with the people services/navigation it serves	10/20/2022 5:04 PM
8	Recommending per child counseling dedicated per child mentors that are funded by this program? Dispersal techniques should be per child in the system as well not blanket amounts for each Nation. But total number and per child dispersal	10/20/2022 12:36 PM

## Q8 What resources would be required to support First Nations in transitioning to a different funding model?

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	Capacity funding, planning funding, program development funding, infrastructure, community development.	11/16/2022 3:06 PM
2	Unknown	11/14/2022 3:22 AM
3	Transition and recognition of the Laws for FN, also a improved MOU, to include other services for children, mental wellness and after care support.	11/7/2022 5:04 PM
4	Having a printout of previous services/supports and funding and then the new ones being proposed might help. Informed and adequate IT services for helping with the tech usage.	11/4/2022 10:37 AM
5	A First Nations member to work closely elders to ensure direction is followed.	11/2/2022 7:49 PM
6	The problem is the ISC funding model to indigenous communities is behind by 30 years, which has contributed to poverty and social problems.	10/21/2022 12:43 PM
7	Navigators who are uptodate, knowledgable, and consistent to guide the frontline workers and families servicing in community and regions	10/20/2022 5:04 PM
8	Cross training between ministry and f.n. social working tied into government dispersal program so no one is left behind.	10/20/2022 12:36 PM

## Q9 What factors should be considered when determining a First Nations population count for the purpose of calculating prevention funds?

Answered: 9 Skipped: 1

#	RESPONSES	DATE
1	It needs to be based on membership not residency.	11/16/2022 3:06 PM
2	Remote location and cost of access	11/14/2022 3:22 AM
3	On and Off reserve, gather information for a Nation based approach to access Cultural and traditional teaching.	11/7/2022 5:04 PM
4	Demographics of children on reserve, children off reserve, poverty demographics, and families with previous history or involvement in requiring more protective factors. I believe that even families that are doing well, or not entrenched in poverty, are still deserving of some maintenance or reinforcement funds, then scales up to families struggling with poverty, addictions, or mental health struggles as being the highest at risk.	11/4/2022 10:37 AM
5	On going funding not 5 years funding.	11/2/2022 7:49 PM
6	On and off reserve. Non-band members residing in the home/blended families.	10/28/2022 3:44 PM
7	When determining prevention funds, all members need to be considered and more is needed for off reserve support.	10/21/2022 12:43 PM
8	community consultation or front line services in community who know and can work with the person/people doing the count, without absorbing the majority of the funds - getting the job done efficiently and effectively without breaking the bank	10/20/2022 5:04 PM
9	Total in care over time and per child dispersal rather than amounts based on current status quo system	10/20/2022 12:36 PM

Q10 How have emergencies (such as COVID-19, climate events, mental health crisis) affected your child and family services program, and what would you need to build FNCFS services into your community's Emergency Planning?

Answered: 9 Skipped: 1

#	RESPONSES	DATE
1	Covid 19 has had a huge impact on child and family services, funding to support capacity and system development as well as accessing support resources to address emergency situations so that families are not kept apart due to things outside of their control. Addictions/opioid crisis has also hit community hard and has long term impacts on young families and the loss of the core family structure due to deaths, creates breaks in family structure that is already taxed.	11/16/2022 3:06 PM
2	There already was a lack of services so not much has changed.	11/14/2022 3:22 AM
3	Limited access, and limited services, mental wellness, self esteem and life skills planning.	11/7/2022 5:04 PM
4	Covid-19 made our services almost impossible with the inability to serve community members on a regular basis. While the world turned digital and remote, the only services that could safely be provided were financial and at home activities for children. Everyone struggled, and if another were to occur, our plan would probably be forced to be the same. Ensuring that as many supports and connections are happening via online connections were probably the most important.	11/4/2022 10:37 AM
5	Staffing capacity	11/2/2022 7:49 PM
6	Increase in isolation of children and families. Specialized services not being accessed due to distance or mistrust of those who are not part of the community.	10/28/2022 3:44 PM
7	Homelessness needs to be considered an emergency, directly tied to mental health and opioid crisis.	10/21/2022 12:43 PM
8	mostly services were not stopped however my experience with social workers alternating or working from home caused neglect with their normal follow up and or normally scheduled meetings with youth and children in care, and care givers. Also, an interruption with parents accessing their visits due to supervisors deciding they did not want to provide the supervision in order for children to see their parents/family/siblings which in my opinion and work, was the child/youths right and interrupted healthy connections, causing further mental health and social issues for the child/youth in care.	10/20/2022 5:04 PM
9	We have emergencies yearly between floods and fires. It is really important to have daily transportation systems in place for such emergency situations	10/20/2022 12:36 PM

Q11 Has your First Nation had to access emergency funding recently?  
What funding-related best practices can you share from that experience?

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	ensure that the services meet the needs. Do the SWOT process and then develop services that fill the gaps that are seen during an emergency.	11/16/2022 3:06 PM
2	None	11/14/2022 3:22 AM
3	Yes, but very limited, OSR had to be used to cover costs for support and mental wellness is still a concern	11/7/2022 5:04 PM
4	The only one I am personally aware of was used for food I believe. This services was primarily focused on elders, but having something for all families, with activities, reading materials, maybe some online courses or fun games/programs would have been good as well.	11/4/2022 10:37 AM
5	Food security is priority during pandemic we had a few hamper delivery to all homes	11/2/2022 7:49 PM
6	We received Covid 19 relief funding. Too shortsighted and minimal.	10/21/2022 12:43 PM
7	In my previous role, emergency funding was accessed due to flooding in communities. In my new role food security funding due to the remote isolated geographical location and shipping issues - needing to use extra expenses for utilizing new grocery and delivery services for regular food access for community, especially larger families and elders	10/20/2022 5:04 PM
8	Na	10/20/2022 12:36 PM

Q12 What role does your Nation want to take in the administration of Jordan's Principle, if any? (e.g., intake of requests, adjudication, payment administration, case management, provincial and territorial engagement)

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	Ideally capacity to administer the funds to ensure the funding meets the needs of the clients who need it., intake, adudication, payment administration, case management for our members. More funding in the hands of the members and less bureaucratic systems that gobble up the funding in administering the funds.	11/16/2022 3:09 PM
2	A system navigator would be great.	11/14/2022 3:23 AM
3	This will take some planning, service delivery for assisting off reserve membership	11/7/2022 5:05 PM
4	Unknown.	11/4/2022 10:38 AM
5	Community driven we know what our community needs are	11/2/2022 7:52 PM
6	Too lengthy of a process, we need to streamline to ensure supports are provided in a timely fashion. We want to eliminate the layers of bureaucracy, each take a percentage and less reach the nation.	10/21/2022 12:48 PM
7	Our area council (4 tribes) address the needs as they come, whether intake, advocacy, follow up on long awaited responses, support in appeals, case by case - also, as word travels, intake of other nations in our area and off-reserve are also accepted. Where we can help, we do.	10/20/2022 5:17 PM
8	If trained it would be an honour to help the next generation of warriors	10/20/2022 12:38 PM

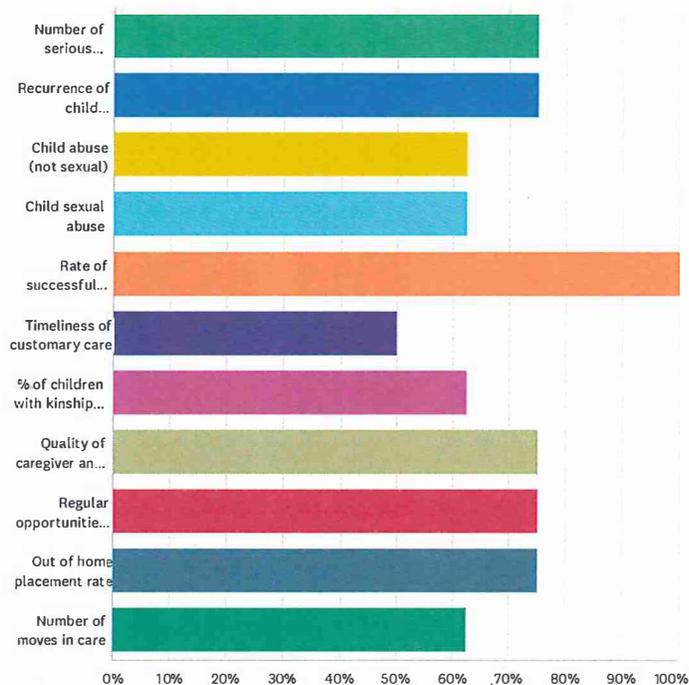
Q13 What supports would you need to begin this process? (e.g., human resources, capital/ infrastructure, training, data management, legal advice, etc.)

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	human capacity and some capital infrastructure.	11/16/2022 3:09 PM
2	Training and funding	11/14/2022 3:23 AM
3	Capacity...and training.	11/7/2022 5:05 PM
4	The more the better.	11/4/2022 10:38 AM
5	Human Resources, operational funding, capital and office space, training on how to work with families, advocacy, management and front line training, cultural safety training, trauma training, legal and First Nations	11/2/2022 7:52 PM
6	All of the above is needed. Indigenous communities are under resourced and lack supports.	10/21/2022 12:48 PM
7	All of the above. Human Resources, however the local coordinator has been accessed in Port Hardy and seems to be knowledgeable and helpful. Community sharing and capacity building and networking to offer services and supports for effective and efficient steps and applications writing from the JP service providers in the region would be beneficial. Funding for more coordinators. Data management and reporting not on the coordinator as the administrative time takes away from the true work and help in the processes. Access to legal advice would be excellent as well. Information to front line workers in region, to offer knowledge/education and funding for their roles so not to take away from actual services for community/family/youth, school and health providers with education and knowledge for coordination and application process to support/navigate for assessments, travel to assessments if required where approval is automatic for isolated and remote communities. FNHA travel is a challenge in itself. If the auto-approval for travel to assessments is included and accessed it would be less harm and make the process more respectful and positive. A lot of families needing educational/learning assessments have to travel, this is an automatic deterrent for some as no vehicle and the harsh process for FNHA travel is not a user-friendly or approachable for some, with the onus on the family. Or if assessments are scheduled in the remote communities and planned respectfully on seasonal basis where welcoming to families seeking or directed to have these said assessments.	10/20/2022 5:17 PM
8	Training and h.r. capital investment for centres to be opened in the area etc.	10/20/2022 12:38 PM

Q14 Which of the following proposed indicators do you support using to measure the success of long-term reform of the FNCFS when ISC reports to Parliament? (select all that apply)

Answered: 8 Skipped: 2



#### ANSWER CHOICES

Number of serious injuries or deaths

#### RESPONSES

75.00% 6

Recurrence of child protection concerns after ongoing protection services

75.00% 6

Child abuse (not sexual)

62.50% 5

Child sexual abuse

62.50% 5

Rate of successful family reunification (i.e. no re-entry into care)

100.00% 8

Timeliness of customary care

50.00% 4

% of children with kinship and/or indigenous families within their community

62.50% 5

Quality of caregiver and youth relationship

75.00% 6

Regular opportunities for relation connections to community

75.00% 6

Out of home placement rate

75.00% 6

Number of moves in care

62.50% 5

Total Respondents: 8

## Q15 What other indicators should be measured to ensure the long-term reform produces positive results? How does your First Nation capture information about the wellbeing of children, families, and communities?

Answered: 7 Skipped: 3

#	RESPONSES	DATE
1	the above all are important indicators. however the language in the first four identifies including the abuses should be a "reduction of cases". Successfulness of transitioning out of care, the families' basic needs are being met to ensure poverty is not the cause of ongoing issues within the family. It is important to note when families are struggling that they are able to reach out for support and prevent things from escalating to the point of reports being made or more intrusive social work occurring. When you have that happening it is a strong sign that the systems and services being provided are meeting the needs of the families and children.	11/16/2022 3:21 PM
2	Aged out..and mental wellness of the family.	11/7/2022 5:07 PM
3	With more success, hopefully better rapport and relationship with the community. Then people would be more willing to use and reach out to the program. When public perception is only negative, whether accurate or not, people are less willing or inclined to work cohesively with the program.	11/4/2022 10:41 AM
4	Health family homes	11/2/2022 7:55 PM
5	Number of homes build for families and capital infrastructure to support new homes in communities	10/21/2022 12:50 PM
6	continuity of social workers (how many change-overs) occurred for one child - or how continuity is offered to the child while in care. ask the child/ren and youth, family, caregiver on how their experience is - quality assurance with number of visits and social workers KEEPING TO THEIR SCHEDULED visits and outcomes. Too often I've had youth advise they haven't seen their social worker in 9 months or their ageing out goals were made at 16yo, however they are ageing out in a month and no goals have been met due to change-over or blatant neglect of following up with the youth. Ageing out reporting on successes, following up with youth who are now on their own. Too many homeless/addicted/lost aged out youth have zero follow up and are left to their own devices and reconnecting to family/community was not a human-guided one, a set up for failure. Too many enter the judicial system, and that's where a large percentage remain, if not end up dead or lost in another province, or suicide completions.	10/20/2022 5:24 PM
7	Success stories from working programs that are indigenous run to support indigenous children	10/20/2022 12:40 PM

Q16 Is there any additional information or topics related to long-term reform of the FNCFS or Jordan's Principle or AIP that you would like to discuss during the upcoming engagement sessions?

Answered: 7 Skipped: 3

#	RESPONSES	DATE
1	healing our people and our traditional family systems will bring forth long term reform. We need to heal, rebuild families where there has been in some cases irreparable damages done through colonization, residential schools, sixties scoop, the millennial scoop etc. Removing our people from our land and cultural practices has had a long-term effect, loss of language and traditional family systems that supported our people for 10s of thousands of years need to be reinstated and modernized to meet the current times, from this our families can begin to heal and rebuild our communities.	11/16/2022 3:25 PM
2	None	11/14/2022 3:24 AM
3	FN driven and mental wellness programs for support workers	11/7/2022 5:08 PM
4	That is all for now.	11/4/2022 10:46 AM
5	Working with all First Nations communities, and don't work for us!	11/2/2022 7:57 PM
6	20 billion should be the minimum amount.	10/21/2022 12:51 PM
7	Free Indigenous and service based financial management is a must. No charge for basic needs and budgets, investments (not hounded by bankers) with real life people to offer basic info sharing education on the opportunity but not banks and financial advisors, and lawyers seeing \$\$ signs with our recipients. These are also life-skills that agencies with our children in care and youth ageing out have majorly failed. Some community lead or based education that really teaches this more than ever needed life skill. We do not need to see another TRC cash grab, without the success of the person and long term benefits and realistic education and investments, but real education on budgeting and how expenses, taxes, service charges, etc are a large part of living.	10/20/2022 5:32 PM

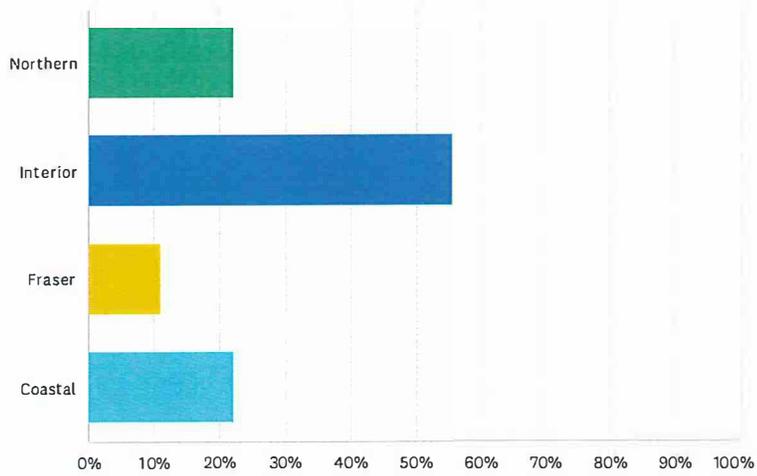
## Q17 Do you have any additional comments?

Answered: 4 Skipped: 6

#	RESPONSES	DATE
1	Maybe? Later...	11/7/2022 5:09 PM
2	Thank you for allowing me to share my thoughts.	11/4/2022 10:47 AM
3	Look at strength based with families, Jordan's principle should flow through health so that Nations make decisions for their members. ON Going Funding! 20 B won't last forever! Bring on more Culture, Traditions and on the land healing.	11/2/2022 8:00 PM
4	Federal government should not be let off on responsibility and fiduciary obligation to indigenous communities	10/21/2022 12:53 PM

### Q19 Region you are located:

Answered: 9 Skipped: 1



ANSWER CHOICES	RESPONSES	
Northern	22.22%	2
Interior	55.56%	5
Fraser	11.11%	1
Coastal	22.22%	2
Total Respondents: 9		

#	OTHER (PLEASE SPECIFY)	DATE
1	Island (northern)	10/20/2022 5:33 PM

# APPENDIX D



**Prince George Office**

1004 Landooz Road  
Prince George, BC  
V2K 5S3

Tel: 250-962-1603  
Fax: 250-962-9552  
Toll Free: 1-877-621-1603

**Vancouver Office**

Suite 1090-1200 W. 73rd Ave  
Vancouver, BC  
V6P 6G5

Tel: 778-945-9911  
Fax: 778-945-9916  
Toll Free: 1-833-351-7622

BCAFN Forum on Long-Term Reform of the FNCFS Program and Jordan's Principle  
Hybrid (Via Zoom and in person at the Coast Coal Harbour Vancouver, 1180 W Hastings St,  
Vancouver, BC V6E 4R5)

August 16, 2022, 9:00 am - 3:00 pm

## Agenda

Time	Session	Speaker
9:00 am	Territorial Welcome and Opening Prayer	Stewart Gonzales, Squamish Nation
9:15 am	Opening Remarks	Regional Chief Terry Teegee (in person)
9:30 am	Final Agreement on Compensation Update	Manitoba Regional Chief Cindy Woodhouse (in person)
	Long Term Reform Agreement in Principle Overview	Stuart Wuttke, AFN Legal Counsel (virtual)
10:10 am	Plenary Discussion / Q and A	Facilitated by Harold Tarbell
10:30 am	Wellness Break	
10:45 am	Key Considerations	Dr. Cindy Blackstock Executive Director, First Nations Child and Family Caring Society of Canada (virtual)
11:00 am	Plenary Discussion / Q and A	Facilitated by Harold Tarbell
12:00 pm	Lunch Break	
1:00 pm	Regional Perspectives on Long Term Reform and Jordan's Principle	Mary Teegee (Maaxswxw Gibuu) (in person) President, BC Aboriginal Child Care Society; National Advisory Committee for Child and Family Service Reform; BC Board Representative, First Nations Child and Family Caring Society of Canada; Chair, Indigenous Child and Family Services Directors Society; Executive Director, Carrier Sekani Family Services
1:15 pm	Long Term Reform Discussion	Facilitated by Harold Tarbell
2:00 pm	Jordan's Principle Discussion	Facilitated by Harold Tarbell
2:40 pm	Summary	Harold Tarbell
2:50 pm	Closing Remarks	Regional Chief Terry Teegee



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### Prince George Office

Ancestral, traditional and unceded territories of the Lheidli T'enneh

### Vancouver Office

Ancestral, traditional and unceded territories of the K'mosk'ajam (Musqueam), Skwxw'umesh (Squamish) and sal̓'lwəlat (Tsil'it Wautub)



**BC AFN FORUM ON  
LONG-TERM REFORM OF THE  
FIRST NATIONS CHILD  
AND FAMILY SERVICES PROGRAM  
AND  
JORDAN'S PRINCIPLE**

ENGAGEMENT REPORT



This is Exhibit "F" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

**DARLENE KAVKA**  
Barrister & Solicitor  
**PRINCE GEORGE COMMUNITY LEGAL CLINIC**  
102-1268 5TH AVENUE  
PRINCEGEORGE, BC V2L 3L2



## BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

1004 Landooz Road  
 Prince George, BC V2K 5S3  
 Website: www.bcafn.ca

**BCAFN SPECIAL CHIEFS ASSEMBLY**  
 Nicola Valley Institute of Technology, Merritt, BC  
 March 7 & 8, 2019

**Resolution 04/2019**

**SUBJECT: CLIMATE EMERGENCY AND SUPPORT FOR THE DEVELOPMENT OF A BC FIRST NATIONS CLIMATE CHANGE STRATEGY**

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**MOVED BY: DUSTIN RIVERS, PROXY FOR SQUAMISH NATION**

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**SECONDED BY: CHIEF MARK POINT, SKOWKALE FIRST NATION**

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**DECISION: CARRIED**

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**WHEREAS:**

- A. The October 2018 report entitled "Special Report on Global Warming of 1.5°C" by the Intergovernmental Panel on Climate Change and the November 2018 Fourth National Climate Assessment report found that:
- A. Human activity and growth is the dominant cause of observed climate change over the past century;
  - B. A changing climate is causing sea levels to rise and an increase in wildfires, severe storms, droughts, and other extreme weather events that threaten human life, Indigenous food security, healthy communities, and critical infrastructure;
  - C. Global warming at or above 2 degrees Celsius beyond pre-industrialized levels will cause:
    - a. mass migration from the regions most affected by climate change;
    - b. wildfires that, by the end of the century, will burn twice as much average area per year in Canada by the end of the century as has burned in the recent past, and the diseases associated with that;
    - c. a loss of more than 99 percent of all coral reefs on Earth;
    - d. more than 350,000,000 more people to be exposed globally to deadly heat stress by 2050;

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Certified copy of a resolution adopted on the 7<sup>th</sup> day of March, 2019, at NVIT, Merritt, BC

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Terry Teegee, BC Regional Chief

- D. Global temperatures must be kept below 1.5 degrees Celsius above pre-industrialized levels to avoid the most severe impacts of a changing climate, which will require:
- a. global reductions in greenhouse gas emissions from human sources of 40 to 60 percent from 2010 levels by 2030; and
  - b. net-zero emissions by 2050;
- E. Climate change represents an urgent and potentially irreversible threat to human societies and the planet. Canada's response to climate change has included signing the Paris Agreement (2015) and developing the *Pan-Canadian Framework on Clean Growth and Climate Change* (the "Framework") as the pathway to achieve Canada's commitments. The Framework includes four pillars: pricing carbon pollution; investing in clean technology, innovation and jobs; adapt and build resilience; and other complementary climate actions;
- F. climate change, pollution, and environmental destruction have exacerbated systemic racial, regional, social, environmental, and economic injustices by disproportionately affecting indigenous communities, communities of color, migrant communities, deindustrialized communities, depopulated rural communities, the poor, low-income workers, women, the elderly, the unhoused, people with disabilities, and youth;
- G. in December 2018, BC released CleanBC ("CleanBC") (2018), a plan for a new low-carbon economy, which includes ambitious targets and actions to reduce greenhouse gases. CleanBC states, "making these changes cannot leave anyone behind", and includes a commitment to "work in collaborations with Indigenous people to seize new clean economy opportunities and help communities to adapt to the impacts of climate change;"
- H. BC's 2019 budget included \$902 Million to implement CleanBC over the next three years. Some of the investments specific to Indigenous Peoples includes \$3 million to support the BC Indigenous Clean Energy Initiative and \$15 million for the new Remote Community Clean Energy Strategy;
- I. on October 25<sup>th</sup>, 2016, the BCAFN Chiefs-in-Assembly passed Resolution 30/2016 demanding that any climate change plan developed by Canada must be done so in conjunction with Indigenous Peoples and must recognize and uphold our inherent and constitutionally protected Indigenous Title, Rights, and Treaty Rights.;
- J. in October 26<sup>th</sup>, 2016, the BCAFN Chiefs-in-Assembly passed Resolution 31/2016 directing the Regional Chief to call on the Government of Canada to ensure that plans and actions to address climate change be guided by Indigenous Peoples' knowledge and be collaboratively developed with Indigenous Peoples;
- K. to date, BC's First Nations have not been meaningfully involved in the development of Federal and Provincial legislation, strategies, plans and other decisions related to climate change;
- L. The *United Nations Declaration on the Rights of Indigenous Peoples* states:
- Article 25:** Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relations with their traditionally owned or otherwise occupied and used lands, territories, waters, and coastal seas and other resources and to uphold their responsibilities to future generations in this regard;
- Article 29:** (1) Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall

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Certified copy of a resolution adopted on the 7<sup>th</sup> day of March, 2019, at NVIT, Merritt, BC




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Terry Teegee, BC Regional Chief

establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

**Article 32:** (1) Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources; (2) States shall consult and cooperate in good faith with the Indigenous peoples concerned prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources; (3) States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

- M. extreme events threaten BC, including in recent years the mountain pine beetle epidemic, drought, unprecedented wildfires and floods, and landslides. Experts state that these patterns will get worse with climate change;
- N. Indigenous communities are particularly vulnerable to climate change impacts and disproportionately affected while having contributed relatively little to the problem. The unique threats faced by Indigenous Communities requires explicit consideration and timely planning;
- O. Indigenous peoples have thousands of years of knowledge that comes from the intrinsic relationship we have with our territories and ecosystems. The inclusion of this knowledge is essential to the success of policies and measures directed towards mitigating and adapting to climate change;
- P. there is a historic and time-sensitive opportunity to elevate the role of BC First Nations to their rightful role as Rights and Title holders in their respective Territories, and to co-develop climate change strategies and implementation plans with British Columbia and Canada; and
- Q. First Nations have the right to determine and direct their own environmental strategies and policies concerning the continued development of projects that directly impact the welfare and conservation of their lands, territories and resources:
- R. the BCAFN Chiefs-in-Assembly recognizes the breakdown of the stable climate and sea level under which human civilization constitutes a climate emergency; and
- S. a BC First Nations Climate Change Strategy and Climate Change Advisory Group could drive climate change resilience, protect and maintain important resources, foster sustainable economic growth, and promote long-term community and spiritual vitality.

**THEREFORE BE IT RESOLVED THAT:**

1. The BCAFN Chiefs-in-Assembly demand that any climate change plan developed for projects by British Columbia must be done in conjunction with Indigenous peoples and must recognize and uphold our inherent and constitutionally protected Indigenous Title, Rights and Treaty Rights and be consistent with the historic Supreme Court of Canada's *Tsilhqot'in Nation* judgment and United Nations Declaration on the Rights of Indigenous Peoples;
2. the BCAFN Chiefs-in-Assembly directs the Regional Chief to ensure that any climate change plan developed by British Columbia must stop the further expansion of greenhouse gas emitting projects and

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Certified copy of a resolution adopted on the 7<sup>th</sup> day of March, 2019, at NVIT, Merritt, BC

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Terry Teegee, BC Regional Chief

- infrastructure (whether the GHG emissions are produced locally or via fossil fuel exports), and support development of renewable energy and alternative energy economies;
3. the BC Chiefs-in-Assembly supports BCAFN's participation in ongoing engagement on climate change with the Government of Canada, and the Province;
  4. the BCAFN Chiefs-in-Assembly supports the development and implementation of a BC First Nations led climate action session that will strengthen and facilitate First Nation participation in a just transition to an economy that achieves greenhouse gas reductions to 40-60% by 2030 from 2010 levels and net zero emissions by 2050 and work to rectify the shortfalls of the CleanBC plan;
  5. the BCAFN Chiefs-in-Assembly directs Regional Chief, working with the Union of BC Indian Chiefs and the First Nations Summit as the First Nations Leadership Council, to seek resources and plan a climate action session for First Nations in BC that will involve strategy and planning to implement responses to climate change including mitigation, adaptation and clean growth activities, specifically planning around First Nations participating in achieving greenhouse gas reductions of 40-60% by 2030 from 2010 levels and net zero emissions by 2050 through a fair and just transition for our communities and workers; and
  6. the BCAFN Chiefs-in-Assembly directs the Regional Chief, working with the Union of BC Indian Chiefs and the First Nations Summit as the First Nations Leadership Council, to prepare a bold Just Transition Plan/First Nations Climate Change Strategy for BC to review and provide feedback on. This BC First Nations' Just Transition Plan/Strategy will align with the IPCC's recommendations and scientifically backed reduction targets and will establish the importance of ensuring that climate planning protects traditional ecological knowledge, and is respectful of and co-created with First Nations in BC.

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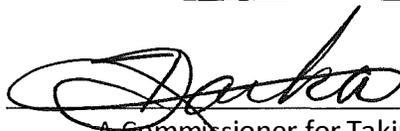
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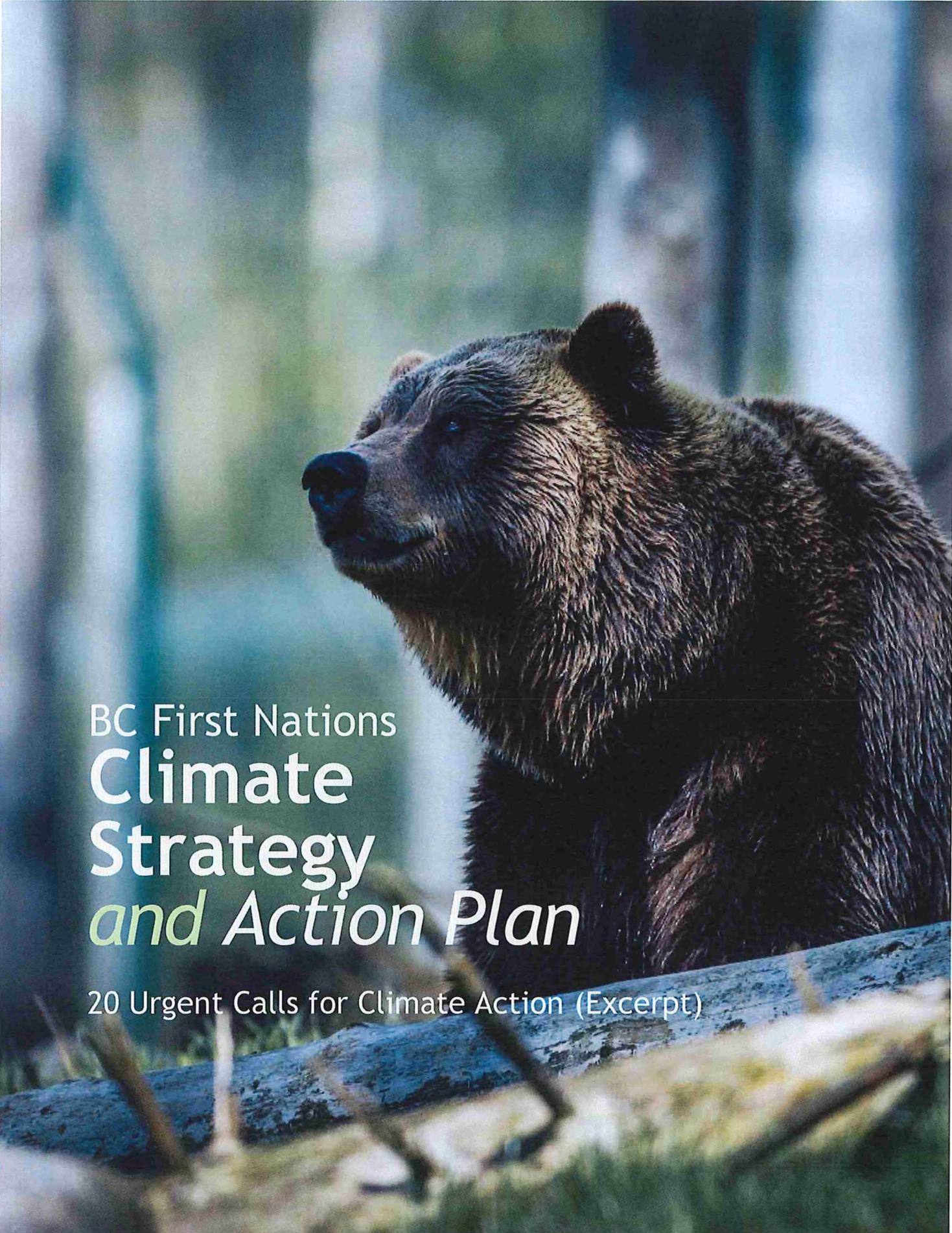
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Terry Teegee, BC Regional Chief

This is Exhibit "G" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.

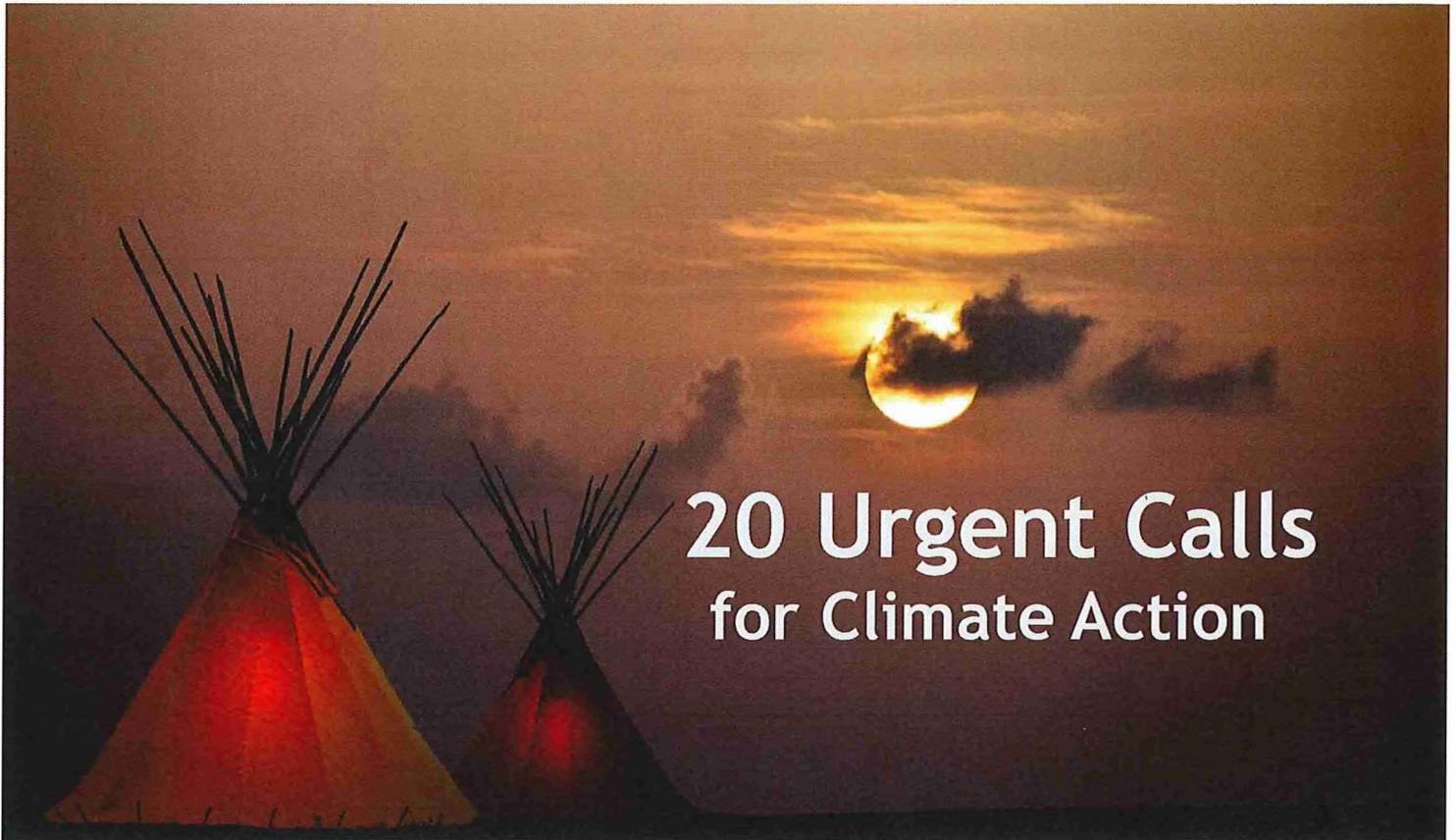


A Commissioner for Taking Affidavits  
For British Columbia



BC First Nations  
**Climate  
Strategy**  
*and Action Plan*

20 Urgent Calls for Climate Action (Excerpt)



## 20 Urgent Calls for Climate Action

“ We need a genuine, progressive movement that truly understands and fully acknowledges that we are in the midst of a *climate crisis*. It’s having devastating effects on our communities, on our people, and *communities are burning to the ground*. How many more communities have to be incinerated before governments will begin to move beyond good intentions and rhetoric? ”

*Grand Chief Stewart Phillip, Union of BC Indian Chiefs*

1

In response to the current climate emergency, strengthen provincial and federal climate measures to **meet the Intergovernmental Panel on Climate Change’s recommendations** to limit human-caused global warming to 1.5°C and support First Nations to prepare for current and future climate impacts.

2

**Review and reform all provincial and federal climate-related legislation, regulations, policies, programs, and engagement frameworks** to address barriers, impacts, and limitations on the assertion of First Nations’ Title, Rights, Treaty Rights, and inherent jurisdiction in climate planning and response. This involves the recognition and use of First Nations laws and legal processes and their ability to uphold their responsibilities to the land, waters, and environment.

3

Work collaboratively to **build long-term climate capacity** within First Nations communities to effectively respond to the climate emergency. This involves immediately establishing a BC First Nations Climate Council to lead implementation of the Strategy, conducting a provincial First Nations climate capacity assessment to assess disparities and challenges, and increasing Crown government investments specific to First Nations capacity building.

4

Create a **BC First Nations Climate Fund** with initial investments as outlined in the Strategy.

5

Support the creation of **climate-related positions** (such as climate change coordinators) and **programming** (Indigenous Guardians, fisheries authorities, water monitoring programs) within First Nations communities. This involves supporting interested First Nations in the development and implementation of climate data frameworks and the generation of their own baseline data.

6

Strengthen the **incorporation of Indigenous Knowledge** in climate change initiatives. Ensure engagement with Elders and/or Knowledge Holders in all state-led climate discussions and response initiatives, support and facilitate intergenerational knowledge sharing with First Nations youth, and support the creation of Nation-specific climate glossaries inclusive of traditional language(s) and teachings.

7

Continue to **empower and prepare First Nations youth** for projected climate impacts through training, mentorship, and advocacy opportunities. Increase representation of First Nations youth in state-led climate discussions and response initiatives, including the development of programs, projects, and policies.

8

Establish a **regional network and discussion forum for First Nations on climate change** to provide mutual support between Nations, create space for climate discussions and information sharing, and help to develop regional and provincial climate alliances. This involves hosting an annual BC First Nations Climate Gathering.

9

**Identify areas and critical wildlife habitats requiring immediate restoration and protection** due to resource extraction (logging, mining) agriculture, other urban/industrial development, and climate change. Support **First Nation-led conservation and protection** efforts in this regard, including the designation of Indigenous Protected and Conserved Areas, which can act as carbon sinks, and establish preventative measures such as **laws or policies at the Nation level** enforcing cleanup and remediation of disturbed lands and waters.

10

**Transform resource extraction (logging, mining) and other urban/industrial development processes and tenure systems** to ensure:

- FPIC is obtained from all First Nations whose territories (lands, waters, environments, and all beings) may be impacted by a proposed project.
- FPIC is fully informed through honest, transparent, and independent representations of all projected impacts, including those compounded as a result of climate change.
- Early and ongoing engagement throughout the entire scope of a project with early and sufficient notice to review data and information received as well as the ability for First Nation-led assessments and research on a particular issue.
- Appropriate integration of First Nations knowledge and laws into project work, including permitting and decision-making.

11

**Protect Old Growth forests**, in recognition of their role as carbon sinks, in water retention, species protection and survival, human health, and combating climate change. Prohibit logging in floodplains and critical areas of watersheds to prevent droughts, floods, and landslides.

12

**Conduct a BC First Nations Infrastructure Assessment** to identify and meet infrastructure needs (transportation and communications networks, emergency response, housing and buildings, climate data, water treatment and distribution systems, waste handling and storage) to effectively adapt and

build communities that are resilient to climate impacts. Explore opportunities for green infrastructure development to help reduce GHG emissions.

13

Develop long-term strategies, policies, and implementation tools to enhance **community-led food and food sovereignty systems**, which include the development of food waste management systems to help reduce carbon emissions and ecological footprints.

14

**Ensure recovery and restoration of wild salmon stocks** to secure First Nations' cultural connection and access to traditional food sources for current and future generations.

15

Support First Nations in **assessing, quantifying, and reducing their GHG emissions** to inform decision-making, develop offset and/or mitigation measures, and explore economic investments.

16

Immediately **strengthen emergency management, response, and recovery systems** within and between First Nations communities by:

- Ensuring emergency management legislation, policies, and programs, such as BC's *Emergency Management Act*, respond to the current climate emergency and are aligned with the UN Declaration and the Declaration Acts.
- Assessing capacity of First Nations communities to respond to climate-related emergencies and implement critical supports needed. This may involve identifying and implementing critical supports and infrastructure needed in order to reduce risks and vulnerabilities, supporting fire response positions, implementing traditional fire management systems, and more.
- Developing a BC First Nations Regional Action Plan for Disaster Risk Reduction aligned with the 2015-2030 Sendai Framework for Disaster Reduction and the UN Declaration.
- Supporting actions already undertaken by the First Nations Leadership Council and the First Nations Emergency Services Society to implement the Tripartite Emergency Management Memorandum of Understanding.

17

Support First Nations in developing their own **Nation-specific climate-related strategies and action plans** based on their own needs, priorities, and self-determined processes. This includes energy-efficiency strategies, risk assessments, GHG emission reduction plans, heritage protection plans, and/or monitoring and data collection frameworks.

18

Support First Nations to rapidly transition to reliable and affordable renewable, non-combustible and/or low carbon energy sources by establishing Indigenous utilities, diversifying clean energy sources, aligning legislation, regulations, policies and programs with the UN Declaration and Declaration Acts, and increasing Crown government support and investments.

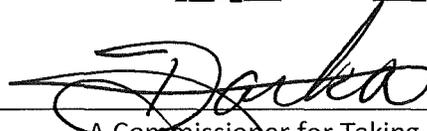
19

Support First Nations in developing **environmentally sustainable and low carbon economic development projects and opportunities**.

20

IMMEDIATELY ensure that all First Nations in BC have **long-term and reliable access to clean and safe food and water sources** both in their homes and within their territories.

This is Exhibit "H" referred to in the  
Affidavit #1 of Terry Teegee  
affirmed before me at PRINCE GEORGE  
in the Province of British Columbia  
this 31 day of May, 2024.



A Commissioner for Taking Affidavits  
For British Columbia

**DARLENE KAVKA**  
Barrister & Solicitor  
**PRINCE GEORGE COMMUNITY LEGAL CLINIC**  
102-1266 5TH AVENUE  
PRINCE GEORGE, BC V2L 3L2



## BC ASSEMBLY OF FIRST NATIONS

1004 Landooz Road  
 Prince George, BC V2K 5S3  
 Website: www.bcafn.ca

**BCAFN ANNUAL GENERAL MEETING**  
**September 21, 22, & 23, 2022**  
 Hybrid - In person & online via Zoom

**Resolution 33/2022**

**SUBJECT:** COMPENSATION FOR CHILDREN AND FAMILIES WHO SUFFERED  
 DISCRIMINATION IN THE DELIVERY OF FIRST NATIONS CHILD & FAMILY  
 SERVICES AND JORDAN'S PRINCIPLE SERVICES

**MOVED BY:** CHIEF CAMERON STEVENS, KISPIOX BAND

**SECONDED BY:** CHIEF LEE SPAHAN, COLDWATER INDIAN BAND

**DECISION:** CARRIED

**WHEREAS:**

- A. The United Nations Declaration on the Rights of Indigenous Peoples states:
- i. Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.
  - ii. Article 7: 1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.
  - iii. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

**Certified copy of a resolution adopted on the 23<sup>rd</sup> day of September 2022**

**Terry Teegee, BC Regional Chief**

- B. The First Nations Child & Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a discrimination complaint in 2007 alleging Canada's inequitable provision of First Nations child and family services and its choice to not implement Jordan's Principle were discriminatory.
- C. The Canadian Human Rights Tribunal substantiated the discrimination in 2016 CHRT 2 and ordered Canada to immediately cease its discriminatory conduct towards First Nations children and families, including those who are members of First Nations in British Columbia.
- D. The AFN passed Resolution 85/2018 calling for the maximum allowable compensation (\$40,000) for victims of discrimination under the FNCFS Program;
- E. The Canadian Human Rights Tribunal ordered Canada to pay \$40,000 per eligible victim for Canada's "willful and reckless" discrimination of the "worst order";
- F. Compensation orders in 2019 CHRT 30 and 2021 CHRT 7 were upheld by the Federal Court (T-1621-19 in 2021 FC 969);
- G. The Government of Canada appealed the Federal Court Decision (2021 FC 969) and subsequently announced its wishes to address the human rights damages in combination with two larger class actions: Moushoun et al. v. Attorney General of Canada and the Assembly of First Nations class action;
- H. Canada and counsel for both class actions announced an Agreement in Principle on the compensation on December 31, 2021, with an intent to develop a Final Settlement Agreement to resolve the compensation issue for both the human rights damages and the class actions;
- I. The AFN Chiefs did not pass any resolutions supporting the Agreement in Principle on compensation or authorizing negotiators to deviate from the CHRT orders on compensation or from the AFN's resolution calling for the maximum allowable amount for every victim of discrimination under the FNCFS program;
- J. The First Nations Summit passed a resolution on June 16, 2022 (FNS Resolution #0622.23) affirming that the AFN and Canada are not authorized to modify the CHRT's compensation entitlement order without the free, prior and informed consent of First Nations in British Columbia;
- K. On June 30, the AFN, class action parties and the Government of Canada reached a Final Settlement Agreement on compensation and immediately (without seeking the free, prior and informed consent of First Nations or their chiefs) filed a motion with the Canadian Human Rights Tribunal seeking an expedited hearing regarding the Tribunal's compensation orders;

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**Certified copy of a resolution adopted on the 23<sup>rd</sup> day of September 2022**



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**Terry Teegee, BC Regional Chief**

- L. Article 10 of the Final Settlement Agreement on compensation requires the AFN, among other things, “to take all reasonable steps to publicly promote and defend the Agreement”;
- M. At the Tribunal hearing, which took place on September 15 and 16, 2022, the Caring Society argued that the Final Settlement Agreement negatively impacts the rights of a number of children and families by reducing or eliminating their right to CHRT compensation and by waiving their rights to litigate against Canada for the harms they experienced flowing from Canada’s discrimination—even if they receive no financial compensation under the Final Settlement Agreement;
- N. During the Tribunal hearing on September 16, 2022, AFN legal counsel was asked by the Tribunal if there were any objections to the Final Settlement Agreement by First Nations or others, and though they were in possession of the FNS resolution the AFN counsel did not disclose the FNS’s objections in answer to the question.
- O. Chiefs in British Columbia have not been consulted on the Final Settlement Agreement and are therefore unable to exercise free, prior, and informed consent on any changes to the CHRT compensation orders.

**THEREFORE BE IT RESOLVED THAT:**

1. The BCAFN Chiefs-in-Assembly call upon Canada to immediately pay the CHRT-ordered compensation in the amount of \$40,000 plus interest owed to eligible victims and provide necessary supports pursuant to the CHRT orders;
2. The BCAFN Chiefs-in-Assembly affirm that AFN negotiators are not authorized to seek a reduction in the compensation amounts for eligible victims who are members of BC First Nations and must respect the compensation framework agreement and compensation entitlement order as set out in 2019 CHRT 39 and 2021 CHRT 7;
3. The BCAFN Chiefs-in-Assembly express concern regarding the AFN’s agreement to Article 10 in the Final Settlement Agreement as it abrogates the AFN’s duty to represent the interests of First Nations as authorized by the AFN Chiefs in Assembly and direct that the AFN:
  - a. withdraw its consent to this section of the agreement or in the alternative
  - b. fully disclose this obligation to First Nations governments, First Nations experts, the Courts and Tribunal, and the public and that an independent panel of experts and lawyers be appointed by the BCAFN to examine the Final Settlement Agreement and inform positions arising from it;

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Terry Teegee, BC Regional Chief

4. The BCAFN Chiefs-in-Assembly affirm that the AFN is not authorized to sign provisions such as Article 10 of the Final Settlement Agreement on behalf of BCAFN Chiefs-in-Assembly without their free, prior, and informed consent;
5. The BCAFN Chiefs-in-Assembly direct the AFN negotiators to seek the free, prior and informed consent of BC First Nations Chiefs before making any legal representations on any Final Agreement on Compensation that may have an impact on First Nations children, youth and families in British Columbia; and
6. The BCAFN Chiefs-in-Assembly direct that any negotiations with Canada or class action counsel on any matters arising from 2016 CHRT 2 and subsequent orders or legal proceedings affecting BC First Nations children, youth, and families must be conducted in an open and transparent manner consistent with free, prior and informed consent of First Nations.

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Certified copy of a resolution adopted on the 23<sup>rd</sup> day of September 2022



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Terry Teegee, BC Regional Chief

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

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

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

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

Respondent

-and-

CHIEFS OF ONTARIO,  
AMNESTY INTERNATIONAL CANADA and NISHNAWBE-ASKI NATION

Interested Parties

-and-

FIRST NATIONS LEADERSHIP COUNCIL

Moving Party

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**WRITTEN SUBMISSIONS OF FIRST NATIONS LEADERSHIP COUNCIL  
on its motion for interested party status  
in the motion filed by the First Nations Caring Society of Canada and the cross  
motion filed by the Attorney General of Canada**

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## TABLE OF CONTENTS

PART I - STATEMENT OF FACTS .....	1
A. Introduction .....	1
B. Background.....	1
C. First Nations Leadership Council .....	3
D. FNLC Work on Legislative and Policy Reform .....	5
E. FNLC work on Children and Families.....	6
F. Substantive Equality & Jordan’s Principle in BC .....	8
PART II - ISSUES AND THE LAW .....	11
A. Does the FNLC have standing to bring this motion? .....	11
B. Should the FNLC be granted status as an interested party?.....	11
(1) The FNLC has expertise and knowledge that will be of assistance to the Tribunal.....	12
(2) The FNLC will bring a unique perspective .....	13
(3) FNLC’s involvement will add to the legal positions of the parties .....	14
(4) Impact on FNLC’s interests .....	15
PART III - ORDER SOUGHT .....	16
PART IV - TABLE OF AUTHORITIES.....	18

## **PART I - STATEMENT OF FACTS**

### **A. Introduction**

1. The First Nations Leadership Council (“FNLC”) applies pursuant to s. 48.9(2)(b) of the *Canadian Human Rights Act* [CHRA]<sup>1</sup> and Rule 27(1) of the *Canadian Human Rights Tribunal Rules of Procedure* [CHRT Rules]<sup>2</sup> for interested party status in the motion of the First Nations Child and Family Caring Society (the “Caring Society”), filed December 12, 2023 (the “Caring Society Motion”) and the cross-motion filed by the Attorney General of Canada in the same matter (“Canada’s Motion”) on March 14, 2024 (collectively, the “Motions”).

### **B. Background**

2. In 2007 the Caring Society and the Assembly of First Nations (“AFN”) filed a complaint alleging Canada was discriminating against First Nations children by applying a funding regime which incentivized the removal of First Nations children, and by failing to fully implement Jordan’s Principle. In its decision (the “Merits Decision”), this Tribunal found that the complaint had been substantiated and ordered Canada to immediately cease its discriminatory conduct. The Tribunal also exercised its discretion to retain jurisdiction over the matter until its orders were fully implemented.<sup>3</sup> Since the Merit Decision, there have been numerous non-compliance motions brought against Canada, which have resulted in subsequent orders by this Tribunal, including several clarifying the intention and scope of Jordan’s Principle.<sup>4</sup>

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<sup>1</sup>*Canadian Human Rights Act*, RSC 1985, c. H-6 [CHRA].

<sup>2</sup> *Canadian Human Rights Tribunal Rules of Procedure*, 2021, SOR/2021-137 [CHRT Rules].

<sup>3</sup> *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 [Merits Decision].

<sup>4</sup> See for example: *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2017 CHRT 14; *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2020 CHRT 36; *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2021 CHRT 41.

3. On January 4, 2022, Canada announced it had reached an Agreement-in-Principle (the “AIP”) with the Chiefs of Ontario (“COO”), the Nishnawbe-Aski Nation (“NAN”), the AFN (collectively, the “First Nations Parties”), and the Caring Society (collectively, the “Parties”) regarding long-term reform of the First Nations Child and Family Services (“FNCFS”) program and Jordan’s Principle. The AIP included several immediate measures to the FNCFS program and Jordan’s Principle, which Canada agreed to implement. Since that time, the Parties have been negotiating final settlement agreements (the “FSAs”) for long-term reform of the FNCFS program and Jordan’s Principle.

4. In December 2023, the Caring Society opted to leave the negotiations, and brought the Caring Society Motion. This Motion sought a number of orders from this Tribunal in relation to urgent requests, issues with timeliness, seeking clarification that the Tribunal’s orders have primacy over any interpretation of the *Financial Administration Act*,<sup>5</sup> and seeking an order confirming that First Nations and First Nations organizations who are administering Jordan’s Principle have sufficient and sustainable resources.

5. Canada’s Cross-Motion was filed in March of 2024. In Canada’s Cross-Motion, Canada asks this Tribunal to make orders requiring the parties and interested parties to co-develop objective criteria to identify “urgent requests”, extending the timelines set out by the Tribunal for Canada to respond to Jordan’s Principle requests, allowing Canada to refer Jordan’s Principle requestors to First Nations or First Nations organizations who are administering Jordan’s Principle pursuant to a contribution agreement with Canada, amongst other relief.

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<sup>5</sup> *Financial Administration Act*, R.S.C. 1985, c. F-11 [FAA], and as set out in this Tribunal decision indexed at *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2021 CHRT 41 at paras. 373-377.

### **C. First Nations Leadership Council**

6. The FNLC brings this application because of the potential significant effect of the orders made by this Tribunal on its constituency of First Nations in British Columbia. The expertise and perspective that FNLC offers will be of significant assistance to the Tribunal.

7. The FNLC is a political coalition formed in 2005 by a historic Leadership Accord in which its three member organizations signed a political commitment to work together on issues of common concern to represent and advance the interest of First Nations in BC.<sup>6</sup> The FNLC is comprised of the executive members of the Union of BC Indian Chiefs (“UBCIC”), First Nations Summit (“FSN”), and the BC Assembly of First Nations (“BCAFN”). Collectively, the member organizations of the FNLC represent the elected Chiefs of the 204 First Nations in BC.<sup>7</sup>

8. First Nations in BC have never surrendered their territories and hold inherent rights in their respective lands, including the inherent right of jurisdiction over the care, health, and wellbeing of their children. For over 40 years, the FNLC organizations have been involved in advocating for the recognition of Aboriginal title and rights and treaty rights, self-government and Indigenous laws.<sup>8</sup>

9. The UBCIC was founded in 1969 by chiefs of First Nations communities in BC. UBCIC formed in response to the federal government’s white paper policy, which was aimed at assimilating Indigenous peoples in Canada. UBCIC is a representative organization of First Nations in BC, dedicated to promoting and supporting the efforts of First Nations in BC to affirm and defend their Aboriginal title and rights. UBCIC acts as an advocacy body to provide a cohesive voice to support and strengthen Indigenous Nations and communities. Currently over half all First Nations in BC form the representative membership of the UBCIC.<sup>9</sup>

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<sup>6</sup> Affidavit #1 of Stewart Phillip, Exhibit A.

<sup>7</sup> Affidavit #1 of Stewart Phillip at para. 5.

<sup>8</sup> Affidavit #1 of Stewart Phillip at para. 11; Affidavit #1 of Hugh Braker, K.C. at paras. 6-7; Affidavit #1 of Terry Teegee at para. 7.

<sup>9</sup> Affidavit #1 of Stewart Phillip at para. 7.

10. The FNS was established in 1990. It comprises a majority of First Nations and Tribal Councils in BC, and represents the collective positions taken by those First Nations that have chosen to pursue the negotiation of modern treaties with BC and Canada, with the oversight of the BC Treaty Commission. The FNS is one of the three principals to the BC treaty negotiation process, along with the Government of Canada and the Government of BC.<sup>10</sup>

11. The BCAFN is a provincial organization representing the 204 First Nations in BC. BCAFN's mandate includes the advancement of the rights and interests of First Nations people in BC and to develop and promote policies and resources for the benefit of First Nations in BC including, but not limited to: governance; lands and resources; and economic, environmental, social, education, health, and cultural matters.<sup>11</sup>

12. Since its inception, the FNLC has engaged in strategic policy discussions with the governments of Canada and BC, seeking a common vision for systemic change by advocating for a government-to-government relationship based on respect and recognition of First Nation peoples' rights. This has included acting jointly as intervenors on a number of matters, engaging in legislative and policy reform at the provincial and federal level, and sitting at bilateral and trilateral tables with the governments of Canada and BC.<sup>12</sup>

13. The he Chiefs-in-Assembly of the respective organizations have mandated the FNLC to work together with the organizations and with governments to advance to advance legislative, policy, and practice changes regarding First Nations child welfare and Jordan's Principle in British Columbia.<sup>13</sup> The FNLC is committed to advancing and upholding the inherent right of self-determination held by First Nations over the health, wellbeing, and upbringing of their children.

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<sup>10</sup> Affidavit #1 of Hugh Braker, K.C. at paras. 4, 6.

<sup>11</sup> Affidavit #1 of Terry Teegee at para. 6.

<sup>12</sup> Affidavit #1 of Stewart Phillip at para. 5.

<sup>13</sup> Affidavit #1 of Stewart Phillip, Exhibits C, D, and E; Affidavit #1 of Hugh Braker, K.C., Exhibits A, B, and C; Affidavit #1 of Terry Teegee, Exhibit A.

#### D. FNLC Work on Legislative and Policy Reform

14. The FNLC worked with the Government of Canada on the development of the federal *Act respecting First Nations, Inuit and Métis children, youth and families*.<sup>14</sup> Two of the objectives of this law are to affirm the inherent right of self-government and contribute to the implementation of the UN Declaration on the Rights of Indigenous Peoples [UNDRIP].<sup>15</sup> The constitutionality of that enactment, and the significance of UNDRIP in Canadian law, were considered at length by the Supreme Court of Canada in *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5. The FNLC was an intervenor in that case.<sup>16</sup>

15. At the provincial level, the FNLC works with BC on the development of Bill 38, the *Indigenous Self-Government in Child and Family Services Amendment Act*, to ensure that inherent jurisdiction over children and families held by First Nations is recognized and upheld in British Columbia.<sup>17</sup>

16. The FNLC also participated in the development of the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021 c 14 (“UNDRIPA”). Section 4 of UNDRIPA states that the purposes of the Act are to “(a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and (b) provide a framework for the Government of Canada’s implementation of the Declaration.” UNDRIPA includes similar requirements as DRIPA to, in consultation and collaboration with Indigenous peoples, ensure the laws of Canada are consistent with UNDRIP, to develop and implement an action plan to meet the objectives of UNDRIP, and to report annually on progress.<sup>18</sup> Canada engaged the FNLC in the development of the Action Plan, which included establishing priority actions

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<sup>14</sup> *Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019 c. 24 [Federal Act].

<sup>15</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, G.A. Res. 61/295, U.N. Doc. A/RES/61/295 [UNDRIP].

<sup>16</sup> Affidavit #1 of Stewart Phillip at para. 12; Affidavit of Hugh Braker at para. 8; Affidavit #1 of Terry Teegee at para. 9.

<sup>17</sup> Affidavit #1 of Hugh Braker, K.C. at para. 9.

<sup>18</sup> Affidavit #1 of Stewart Phillip at para. 14; Affidavit #1 of Hugh Braker, K.C. at para. 10.

to be taken by Canada to address injustice, systemic racism, and discrimination, to support First Nations jurisdiction over child and family services, and to ensure there is oversight and accountability by Canada in the implementation of UNDRIP.<sup>19</sup>

17. The FNLC has extensive experience and expertise in the interpretation and implementation of UNDRIP into domestic law in Canada and BC.

#### **E. FNLC Work on Children and Families**

18. The FNLC has had extensive involvement in the legal and systemic reform of the child and family services system in British Columbia, focused on ensuring the inherent right of First Nations to care for their children is recognized and upheld. FNLC has been actively involved in advocacy efforts achieve support and sufficient resources for First Nations jurisdiction over the health and wellbeing of children. Since 2008, the FNLC has worked collaboratively to advance First Nations jurisdiction over child and family wellbeing, grounded in the inherent right of self-determination held by Indigenous peoples, and as affirmed and recognized in UNDRIP. These efforts have included:

- (a) Convening the first Child at the Center Forum with First Nations Chiefs in BC, resulting in the *One Heart, One Mind Statement of Solidarity and Cooperation* affirming a commitment to work together in a Nation-to-Nation and community-driven process to secure the individual and collective survival, dignity and well-being of Indigenous children in BC;<sup>20</sup>
- (b) Development of the *Action Framework: Reconciliation, Self-Determination, and Self-Government for Indigenous Children, Families and Nations in BC* (the “Action Framework”) which set out a path for the resumption of jurisdiction over child and family services by Indigenous Peoples in BC;<sup>21</sup>
- (c) With the governments of Canada and BC, signed the *Reconciliation Charter for First Nations Child & Family Wellbeing in British Columbia* (the

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<sup>19</sup> Affidavit #1 of Terry Teegee at para. 11.

<sup>20</sup> Affidavit #1 of Stewart Phillip, Exhibit B.

<sup>21</sup> Affidavit #1 of Hugh Braker, K.C. at para. 13.

“Reconciliation Charter”). The Reconciliation Charter established a political commitment between Canada, BC and the FNLC to implement concrete actions related to legislative reform, policy and program development, and an effective fiscal model to support First Nations child welfare and jurisdiction over child welfare in BC.<sup>22</sup>

19. To support the commitments set out in the Reconciliation Charter, the FNLC, with the governments of Canada and BC, established the Tripartite First Nations Child and Family Working Group (“TWG”). Work at TWG has included the FNLC’s work on the development of the Federal Act and BC’s Bill 38, providing strategic policy direction on matters impacting First Nations children and families, and the development of a new fiscal framework to support First Nations child and family service provision and jurisdiction in BC. The discussion paper *Developing a New Funding Model and Approach for First Nations Children & Families*, published by the FNLC as part of the TWG, specifically outlined that:

A funding model and approach for BC will both inform and align with broad national considerations such as the negotiations on long term reform of ISC’s First Nations Child and Family Services program and a renewed approach to Jordan’s Principle.<sup>23</sup>

20. In developing a renewed funding approach for First Nations child and family services in BC, the FNLC has been mandated to ensure the specific needs, interests and priorities of First Nations in BC are reflected in tripartite discussions and agreements through the TWG, and in the ongoing work and discussions that are occurring at the national level<sup>24</sup>.

21. In addition to its participation and work at the TWG, the FNLC has been involved in advancing the interests of First Nations in BC in relation to children and families through various other tables and processes, including, but not limited to:

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<sup>22</sup> Affidavit #1 of Hugh Braker, K.C., Exhibit C.

<sup>23</sup> Affidavit #1 of Hugh Braker, K.C., Exhibit D, at p. 22.

<sup>24</sup> Affidavit #1 of Hugh Braker, K.C. Exhibit E, at p. 39.

- (a) participation at the British Columbia Jordan's Principle Committee, established in 2021;
- (b) improving educational outcomes for First Nations children and youth in care, which included the signing of a memorandum of understanding with BC on the issue, and the development of a working group and related workplan; and,
- (c) Engaged in ongoing advocacy work related to children and youth with support needs and Indigenous early learning and childcare.<sup>25</sup>

22. In addition to legislative and policy reform, the FNLC's work in the area of child and family services reform and First Nations jurisdiction includes regular engagement with First Nations in BC through the respective Chiefs Assemblies; hosting All Chiefs meetings on children and families, Jordan's Principle, and Indigenous early learning and child care; advocating directly with Crown governments regarding the needs and priorities of First Nations in BC on issues related the wellbeing of First Nations children and families; collaborating with First Nations organizations on issues of joint concern; research regarding the needs and priorities of First Nations in BC; and publication of reports and action plans to support the advancement of First Nations rights and jurisdiction<sup>26</sup>.

#### **F. Substantive Equality & Jordan's Principle in BC**

23. There are 204 First Nations in BC, each with distinct languages, laws, and protocols, representing one third of all First Nations in Canada. As set out in the affidavit of Hugh Braker, K.C., Indigenous children represent more than half of all the children in care in BC. Accordingly, they are disproportionately affected by systemic inequities in health, education, and social services, and bear the burden of the disproportionate

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<sup>25</sup> Affidavit #1 of Hugh Braker, K.C. at paras. 14-17.

<sup>26</sup> Affidavit #1 of Hugh Braker, K.C. at paras. 14-21, Exhibits B, C, D, and E; Affidavit #1 of Stewart Phillip at paras. 16-19, 23, Exhibits B, F, G, H, and I; Affidavit #1 of Terry Teegee at paras. 12-19, 21-23, Exhibits A, E, F, G, and H.

effect of substantive inequality in the services and support Jordan's Principle is intended to provide.<sup>27</sup>

24. First Nations in BC are disproportionately impacted by local states of emergency, as tied to the definition of urgent requests. In 2019, the BCAFN Chiefs-in-Assembly identified this as a climate crisis, and directed the BCAFN, together with the FNLC, to develop a BC-specific climate action plan.<sup>28</sup>

25. In the 2021 fiscal year there were over 1,642 wildfires in BC resulting in 181 evacuation orders, 304 evacuation alerts, and a 56-day provincial state of emergency. BC also experienced record levels of flooding, causing loss to lands, roadways, and infrastructure and impacting at least 42 First Nations communities. Climate emergencies have continued to have a real and substantial impact on First Nations in BC, particularly remote First Nations communities, women, and children.<sup>29</sup>

26. The BC First Nations Climate Action Plan was published in 2022, which included 20 urgent calls for climate action. Included in these calls was a call to:

**IMMEDIATELY ensure that all First Nations in BC have long-term and reliable access to clean and safe food and water sources both in their homes and within their territories.**<sup>30</sup>

27. There are currently 35 First Nations and First Nations organizations in BC with contribution agreements with Canada for Jordan's Principle enhanced service coordinators, and a Jordan's Principle enhanced service coordinator hub. Several of the enhanced service coordinator positions are housed within Indigenous delegated agencies who are member agencies of the Our Children Our Way Society ("OCOWS"). OWOWS is a partner at the TWG.<sup>31</sup> Through its partnerships with these organizations, the FNLC is aware that there is a disproportionate backlog of unopened and unassigned Jordan's Principle requests, and significant delays in processing payments and

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<sup>27</sup> Affidavit #1 of Hugh Braker, K.C., at para. 25.

<sup>28</sup> Affidavit #1 of Terry Teegee, Exhibit F.

<sup>29</sup> Affidavit #1 of Stewart Phillip at para. 23.

<sup>30</sup> Affidavit #1 of Terry Teegee, Exhibit G, p. 67.

<sup>31</sup> Affidavit #1 of Stewart Phillip at para. 19 and Exhibit E.

reimbursements for Jordan's Principle requests, an issue that is most prevalent in the BC-region.<sup>32</sup>

28. The BCAFN, an organization of the FNLC, has had additional involvement with specific issues related to long-term reform of the FNCFS program and Jordan's Principle. Part of this work included hosting several gatherings with First Nations leadership in BC, and the production of an engagement report (the "Engagement Report") in 2022. The Engagement Report highlighted that the BC-region has the highest level of denials in Canada, long waiting periods, and lack of communication, leading to breakdowns in trust between Jordan's Principle applicants and community staff administering Jordan's Principle. The report further highlighted that while some Nations may want to assume responsibility for the administration of Jordan's Principle, many may not want to assume those duties, or may not have the capacity to do so.<sup>33</sup> Through these engagements, First Nations in BC have highlighted specific issues that are of relevance to the issues before this Tribunal.

29. Through its direct and collective work on child and family services reform and Jordan's Principle, the FNLC has developed considerable knowledge and expertise regarding the challenges facing First Nations children, families, and communities, including as related to the provision of child and family services and Jordan's Principle, and the specific issues raised in the Motions.

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<sup>32</sup> Affidavit #1 of Stewart Phillip at para. 35.

<sup>33</sup> Affidavit #1 of Terry Teegee, Exhibit E, at p. 28.

## **PART II - ISSUES AND THE LAW**

### **A. FNLC's standing to bring this motion**

30. Rule 28 of the *CHRA Rules* sets out the procedure for a person to be recognized by the panel as a party. A person is defined in the CHRA Rules to include an unincorporated entity.

31. The FNLC is a coalition of the three representative organizations whose collective membership is the elected leadership of the 204 First Nations in BC. As a political coalition, the FNLC can be collectively understood as an unincorporated entity. Thus, FNLC has standing to bring a motion for interested party status.

32. Further, granting the FNLC interested party status as a coalition (rather than as separate constituent organizations) would be in alignment with the Tribunal's guiding principle of ensuring an informal and expeditious process.<sup>34</sup>

### **B. FNLC should be granted status as an interested party**

33. Pursuant to ss. 48.9(2)(b) and 50(1) of the *Canadian Human Rights Act* [CHRA], the Tribunal has the authority to grant a request for interested party status. The overarching principle of the *CHRA Rules* under which this application is made is to secure the informal, expeditious and fair determination of every inquiry on its merits.<sup>35</sup>

34. As "masters of its own house" the Tribunal retains broad discretion to grant interested party status to an applicant, with consideration of its responsibility to conduct proceedings expeditiously and informally.<sup>36</sup> Applications for interested party status are considered on a case-by-case basis, adopting a holistic and flexible approach.<sup>37</sup> The questions for the Tribunal on this application are: whether the prospective interested

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<sup>34</sup> CHRT Rule 5.

<sup>35</sup> CHRT Rule 8.

<sup>36</sup> *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2022 CHRT 26 at para. 14.

<sup>37</sup> *Liu v Public Safety Canada*, 2024 CHRT 14 at para 9; *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2022 CHRT 16 at para. 35.

party's expertise will be of assistance to the Tribunal; if their involvement will add to the legal positions of the parties; and, whether the proceeding may have an impact on the requesting party's interests.<sup>38</sup>

**(1) The FNLC has expertise and knowledge that will be of assistance to the Tribunal**

35. The FNLC has valuable expertise and knowledge that will be of assistance to the Tribunal in determining the issues in the Motion. The FNLC and its member organizations the BCAFN, UBCIC and the FNS, have been at the forefront of legal and policy reform with respect to the individual and collective rights of First Nations in BC and across Canada. This includes expertise and experience on ensuring that Canada meets its obligations under UNDRIP and working in consultation and cooperation with Indigenous peoples to implement UNDRIP into law in Canada. FNLC's expertise with respect to the implementation of UNDRIP would be of assistance to the Tribunal, given the purposes of UNDRIP as a whole, as well as specific Articles that pertain to upholding the rights of Indigenous children without discrimination, including Articles 21-23.<sup>39</sup>

36. Furthermore, FNLC was engaged by Canada with respect to the development of Canada's Action Plan pursuant to UNDRIPA, which contains specific actions Canada has agreed to take to address the historic and systemic discrimination towards Indigenous children.<sup>40</sup> The unique perspective and experience that FNLC can bring to the Tribunal from this work can assist in the development of solutions to address the issues raised in the Motions. This Tribunal has held in the past that UNDRIP is an important instrument to consider in a human rights analysis in First Nations cases.<sup>41</sup>

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<sup>38</sup> *Letnes v Royal Canadian Mounted Police*, 2021 CHRT 30 at para. 10.

<sup>39</sup> UNDRIP, *supra* 15.

<sup>40</sup> Affidavit #1 of Terry Teegee at para. 11.

<sup>41</sup> *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2022 CHRT 41 at para. 425.

37. FNLC also has unique knowledge and expertise in advancing First Nation title, rights and jurisdiction, including First Nations jurisdiction over child and family services.<sup>42</sup> FNLC's experience on these matters is directly related to arguments about to the ongoing implementation of Jordan's Principle as well as issues and arguments raised by the parties respecting the long-term reform of the First Nations Child and Family services program in British Columbia. For example, if granted interested party status, the FNLC's expertise will be of benefit to the Tribunal in considering the issues of backlogs and urgent requests. The BC-region has consistently experienced some of the highest levels of backlogged Jordan's Principle requests, resulting in First Nations children in BC being disproportionately impacted by Canada's non-compliance with the Tribunal's orders.<sup>43</sup> FNLC, if granted interested party status, can also offer knowledge and expertise on how climate emergencies, including wildfires and floods, affect urgent requests under Jordan's Principle in BC, and can propose solutions to address this issue.

**(2) The FNLC will bring a unique perspective**

38. If granted interested party status in the Motions, the FNLC would bring a unique and helpful perspective to the issues as an entity that represents the broad interests of all First Nations in BC. As noted above, there are 204 First Nations in BC, all of which have unique cultures, legal traditions, histories and experiences. FNLC can speak to the importance of acknowledging and considering this diversity in crafting remedies and making orders.

39. Furthermore, Canada, in its Cross-Motion, has submitted that any orders made by the Tribunal ought not to apply to First Nations who may enter into a coordination agreement with Canada. The FNLC can help ensure that the diverse perspectives of First Nations in BC are considered with respect to this issue at the Tribunal. Given the implementation of Jordan's Principle in BC through First Nations Service Coordinators, as well as the context of First Nations jurisdiction over child and family services in the

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<sup>42</sup> Affidavit #1 of Terry Teegee, paras. 12 and 27.

<sup>43</sup> Affidavit # 1 of Terry Teegee at of para. 20; Affidavit #1 of Hugh Braker K.C. at para. 25; Affidavit #1 of Stewart Phillip at para. 25.

province, FNLC and its member organizations have the ability to provide the specific perspective and direct experience of BC First Nations.

**(3) FNLC's involvement will add to the legal positions of the parties**

40. Given its collective membership, the FNLC organizations represent all 204 First Nations in BC. The FNLC has decades of experience in advocating for and advancing the specific interests of First Nations in BC, based upon their unique and distinct realities. This knowledge and expertise would add to the legal position of the parties by providing this Tribunal with the important perspective of First Nations in BC on the issues raised in the Motions. This Tribunal has previously noted that it is aware that there are a large number of First Nations and First Nations agencies in BC who benefit from the orders of this Tribunal.<sup>44</sup> This remains the case, and the FNLC submits that the Tribunal should hear from FNLC on these issues to ensure the specific perspectives of First Nations in BC are being heard and considered on issues that have a real and substantial impact on First Nations in BC.

41. The constituent members of the FNLC have also passed resolutions setting out that Canada must consult with rights-holders in BC regarding the implementation of Jordan's Principle and in respect of the long-term reform of the First Nations Child Welfare program. First Nations have made clear through the resolutions made by leadership that no other party can speak for them regarding long-term reform or with respect to the terms of the Final Settlement Agreement.<sup>45</sup> For example, in BCAFN resolution 2022-33, it was made clear that the negotiation of the Final Settlement Agreement requires the free, prior and informed consent of First Nations Chiefs in BC and that any matters arising out of the Merits Decision, including any subsequent orders or legal proceedings that affect BC First Nations children, youth and families must be conducted in open and transparent manner consistent with the free, prior and informed

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<sup>44</sup> *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2022 CHRT 41 at para. 454.

<sup>45</sup> See for example, Affidavit #1 of Terry Teegee, Exhibit H; Affidavit #1 of Stewart Phillip, Exhibit G,

consent of Nations.<sup>46</sup> This Tribunal has previously recognized that the perspectives of First Nations rights-holders may not be fully reflected by the Parties<sup>47</sup>, and recognized the importance of having evidence before it that would:

assist the Panel in understanding their views and Canada's efforts to comply with our orders and, will provide context and may refrain us to make orders against Canada<sup>48</sup>.

42. Given these resolutions, it is important that the Tribunal hear from the FNLC on the issues raised in the Motions, not only to have submissions that reflect the perspectives and interests of First Nations in BC, but also to assist in fulfilling the request by First Nations leadership that orders and legal proceedings are consistent with openness and transparency. This is particularly important given that any orders made by the Tribunal with respect to the issues raised in the Motions will have implications not only in the immediate future but also with respect to long term reform of child and family services, which will impact all First Nations in BC.

#### **(4) Impact on FNLC's interests**

43. First Nations in BC, who form the membership of the FNLC organizations, have a significant interest in any orders made by this Tribunal as sought in the Motions, given that First Nations children and families in BC will be directly impacted by those orders. Given the mandates of the of UBCIC, BCAFN, and FNS to uphold, advocate and support First Nations in BC, including through the work of FNLC, any orders the Tribunal makes as requested in the Motions is of direct interest to FNLC.

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<sup>46</sup> Affidavit #1 of Terry Teegee, Exhibit H.

<sup>47</sup> *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2022 CHRT 41 at paras. 441-442.

<sup>48</sup> *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2018 CHRT 4 at para. 443.

**PART III - ORDER SOUGHT**

44. FNLC seeks an order granting it leave to intervene as an interested party in this proceeding, on the following terms, or such other terms as the Tribunal deems just:

- (a) Interested party status for FNLC, specifically limited to participation in the Motions;
- (b) In the Motions, FNLC shall be permitted to:
  - (i) make oral and written arguments, as may apply in the course of the Motions, of a length that may be fixed by the Tribunal and according to the timeline set by the Tribunal;
  - (ii) participate in case conferences, mediation, negotiation or other dispute resolution or administrative processes in respect of the Motions; and
- (c) FNLC's participation will be on a without cost basis.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of June, 2024.



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Crystal Reeves  
Mandell Pinder LLP  
Barristers and Solicitors  
422 - 1080 Mainland Street  
Vancouver, BC V6B 2T4  
Tel: 604.681.4146 Fax: 604.681.0959  
Counsel for the Moving Party,  
First Nations Leadership Council

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Dawn Johnson  
Mandell Pinder LLP  
Barristers and Solicitors  
422 - 1080 Mainland Street  
Vancouver, BC V6B 2T4  
Tel: 604.681.4146 Fax: 604.681.0959  
Counsel for the Moving Party,  
First Nations Leadership Council

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## **PART IV - TABLE OF AUTHORITIES**

	<b>Paragraph</b>
<b>Cases</b>	
<i>First Nations Child &amp; Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2018 CHRT 4	41
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 2	2
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2017 CHRT 14	2
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2020 CHRT 36	2
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2021 CHRT 41	2, 4
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2022 CHRT 41	36, 40, 41
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2022 CHRT 16	34
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2022 CHRT 26	34
<i>Letnes v Royal Canadian Mounted Police</i> , 2021 CHRT 30	34
<i>Liu v Public Safety Canada</i> , 2024 CHRT 14	34
<b>Statutes</b>	
<i>Act respecting First Nations, Inuit and Métis children, youth and families</i> , SC 2019 c. 24 [Federal Act]	14
<i>Canadian Human Rights Act</i> , RSC 1985, c. H-6	1

	<b>Paragraph</b>
<i>Canadian Human Rights Tribunal Rules of Procedure, 2021, SOR/2021-137</i>	1
<i>Financial Administration Act, R.S.C. 1985, c. F-11</i>	4
<i>United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, U.N. Doc. A/RES/61/295</i>	14, 35
<b>Rules</b>	
CHRT Rule 5	32
CHRT Rule 8	33