

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 Indian and Northern Affairs)

Respondent

and

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and  
NISHNAWBE ASKI NATION

Interested Parties

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RESPONDENT'S FURTHER REPLY SUBMISSIONS  
RE IMMEDIATE RELIEF

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## Introduction

1. The following is Canada's reply to both the June 8, 2016 submissions of the First Nations Child and Family Caring Society ("Caring Society") and Chiefs of Ontario; and the June 24, 2016 submissions of the Canadian Human Rights Commission ("Commission") and the Assembly of First Nations ("AFN").

2. The Tribunal has made a finding of discrimination. Canada has begun working with First Nations' child welfare agencies, communities, leadership and front-line services providers, the Provinces and Yukon Territory, as well as with parties to this Complaint to reform child welfare and to eliminate those aspects of the Program that resulted in discrimination. Some of Canada's recent efforts to address the findings of the Tribunal and the concerns raised by the parties to the Complaint include:

- a) Indigenous and Northern Affairs Canada ("INAC") has commenced working on the development of a National Advisory Committee ("Committee") with the Caring Society and the AFN. Several meetings have taken place over the last two months and work is ongoing to develop the Terms of Reference of the Committee and the role it will play in the Program reform.
- b) INAC is developing a phased engagement strategy with partners, for national and regional discussions across the country. A national summit on Indigenous Child Welfare is being planned for October 2016 to share best practices and to guide partner dialogue on the future of child and family services.
- c) INAC is participating in a newly-established Federal/Provincial/Territorial Indigenous Children and Youth in Care Working Group created to move forward on previous provincial/territorial work to address the overrepresentation of Indigenous children in care.
- d) On July 5, 2016, Canada announced an investment of up to \$382 million in new funding to provide support to Jordan's Principle. This funding will be used to enhance service coordination and ensure service access issues are resolved so that

children's needs are assessed and responded to quickly.

3. As noted previously, Canada has already increased existing program funding. Canada has and will continue to work with the Complainants, Interested Parties and partners who did not appear before the Tribunal to renew its relationship with Indigenous people in the area of child welfare. Work to reform the Program requires sufficient time to yield positive and measurable outcomes. This work cannot be undertaken unilaterally.

### **Canada's Response to the Submissions of the Caring Society**

#### ***Clarification required on when "full implementation" will occur.<sup>1</sup>***

4. "Full implementation" of Budget 2016 investments will be reached in Year 4 (2019-2020). Funding for 2016-17 has been scaled over the four years with some jurisdictions getting 60% of full funding in Year 1 and others receiving 40%.<sup>2</sup> More information on the implementation of Budget 2016 investments is provided in Canada's May 24, 2016 submissions at para. 34 and Annex A.

#### ***Clarification on Prevention Funding and closing the gap.<sup>3</sup>***

5. Canada is investing over \$17.5 million in 2016-17 for prevention services and programming in British Columbia, Yukon, New Brunswick, Newfoundland and Labrador and Ontario. Over the next five years, \$161.9 million in new program funding will be provided to support prevention based programming in the remaining jurisdictions, not including any adjustments to address agency growth.

6. For a breakdown of funding that will be provided to service providers in these jurisdictions in future years, please see the below excerpt from Table 2 of Canada's May 24 submission:

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<sup>1</sup> Caring Society's Submissions dated June 8, 2016, paras. 17, 28, 41, 42, 43.

<sup>2</sup> Funding for Year 1 is scaled to 60% in Quebec, Alberta, Saskatchewan, Prince Edward Island, Manitoba and Nova Scotia. In Year 2, it increases to 70%, Year 3 it will be 80% and 100% in Year 4. In British Columbia, Yukon, New Brunswick, Newfoundland and Labrador and Ontario, funding in Year 1 is scaled to 40% to expand prevention services. In Year 2, it increases to 60%, Year 3 to 80% and 100% in Year 4.

<sup>3</sup> Caring Society's Submissions dated June 8, 2016, para. 20.

Prevention	Funding Year 1 2016-2017	Funding Year 2 2017-2018	Funding Year 3 2018-2019	Funding Year 4 2019-2020	Funding Year 5 2020-2021	5 Year Total
New Brunswick	\$ 2,254,477.25	\$ 3,381,715.87	\$ 4,508,954.50	\$ 5,636,193.12	\$ 5,636,193.12	\$ 21,417,533.86
British Columbia	\$ 5,390,010.32	\$ 8,085,015.48	\$ 10,780,020.64	\$ 13,475,025.80	\$ 13,475,025.80	\$ 51,205,098.04
Newfoundland	\$ 1,060,132.58	\$ 1,590,198.88	\$ 2,120,265.17	\$ 2,650,331.46	\$ 2,650,331.46	\$ 10,071,259.55
Yukon	\$ 924,696.70	\$ 1,387,045.06	\$ 1,849,393.41	\$ 2,311,741.76	\$ 2,311,741.76	\$ 8,784,618.69
Ontario	\$ 8,041,829.12	\$ 11,326,642.09	\$ 14,611,455.05	\$ 18,264,318.81	\$ 18,264,318.81	\$ 70,508,563.88
<b>Sub-total</b>	<b>\$ 17,671,145.98</b>	<b>\$ 25,770,617.37</b>	<b>\$ 33,870,088.76</b>	<b>\$ 42,337,610.95</b>	<b>\$ 42,337,610.95</b>	<b>\$ 161,987,074.01</b>

7. Budget 2016 investments are a first step to establishing stability for front-line services and ensuring continued access to these services as Canada engages with its partners to reform the Program.

*Clarification on the 2012 Deck's \$38 million and explanation of why the amount for British Columbia is different.<sup>4</sup>*

8. The \$38 million funding increase identified in the 2012 draft Way Forward presentation was scaled up over five years, as indicated on slide 16 of that presentation. Therefore, the preliminary estimate of \$32 million needed to implement the Enhanced Prevention Focused Approach ("EPFA") in British Columbia, Yukon, New Brunswick, Newfoundland and Labrador and Ontario from 2012 (removing funding for Maintenance and Strength and Accountability) should be compared with the Budget 2016 investment of \$42.3 million for Years 4 and 5 for Prevention, and not with Budget 2016 Year 1 investments:

	2012 DRAFT Deck	Budget 2016 Funding Year 4 & 5
Yukon	\$2 M	\$ 2,311,741.76
British Columbia	\$21 M	\$ 13,475,025.80
Ontario	\$5 M	\$ 18,264,318.81
New Brunswick	\$2 M	\$ 5,636,193.12
Newfoundland and Labrador	\$2 M	\$ 2,650,331.46
<b>Subtotal for 5 jurisdictions</b>	<b>\$32 M</b>	<b>\$42,337,610.95</b>
Maintenance	\$4 M	
Strength and Accountability	\$2 M	
<b>Total</b>	<b>\$38 M</b>	<b>\$42.3 M</b>

Please note that unlike in 2012, maintenance for expanding prevention would be included as part of the Program's Annual Growth and Cost Drivers calculation.

<sup>4</sup> Caring Society's Submissions dated June 8, 2016, paras. 21 and 23.

9. When comparing the correct numbers, there is only one jurisdiction (British Columbia) which will receive less than the amount identified in Option 1 of the 2012 draft Way Forward presentation. The decrease in funding for British Columbia is due to a variety of reasons, which are outlined below:

- a) Budget 2016 was developed using formulas that were updated over several years through a comprehensive process undertaken by INAC which included a cost driver study and trend analysis, using the most current data available by jurisdiction. These updated amounts more accurately reflect the needs and requirements of the Program. The figures outlined in the 2012 draft Way Forward presentation were preliminary estimates and do not include any revisions made to funding levels since 2012.
- b) Funding for service providers in British Columbia was determined using a funding formula that was tailored to reflect the provincial delegation model. In British Columbia, the Ministry of Children and Family Development uses a three tiered operational process for delegated Aboriginal Child and Family Service agencies: C3 - Resource development and voluntary service delivery; C4 - Guardianship services for continuing custody wards; C6 - Full child protection services.<sup>5</sup>
- c) The formula was tailored to reflect the provincial delegation model to ensure the funding provided to agencies is more in line with the services for which they have been delegated. The estimate provided in the 2012 draft Way Forward Deck was calculated by applying a standard EPFA model to all agencies regardless of their level of delegation. Furthermore, the INAC BC Regional Office worked with First Nation Child and Family Service Agency Directors to determine the best way to allocate immediate relief funding to achieve the most beneficial impact for those they serve.

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<sup>5</sup> More information on the British Columbia delegation process can be found at: <http://www2.gov.bc.ca/gov/content/family-social-supports/data-monitoring-quality-assurance/reporting-monitoring/accountability/delegated-aboriginal-agencies/delegation-process>.

- d) For more details on the updated funding model used for Budget 2016, please see Annex B of Canada's May 24, 2016 submission.

***Response to the submission that Canada did not provide a specific reference to the number of agencies receiving additional funding to reflect actual children in care counts in Directive 20-1 jurisdictions.<sup>6</sup>***

10. As outlined in Canada's April 18, 2016 Budget 2016 follow-up submission, 26 agencies were identified as serving communities with more than 6% of children in care (7% in Manitoba) as part of the Budget 2016 costing exercise. The breakdown by region is as follows:

- a) Newfoundland and Labrador: one service provider operating with over 6% children in care;
- b) British Columbia: five service providers operating with over 6% children in care;
- c) Manitoba: four service providers operating with over 7% children in care;
- d) Alberta: seven service providers operating with over 6% children in care;
- e) Quebec: eight service providers operating with over 6% children in care; and
- f) Saskatchewan: one service provider operating with over 6% children in care.

11. As one of the drivers for the Program's annual growth and cost drivers is the ratio of children in care, in the future, agencies that have the more than 6% of children in care will be able to have their funding levels adjusted to reflect operational needs.

***Clarification on funding for small agencies.<sup>7</sup>***

12. Current funding methodology for scaling small agencies through core funding **does not** decrease the funding provided to an agency for protection or prevention services. Under current funding methodologies, agencies serving a population of less than 800 children have funding provided to their core services scaled. These core line items include:

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<sup>6</sup> Caring Society's Submissions dated June 8, 2016, para. 27.

<sup>7</sup> Caring Society's Submissions dated June 8, 2016, paras. 30 and 32.

- a) expenses for Board of Directors;
- b) salaries for the Director, Human Resources, Administrative and Financial staff positions;
- c) funding for agency evaluations, audit, insurance and legal; and
- d) administration overhead, benefits, training and travel for the **above positions only.**

*Further information required to explain how Canada's "growth and cost drivers" formula was calculated.<sup>8</sup>*

13. As previously outlined in Canada's May 24, 2016 submissions, the Budget 2016 investments also include increased funding to address growth and future cost drivers. The annual amount for growth and cost drivers was calculated at approximately 3% of program investments to address future growth in Program costs. The increased funding takes into account the growth and cost drivers needed over the next five years to address pressures in the area of:

- a) child maintenance costs;
- b) non-salary operations costs;
- c) salaries; and
- d) rates of the number of children in care.

14. Allocation of the Budget 2016 investments to address the various growth and cost drivers will be done through regular review of the needs within the program. This additional funding is expected to align with provincial and territorial rates and will help to address the need to reallocate funding from other departmental programs to address shortfalls within the Program.

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<sup>8</sup> Caring Society's Submissions dated June 8, 2016, paras. 35 and 36.



***Clarification on how funding for non-EPFA regions was calculated.<sup>9</sup>***

15. The funding model used to calculate the investment for service providers that have not yet transitioned to EPFA was determined by applying an updated and improved EPFA model that included adjustments to expenditures that the Program was able to address within existing policy and funding authorities, as noted in Canada's submission of May 24, 2016 (para. 13). Templates of the funding models used to calculate these investments can be found in Annex B of Canada's May 24, 2016 submission.

16. As previously noted in Canada's May 24, 2016 submission (paras. 13a-13g), these updated formulas provide increased funding for a range of existing and new budget items including, but not limited to:

- a) upward adjustment for agencies with a child in care count above 6%;
- b) increases for prevention-based services for all jurisdictions;
- c) upward adjustments to staff salaries to provide comparability with current provincial rates;
- d) adjustments to case-worker ratios;
- e) additional funding for off-hour emergency services;
- f) increased investments to service purchase per child; and
- g) funding for intake and investigation services, which were previously managed and administered by the provinces.

17. These new investments will enable service providers to recruit and retain qualified and experienced staff, including social workers and other child-welfare practitioners, to adopt more community based service structures and to have the required resources to provide prevention activities that respond to their specific priorities and community needs. The investments of immediate relief funding are at the discretion of each service provider.

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<sup>9</sup> Caring Society's Submissions dated June 8, 2016, para. 38.

*Clarification on the 2012 Deck's \$108 million figure.<sup>10</sup>*

18. The figures outlined in the 2012 draft Way Forward presentation were preliminary estimates and do not include any additional revisions made to funding levels since 2012. Similar to Budget 2016 investments, the 2012 draft Way Forward presentation indicated that funds would increase over five years. Accordingly, the appropriate comparison for the preliminary estimate of \$108 million in the 2012 draft Way Forward presentation is Budget 2016's Year 5 \$176.8 million investment, not Budget 2016 Year 1's scaled investments of \$71 million.

19. In addition, the option proposed in the 2012 draft Way Forward presentation was not limited to expanding prevention services and programming in British Columbia, Yukon, New Brunswick, Newfoundland and Labrador and Ontario, but was an option to provide increased funding across the entire Program.

20. The \$108.13 million figure from INAC's 2012 draft Way Forward Presentation cited by the Caring Society included the following:

- a) \$32 million to expand the EPFA to the five remaining jurisdictions;
- b) \$43.1 million to top-up existing EPFA jurisdictions;
- c) \$4 million for maintenance (this amount has been rolled into the \$65.03 million and is not clearly identified in the presentation);
- d) \$27.03 million for program growth calculated at 3% (this amount has been rolled into the \$65.03 million and is not clearly identified in the presentation); and
- e) \$2 million for strength and accountability (this amount has been rolled into the \$65.03 million and is not clearly identified in the presentation).

21. In comparison, Budget 2016 amounts proposed at \$176.8 million for Year 5 and ongoing, are higher than what was proposed in the 2012 draft Way Forward presentation:

- a) \$40.4 million to expand prevention based services to the five remaining

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<sup>10</sup> Caring Society's Submissions dated June 8, 2016, para. 39.

jurisdictions;

- b) \$70.1 million to top-up jurisdictions operating under the EPFA (program integrity);
- c) \$62.6 million for program growth and cost drivers;
- d) \$2.3 million to support the expansion of provincial case management systems; and
- e) \$1.4 million for INAC internal resources.

***Clarification on comparability of staff benefit packages.<sup>11</sup>***

22. The methodologies of the agency costing model templates (provided as part of Annex B of Canada's May 24, 2016 submission) show that costing for staff benefits used the Government of Canada rate of 20.45% of total salaries. This methodology was agreed upon with partners in all EPFA jurisdictions as these frameworks were being established. It was expanded to remaining jurisdictions as part of INAC's Budget 2016 costing analysis. Canada is open to further discussions at regional tripartite tables and as part of larger reform conversations, to consider changing the way in which future rates are calculated.

***Explanation of why Canada has not addressed cost of living, remoteness, multiple offices, culturally appropriate programs and services, band representatives and least disruptive measures at the stage.<sup>12</sup>***

23. Issues of remoteness, multiple offices, capital infrastructure and band representatives will be addressed as part of reform discussions with relevant partners and stakeholders. Unilateral action by INAC to decide how to address these important issues would be contrary to the Government's commitment to renew the relationship between Canada and Indigenous peoples, building a relationship based on recognition of rights, respect, cooperation and partnership.

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<sup>11</sup> Caring Society's Submissions dated June 8, 2016, para. 44.

<sup>12</sup> Caring Society's Submissions dated June 8, 2016, para. 53.

***Response to the submission that Canada presumes, without any supporting data, that all of the agencies operating in Canada (many of which have been operating for at least 20-30 years) lack capacity to fully implement immediate relief measures.<sup>13</sup>***

24. Funding will be provided to agencies incrementally to allow them time to hire, train and retain staff, based on the availability of qualified social workers and other staff and to expand their prevention programming. This approach in no way means that Canada presumes that agencies lack the capacity to implement immediate relief measures, but recognizes that it takes time to grow any organization and this is a mechanism to ensure funding does not lapse.

25. The information provided by Canada in its submissions is a result of a long-term process that included discussions with agencies, First Nations representatives as well as Provinces and the Yukon Territory as part of ongoing work through existing tripartite and bilateral tables.

26. Finally, contrary to the allegation advanced, at no time has Canada ever suggested that “those who are victimized by the discrimination are somehow responsible for the slow pace of change”.

***Clarification on how Canada arrived at financial projections for 2017-18 to 2020-21 and steps to ensure funding is available following the next election cycle.<sup>14</sup>***

27. Funding provided through Budget 2016 investments will be ongoing.

28. Budget 2016 investments will be phased in with 100% implementation occurring in Year 4 (2019-20) and again in Year 5 (2020-21). The financial projections for 2017-18 to 2020-21 were calculated by scaling the full annual investment, as seen in Years 4 and 5. For program integrity jurisdictions (Quebec, Alberta, Saskatchewan, Prince Edward Island, Manitoba and Nova Scotia), funding has been scaled at a rate of Year 1 - 60%, Year 2 - 70%, Year 3 - 80% and 100% for Years 4 and 5. For expanding prevention (British Columbia, Yukon, New Brunswick, Newfoundland and Labrador and Ontario), funding has been scaled at a rate of Year 1 - 40%, Year 2 - 60%, Year 3 - 80% and 100% for Years 4 and 5.

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<sup>13</sup> Caring Society's Submissions dated June 8, 2016, para. 59.

<sup>14</sup> Caring Society's Submissions dated June 8, 2016, para. 61.

***Clarification needed on how immediate relief investment will be sufficient to address the discrimination identified by the Tribunal.<sup>15</sup>***

29. Canada's immediate relief investments will address and help to remediate the discrimination identified by the Tribunal and will improve outcomes for First Nations children and families. These investments will provide greater prevention services to families and support critically needed Program stability while ensuring that no disruption of services occurs during work to reform the Program.

***Clarification on the provision of funding to address growth in maintenance costs and INAC Operations.<sup>16</sup>***

30. Growth in maintenance costs, one of the components used to calculate the Program's annual adjustment, and costs for INAC operations are part of overall Budget 2016 investments to the Program. Annexes A and C of Canada's May 24, 2016 submission provide a complete breakdown of how these investments have been allocated to each FNCFS service provider. Funds from the annual adjustment will be allocated to agencies on an as-needed basis to respond to increases in maintenance expenses, provincial salary changes and increased ratio of children in care, as needed. Any growth in maintenance would continue to be addressed by INAC.

31. The small amount allocated to INAC operations is to support work with partners in implementing medium and long-term program reform measures.

***Clarification that immediate relief funds shall be used strictly for the purposes listed in the submissions and that additional and non-discriminatory funding shall be allocated for costs not enumerated on the list.<sup>17</sup>***

32. Budget 2016 investments provide increased funding across a range of existing and new formula line items. How immediate relief funds are allocated is at the discretion of each autonomous service provider according to their respective needs.

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<sup>15</sup> Caring Society's Submissions dated June 8, 2016, para. 62.

<sup>16</sup> Caring Society's Submissions dated June 8, 2016, para. 63.

<sup>17</sup> Caring Society's Submissions dated June 8, 2016, para. 64.

*Response to the concerns and further relief being requested as set out in Appendix “A” and response to the concerns regarding Canada’s responses to the Caring Society’s requested measures set out in Appendix “B”.<sup>18</sup>*

33. See Tables at Annex A and Annex B respectively for Canada’s response.

*Response to the submissions on the definition of Jordan’s Principle that Canada keep up-to-date information regarding its implementation of Jordan’s Principle, including its definition of Jordan’s Principle, assessment criteria and process, remediation and appeal mechanism.<sup>19</sup>*

34. Canada’s new approach to Jordan’s Principle addresses, in a timely manner, the needs of First Nations children living on-reserve with a disability or a short-term condition requiring health or social services. It helps to ensure that these children have access to the health and social services they need. Work is starting immediately and INAC and Health Canada are already applying the broader definition.

35. Under this new child-first principle, addressing the needs of children is the number one priority. Once a child’s needs are assessed, available services will be coordinated in the most effective and responsive way by preventing jurisdictional disputes from delaying their access to needed services.

36. The proposed approach to implementing this definition of Jordan’s Principle has three key components: a service coordination model of care; engagement with jurisdictional and First Nations partners on a longer-term approach; and a service access resolution mechanism. Together these components will ensure that Canada is positioned to meet the goal of immediately responding to the needs of First Nations children using the expanded definition while working to develop the capacity to identify and manage the support and service needs of vulnerable children.

37. A governance structure will be established to provide oversight to this new approach to Jordan’s Principle. This structure will include a working level committee comprised of Health Canada and INAC officials from headquarters as well as Director General and Assistant Deputy Minister-level Committees. The purpose of these groups is to provide oversight that will monitor

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<sup>18</sup> Caring Society’s Submissions dated June 8, 2016, para. 68.

<sup>19</sup> Caring Society’s Submissions dated June 8, 2016, para. 72.

and guide the implementation of the new application of Jordan's Principle, share information between and across Health Canada and INAC and provide an appeals function. Appeals will be heard in an expeditious way to ensure children with disabilities and those with short-term discrete conditions receive services in a timely manner.

38. In order to implement the new approach, Canada will invest up to \$382 million in new funding over three years to provide support to this approach and broader application of Jordan's Principle. This funding will be used to enhance service coordination and ensure service access issues are resolved so that children's needs are assessed and responded to quickly.

39. Canada will engage with First Nations, provincial partners and the Yukon to establish what supports are needed in the long term.

***Response to the submission that, without delay and on an annual basis thereafter, Canada post non-identifying data on the number of Jordan's Principle referrals made, the disposition of those cases and the timeframe for disposition as well as the result of independent appeals.<sup>20</sup>***

40. Canada will communicate on an annual basis, through formal reporting, data on Jordan's Principle, including the number of cases tracked by Jordan's Principle Focal Points, as well as how much funding from the Jordan's Principle fund was needed to address specific cases. It will also report on activities related to the Enhanced Service Coordination function.

***Response to the submission that, without delay, Canada provide all First Nations and First Nations child and family agencies with the names and contact information of the Jordan's Principle focal points in all regions and any future changes to these contacts.<sup>21</sup>***

41. Canada updated the Jordan's Principle section of INAC's website to ensure that if individuals believe they have encountered a potential Jordan's Principle case and have not been able to resolve it at the community level, they should contact INAC's or Health Canada's regional office, call the INAC enquiries referral telephone line or email INAC's public enquiry email box. INAC will maintain a current referral list for the Focal Points to ensure people are directed to the appropriate contacts and avoid delays. National and regional Focal Points are in regular contact to ensure consistent and accurate information is provided to individuals. As stated

<sup>20</sup> Caring Society's Submissions dated June 8, 2016, para. 72.

<sup>21</sup> Caring Society's Submissions dated June 8, 2016, para. 72.

previously, Canada will continue to engage with partners to improve the service.

### **Canada's Response to the Submissions of the Chiefs of Ontario**

#### ***Response to the suggestion that immediate relief funding be provided regardless of the Province of Ontario's concurrence.<sup>22</sup>***

42. Canada is working with the Government of Ontario to provide immediate relief funding to Ontario for the benefit of FNCFS service providers. Approximately \$5.8 million will be provided to Ontario.

43. As indicated in INAC's March 10, 2016, submission, due to the 1965 Agreement being between the federal government and the province, INAC is not in a position to make unilateral changes to the Agreement. Canada cannot flow funds to Ontario, via the 1965 Agreement, without the province's concurrence. There is, currently, no other funding agreement available to flow immediate funds to Ontario.

44. At this time, Ontario has not agreed to allow immediate relief funding to be flowed through the 1965 Agreement. By letter of June 2, 2016, addressed to INAC's Deputy Minister, Ontario proposes that an alternative approach be found to create an interim arrangement outside of the 1965 Agreement for INAC to flow funds for immediate relief. INAC is actively working with Ontario to find a means to flow this money to the province as soon as possible. Before any options are finalized, INAC would seek support from First Nations leadership.

45. INAC fully supports a multi-party, collaborative approach including the Ontario First Nations leadership and the province to reach agreement to expedite the provision of immediate relief funding and to review the 1965 Agreement in order to recommend reforms.

#### ***Response to the request for the imposition of a deadline for the distribution of immediate relief.<sup>23</sup>***

46. As part of INAC's immediate relief investment, approximately \$5.8 million will be provided to Ontario to support First Nations Child and Family services. INAC is prepared to

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<sup>22</sup> Chiefs of Ontario's Submissions, June 8, 2016, para. 11.

<sup>23</sup> Chiefs of Ontario's Submissions, June 8, 2016, para. 14.



immediately flow the funding for on-reserve preventative services within Budget 2016 commitments. First Nations and service providers funded by Ontario may wish to design and implement other types of services to meet specific needs to prevent children from coming into care.

47. Canada's immediate relief investments are available for distribution. INAC officials have been in contact with the province to discuss how to flow these investments in a timely manner. INAC officials have contacted Chiefs of Ontario and provincial officials to arrange for meetings with First Nations representatives and provincial officials to discuss how these investments could be allocated in a timely manner.

48. As work is ongoing between Ontario and First Nations leadership, Canada requests the Tribunal not impose a deadline and instead allow the parties to work collaboratively to address this issue.

***Response to the request for additional information regarding how Canada determined the budget amount for immediate relief funding in Ontario and request for information about the relevance of Akwe:go and Wasanabin prevention programs for cost-comparison purposes.<sup>24</sup>***

49. Budget 2016 commits to increased funding each year over the coming four years. By Year 4 (2019-20), the annual allocation of \$15,901,511 will represent an increased federal government contribution of approximately \$560 per child, based on a December 2014 on-reserve population of 28,426 registered Indian children aged 0-18 in Ontario. Current INAC funding of prevention services is approximately \$600 per child. Thus, INAC's total annual allocation by 2019-20 for prevention services in Ontario First Nations will be more than \$1,160 per child. This federal contribution represents approximately 93.5% of the anticipated total eligible provincial reimbursement claim for these services under the 1965 Agreement.

50. The Budget 2016 allocation of \$15,901,511 annually by 2019-20 in Ontario is aimed to address two funding gaps. The costing approach aimed to ensure that each service provider would receive provincial funding of at least \$1,000 per on-reserve child for prevention services, plus an additional amount of more than \$200 per on-reserve child for potential new programs

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<sup>24</sup> Chiefs of Ontario's Submissions, June 8, 2016, paras. 17 and 18.

such as the youth-focused off-reserve Akwe:go and Wasanabin prevention programs. INAC took into consideration that Ontario currently invests approximately \$6,200,000 in the off-reserve Akwe:go and Wasanabin programs.

51. In light of the objective of the 1965 Agreement to provide services on the basis that needs in First Nations communities should be met according to standards applicable in other communities in Ontario, the Akwe:go and Wasanabin programs offered through the Ontario Federation of Indigenous Friendship Centres were identified as potentially relevant prevention-based programs available to urban Aboriginal children and youth, with a potential to be adapted and extended to on-reserve First Nations communities with additional federal support.

52. When Ontario introduced this programming off-reserve in the Friendship Centres a decade ago, it expressly invited Canada to develop a comparable on-reserve program. Due to lack of funding, additional investments were not available until Budget 2016.

***Response to the allegation that immediate relief funding does not account for remoteness nor for the different circumstances faced by the agencies in Ontario.<sup>25</sup>***

53. As noted in Canada's June 3 submission, INAC recognizes that remoteness is one of the key challenges affecting the delivery of services in many northern communities. Canada will include this important topic through partner engagement and with expert input both through the review of the 1965 Agreement and as part of the engagement process going forward.

54. Although the costing methodology did not address remoteness concerns, INAC is open to the recommendations of First Nations leadership and the province to allocate immediate relief funding where it is most needed, potentially including a consideration of remoteness.

55. As stated in Canada's June 3 submission, INAC will engage on undertaking and providing support for research on this topic, including consideration for building on the research contained in the Barnes report, to analyze a possible remoteness quotient.

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<sup>25</sup> Chiefs of Ontario's Submissions, June 8, 2016, para. 23.

***Response to the issue of funding for the Band Representative program.<sup>26</sup>***

56. As noted in Canada's May 26 and June 3, 2016 submissions, funding for Band Representatives in the child welfare process will be considered as part of the Program reform process as Canada wants to engage with appropriate partners and take into consideration their suggestions on how to best address this request.

***Response to the submission that Canada has not committed any immediate relief for mental health services in Ontario.<sup>27</sup>***

57. On June 13, 2016, Prime Minister Justin Trudeau announced approximately \$69 million will be invested over the next three years to provide immediate support for indigenous mental wellness. This new funding will support various measures, including:

- a) four crisis response teams to provide capacity for rapid response services and crisis coordination in regions located in Ontario, Manitoba and Nunavut identified as having the greatest need;
- b) an increase of mental wellness teams from 11 to 43 for communities most at-risk in order to strengthen existing community supports;
- c) training for existing community-based workers to ensure that care services are provided in a culturally appropriate and competent way;
- d) the establishment of a 24-hour culturally safe crisis response line;
- e) collaboration with Inuit partners to develop a community-led suicide prevention approach; and
- f) funding for two permanent mental health workers to deliver care in Attawapiskat.

58. This funding will be in addition to what Canada currently provides, close to \$300 million annually for community-based mental health and addictions programming on-reserve and in the territories.

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<sup>26</sup> Chiefs of Ontario's Submissions, June 8, 2016, para. 24.

<sup>27</sup> Chiefs of Ontario's Submissions, June 8, 2016, para. 25.

## **Canada's Response to the Submissions of the Commission**

### ***Response to the submissions on Canada's use of the term "stakeholders".<sup>28</sup>***

59. Agencies and front-line service providers, First Nations communities and leadership, and the parties to this Complaint are key partners and key stakeholders in reforming the Program. Canada supports the inclusion of all partners in discussions to reform the Program.

## **Canada's Response to the Submissions of the AFN**

### ***Response to the submission that INAC be ordered to engage in consultations with the Commission on immediate measures to redress the discrimination which it has been found to be guilty of perpetrating against First Nations' children and families.<sup>29</sup>***

60. Canada has already addressed a number of immediate relief measures, such as providing increased funding to FNCFS service providers through an updated and improved funding formula. Canada would like to move forward with addressing medium and long-term reform through engagement with key partners.

61. All work to reform the Program will include engagement with key partners such as agencies and front-line service providers, First Nations communities and leadership, Provinces and Yukon Territory and the parties to this Complaint.

### ***Response to the submission that Canada has made no attempts to discuss and negotiate immediate relief with the Complainants.<sup>30</sup>***

62. Canada disagrees with the statement that no attempts have been made by Canada to engage with the AFN on the issue of immediate relief.

63. INAC officials have met with officials from the AFN numerous times following the release of the Tribunal's decision to discuss issues related to the formation of the Committee and have met to discuss INAC's immediate relief commitments. The majority of the requests for

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<sup>28</sup> Commission's Submissions, June 24, 2016, para. 5.

<sup>29</sup> AFN's Submissions, June 24, 2016, para. 5.

<sup>30</sup> AFN's Submissions, June 24, 2016, para. 8.

additional immediate relief components that the Complainants have raised will need to be addressed in the medium to long term, following engagement with partners.

64. As part of its immediate relief efforts, INAC has committed to cash-managing \$36 million, half of Year 1 Budget 2016 investments, to provide much needed investments to FNCFS service providers in Quarter 1/Quarter 2 of the 2016-17 fiscal year. As of July 1, 2016, approximately \$28.4 million has been provided to FNCFS service providers and the Department is working to roll-out the remaining Quarter 1/Quarter 2 funding.

65. The remaining funds that will be provided in Quarter 3/Quarter 4 of the fiscal year as new investments remain subject to Parliamentary and Treasury Board approval. A breakdown of these investments can be found at Annex C of Canada May 24, 2016 submission.

***Response to the submission that the Tribunal should appoint the Commission to engage all party discussions on immediate relief; direct the Commission to create a subsequent draft order, including specific dates for the Respondent to implement all of the elements of immediate relief; and require the Commission to submit a draft order agreed upon by all parties within 60 days of the Panel's section 53(2) order.<sup>31</sup>***

66. The proposed order should not be granted as it is not necessary.

67. As previously stated, INAC's immediate relief investments are currently being provided to FNCFS service providers. \$36 million has been committed to support service providers in Quarter 1/Quarter 2 2016-17, with remaining funding to be released in Quarter 3/Quarter 4 upon Treasury Board and Parliamentary approvals.

68. INAC has committed to working with key partners to advance Program reform and to address a number of the relief measures proposed by the Complainants, such as remoteness, small agencies, legal fees, etc. This work needs to be addressed as part of mid to long-term reform and after thorough engagement with key partners.

69. As such, Canada does not believe it necessary for the Commission to be appointed.

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<sup>31</sup> AFN's Submissions, June 24, 2016, para. 13.

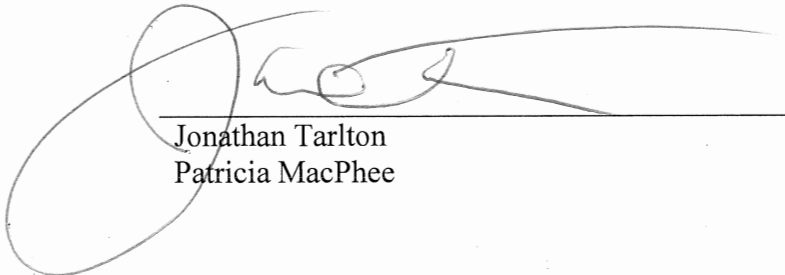
*Response to the submission that the Tribunal order Canada or direct the Commission to address the issue of resourcing the parties to ensure their meaningful participation in the process to effect reform.*<sup>32</sup>

70. INAC will be providing support to ensure participation by key partners (including the parties to this Complaint) in future efforts to reform the Program.

71. Canada is committed to continue to work with the Complainants, Interested Parties and partners who did not appear before the Tribunal to renew its relationship with Indigenous people in the area of child welfare reform. This work will require sufficient time to yield positive and measurable outcomes and collaboration between all parties.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

July 6, 2016



Jonathan Tarlton  
Patricia MacPhee

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<sup>32</sup> AFN's Submissions, June 24, 2016, para. 17.

**Appendix A: Canada's compliance with immediate relief orders and additional immediate relief sought by the Caring Society**

<b>Caring Society Requests for Further Orders</b>		<b>INAC's Response to Requests for further Orders</b>
<b>1</b>	<b>The Caring Society asks that Canada be required to explain in detail how Canada will consult with the parties, First Nations and First Nations agencies regarding all matters regarding Jordan's Principle.</b>	Engagement is a key component of the new approach to Jordan's Principle. As mentioned in the May 10 submission, Health Canada and INAC have written jointly to provinces and territories to initiate discussions related to Jordan's Principle. First Nations leaders will also be engaged on the design, management and delivery of the new approach to Jordan's Principle for implementation over the next three years as well as longer-term policy and program reform. INAC and Health Canada senior officials will meet with the AFN to discuss next steps and to develop specific details on implementation of a child-first approach. At the same time, headquarters and regional executives will engage their First Nation partners on the proposed approach.
<b>2</b>	<b>The Respondent be ordered to: i) identify the amount of funding identified to respond to Jordan's Principle cases; and ii) identify any criteria and processes related to accessing the funding.</b>	Canada's renewed child-first approach is dedicating up to \$382 million in new funding over the next three years to ensure the health and social needs of First Nations children on-reserve with disabilities and those who present with a discrete, short-term issue for which there is a critical need for health and social supports are met. This fund will be accessed by Health Canada and INAC to cover costs of services that are required to meet provincial normative standards of services for children with disabilities living on-reserve when these services are not otherwise available. The fund will be used to address the individual needs of children as cases are brought forward, to resolve access issues, as well as to enhance service coordination. During this three-year time period, Canada will work with First Nations partners, provinces and Yukon territory to assess this response and ensure a longer term approach is established.
<b>3</b>	Canada's May 10, 2016 report simply says disputes within the federal government are now included, it does not specifically say the federal government is now applying Jordan's Principle to all jurisdictional disputes.  <b>The Caring Society asks that Canada be required to</b>	Canada reiterates its position identified in its May 10 submission to the Tribunal that it has expanded the application of Jordan's Principle to apply to all jurisdictional disputes and now includes those between federal government departments. On May 9, 2016, an interim guidance document was issued to Health Canada regional focal points and is a key component of Canada's renewed child-first approach. On May 4th, the expanded scope of Jordan's

<b>Caring Society Requests for Further Orders</b>	<b>INAC's Response to Requests for further Orders</b>
<p><b><u>confirm that INAC is applying Jordan's Principle to all jurisdictional disputes.</u></b></p>	<p>Principle was communicated by teleconference to INAC regional Focal Points and on June 9th, INAC regional Focal Points met face-to-face in Ottawa to discuss the details of the expanded scope.</p> <p>Officials from both departments at Headquarters and regions are closely monitoring all potential Jordan's Principle cases and regular regional Jordan's Principle Focal Points teleconferences have been instituted to discuss the status and resolution of cases.</p> <p>Following the announcement of the child-first approach on July 5, 2016, Health Canada and INAC will provide further direction to their staff to initiate the implementation of this approach, as well as support the resolution of disputes or service gaps over the next three years based on provincial normative standards.</p>
<p>4 In its May 10, 2016 response (p.2), the Respondent confirms it has written to the provinces and territories but provides no evidence of communicating such reforms in detail and in writing to First Nations, FNCFS agencies, federal employees working in First Nations children's programs including Jordan's Principle focal points and to the public.</p> <p><b>The Caring Society requests that the Respondent be ordered to communicate such reforms in detail and in writing to First Nations, FNCFS agencies, federal employees working in First Nations children's programs including Jordan's Principle focal points and to the public within 10 business days of the order</b></p>	<p>Following the announcement of the child-first approach, senior officials will engage with First Nations at the national and regional levels to plan the design and the implementation of the Service Coordination function and develop an effective approach to organize services for First Nations children on-reserve with disabilities.</p>
<p>5 Canada's May 10, 2016 compliance report (p.2) only speaks to its commitment to no longer restrict Jordan's Principle cases to children with multiple disabilities and multiple service providers but falls short of confirming that the Respondent is now applying Jordan's Principle to <u>all First Nations children</u> as the order requires.</p>	<p>Pursuant to paragraph 379 of the Tribunal's decision issued January 26, 2016, Jordan's Principle is designed to address issues of jurisdiction which can result in delay, disruption and/or denial of a good or service for First Nations children on-reserve, and further, paragraph 382 states that Jordan's Principle is meant to apply to all First Nations children. Therefore, as per the Tribunal's decision, Canada reiterates its position identified in its May 10 submission to the Tribunal</p>



		<b>Caring Society Requests for Further Orders</b>	<b>INAC's Response to Requests for further Orders</b>
			that the new approach to Jordan's Principle now applies to all First Nations children living on-reserve.
6	<p>The preamble to Canada's May 10, 2016 submission (p.1) acknowledges Jordan's Principle's must apply without the case conferencing requirement, but the balance of the submission includes no action on how this has been complied with.</p> <p><b>The Caring Society asks that Canada be required to provide specific details as to what action INAC has taken to comply with the "government of first contact" provision in the CHRT order.</b></p>		<p>Health Canada and INAC are working together to ensure the government of first contact pays for the required services that align with Jordan's Principle. On May 4th, the expanded scope of Jordan's Principle was communicated by teleconference to INAC regional Focal Points and on June 9th, INAC regional Focal Points met face-to-face in Ottawa to discuss the details of the expanded scope. INAC is in frequent contact with regional Focal Points to address questions; and all potential Jordan's Principle cases are being monitored. On May 9, 2016, an interim guidance was issued to Health Canada's regional Jordan's Principle Focal Points stating that: "the current definition of Jordan's Principle should not be used when considering whether Jordan's Principle applies in a situation involving a child with disabilities". In addition, regions were directed to "ensure that needed services for children will not be delayed due to case conferencing or policy review". Further management of any such case will be done in a manner that will ensure the appropriate service or suite of services is being implemented in a timely manner.</p>
7	<p>Canada suggests it will manage Jordan's cases in ways that result in children receiving services in a "timely" manner fails to ensure that its management of cases in a timely manner does not result in adverse differentiation or denials of service nor does it provide any details on the management process or what timely means.</p> <p><b>Caring Society requests and order that the Respondent be required to: i) describe the process it will use to "manage" Jordan's Principle cases in detail including special procedures to respond urgent cases and cases arising outside of business hours; ii) how the public can report Jordan's Principle cases and appeal decisions; iii) how the Respondent's process ensures</b></p>		<p>There is a network of Jordan's Principle Focal Points in Health Canada and INAC offices who are trained to respond to cases should they arise. Additional training and orientation of Focal Points to the new definition and expanded scope of Jordan's Principle will begin immediately.</p> <p>If families believe they have encountered a potential Jordan's Principle case and have not been able to resolve it at the community level, they are invited to contact INAC's Regional Offices or Health Canada's Regional Offices via phone, or call the INAC public enquiries referral telephone line at 1-800-567-9604, or to submit requests to INAC's InfoPubs email address. Further details are available on INAC's website at: <a href="https://www.aadnc-aandc.gc.ca/eng/1334329827982/1334329861879">https://www.aadnc-aandc.gc.ca/eng/1334329827982/1334329861879</a>. Canada is assessing whether an off-business hour mechanism needs to be put in place.</p>

<b>Caring Society Requests for Further Orders</b>	<b>INAC's Response to Requests for further Orders</b>
<p><b>non-discrimination and compliance with 2016 CHRT 2 and 2016 CHRT 10; iv) Details on the training of, and direction to, government staff to ensure Jordan's Principle cases are received, assessed, and addressed in accordance with 2016 CHRT 2 and 2016 CHRT 10; and be required to provide v) quarterly public reporting on numbers of Jordan's Principle cases received, processing outcomes and times and case results.</b></p>	<p>As part of the three-year plan, a new service coordination function will be established and managed by independent organizations funded through Funding Arrangements to identify and address the needs of children with disabilities. Service coordinators will develop integrated care plans; connect the child and family to services; and alleviate the stress of navigating service systems. Service coordination supports a more comprehensive approach to needs assessment that goes beyond those cases requiring the intervention of a Jordan's Principle Focal Point. They will involve Jordan's Principle Focal Points as necessary to expediently address any critical service gaps.</p> <p>Data collection, tracking and reporting is a key aspect of the new approach. The proposed three-year timeframe will allow for the collection of needs and service data based on actual cases that are brought forward for dispute management and/or service coordination. This data, together with the outcomes of stakeholder engagement, will inform a longer term approach to addressing the needs of First Nations children on-reserve.</p> <p>An envelope dedicated to services for children on-reserve with disabilities has been established. This fund will be accessed by INAC and Health Canada to cover costs of services that are required to meet provincial normative standards of services when these services are not otherwise available.</p> <p>As stated above, a governance structure will be established to deal with Jordan's Principle cases when they arise. This structure will include a working level committee, as well as an Assistant Deputy Minister-level oversight mechanism at headquarters that will monitor and guide the implementation of the new application of Jordan's Principle. The ADM-level oversight mechanism will also act as an appeals body that will deal with urgent situations falling outside the standard Jordan's Principle definition. Appeals will be heard in an expeditious way to ensure children with disabilities receive services in a timely manner.</p>
<p><b>8</b> Canada be ordered to provide the amounts allocated per item, the means by which these items were identified and relate to compliance with the Panel's rulings, the</p>	<p>Annex B of Canada's May 24, 2016 submission provides the amounts allocated per item across all regional models and the methodologies used to arrive at these amounts.</p>

<b>Caring Society Requests for Further Orders</b>	<b>INAC's Response to Requests for further Orders</b>
<p>calculations used to arrive at given amounts and the data relied upon as part of the calculation.</p> <p><b>The Caring Society requests the Respondent be ordered to exclude growth in maintenance costs and costs related to INAC operations and personnel from immediate, medium and long term relief as these are regular program costs.</b></p>	<p>Growth in maintenance costs are a critical component of Program expenditures.</p> <p>The annual adjustments provided through Budget 2016 investments were calculated using growth in maintenance as a factor which will help address increased costs incurred by FNCFS service providers. INAC will provide these amounts to service providers as needed to cover all eligible expenses, including maintenance.</p> <p>Further, <b>all</b> funding under the annual adjustment will be allocated to FNCFS service providers.</p> <p>INAC's operating costs make up less than 1% of overall investments to the Program in Budget 2016.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
<p><b>9</b> The Respondent has provided no evidence or data to support its contention that an incremental investment is legitimized by its claims in the April 6, 2016 submissions nor does it explain why such an approach was imposed on all First Nations Child and Family Service Agencies regardless of years of experience, capacity and readiness. The Respondent also fails to provide a detailed report on how it calculated the amounts for each year and what data it relied upon for such calculations for fiscal years ranging from 2016-2021.</p> <p><b>The Caring Society requests INAC be ordered to cease its incremental approach to remedying the inequality based on unsupported assumptions of agency readiness or other considerations.</b></p>	<p>Further information on how Budget 2016 investments were calculated can be found in Canada's May 24, 2016 submission in Annex B and have been further elaborated as part of this this submission.</p> <p>Past experience and discussions with funding recipients have shown that incremental funding allows FNCFS services providers enough time to hire, train and retain staff, based on the availability of qualified social workers, and expand their prevention programming.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>

**Appendix B: Caring Society's requests for further orders related to the Respondent's compliance reports**

<b>Caring Society Requests for Further Orders</b>		<b>INAC's Response to further Orders</b>
<b>1</b>	<p>While the federal government recognizes the importance of "culturally-based and community-supported FNCFS programming" it provides no funding to make that possible. This will hamper First Nations child and family service providers in their provision of culturally based services and in their efforts to cost out culturally based services in the medium and long term relief stages. The federal government fails to provide an alternative strategy for ensuring culturally based equity.</p> <p><b>The Caring Society requests that the Respondent be ordered to provide each FNCFS Agency with an initial amount of \$75,000.00 for fiscal year 2016/2017 to develop and/or update a culturally based vision for safe and healthy children and families and to begin to develop and/or update culturally based child and family service standards, programs and evaluation mechanisms.</b></p>	<p>Supporting the development and/or updating of culturally-based and community-supported First Nations child and family services and programming is an important matter that Canada would like to address as part of future program reform as Canada would like to hear the voices and proposed options from FNCFS service providers.</p> <p>In addition, FNCFS service providers could utilize immediate relief investments to respond to the need for culturally-based programming and activities that respond to individual community needs.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order and allow Canada time to engage with its partners to achieve the necessary reforms.</p>
<b>2</b>	<p><b>The Caring Society requests that the Respondent be ordered to: Before August 31, 2016 and in a manner approved by the Canadian Human Rights Commission (hereinafter "the Commission") and the Complainants, the Respondent must ensure that its staff and executive staff receive 15 hours of mandatory training on the Truth and Reconciliation Commission's final report (December, 2015); the FNCFS Program (including formula development, assumptions, and program reviews); the Tribunal decision on the merits, and on the full meaning and scope of Jordan's Principle as set out in the Tribunal's decision on the merits and subsequent</b></p>	<p>As noted in para. 18 of its May 24, 2016 submission, Canada remains open to further discussions on improving the cultural sensitivity of its employees.</p> <p>However, the request that staff undertake specific training is beyond the scope of the Complaint and seeking to have all staff trained in this respect is overly broad.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>

Caring Society Requests for Further Orders		INAC's Response to further Orders
	decisions	
3	<p><b>1. The Caring Society requests that the Respondent be ordered to fully reimburse the following actual costs incurred by FNCFS agencies, without restrictions based on the existing funding formulas:</b></p> <p>a. legal fees related to child welfare investigations (i.e., warrants), children in care and inquiries, according to the tariff employed by the federal government for the remuneration of outside counsel, as updated from time to time;</p> <p>b. actual costs related to the receipt, assessment and investigation of child protection reports;</p> <p>c. costs of building repairs where a FNCFS agency has received from a licensed building inspector, structural engineer, fire marshal or equivalent First Nations authority a notice to the effect that repairs must be done to comply with applicable fire, safety and building codes and regulations or where there is other evidence of non-compliance with applicable fire, safety and building codes and regulations</p>	<p>Canada wants to ensure that accurate information is being collected with respect to the actual costs of these and other items that may be raised throughout the engagement process. Accordingly, Canada requests that the Tribunal allow it to work with key partners such as FNCFS agencies, communities, leadership and front-line service providers, with Provinces and Yukon territory and with the parties to this Complaint on how to address these and other issues as part of Canada's commitment to reform the Program before making a decision at this point.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
4	<p>This year, only 51,830.765.38 will be conferred to agencies.</p> <p><b>The Caring Society requests that the Respondent be ordered to cease the practice of requiring FNCFS agencies to recover cost overruns related to increases in the number of children in care or the higher needs of children in care from the prevention and operations funding streams</b></p>	<p>Budget 2016 investments will provide FNCFS agencies with funding to address cost and growth drivers. As has always been INAC's business practice, should pressures exceed an agency's allocated budget, additional resources would be secured through INAC regional offices requesting funding pressures be considered by INAC Headquarters for additional funds.</p> <p>In addition, Program reform will involve a redesign of the Program funding models, policies and procedures.</p>

<b>Caring Society Requests for Further Orders</b>		<b>INAC's Response to further Orders</b>
		Canada respectfully requests the Tribunal not grant the Caring Society's requested order.
5	<p><b>The Respondent has not shown whether or how these [immediate relief] investments will be sufficient in complying with the request, why the investment will be conferred only incrementally or the data upon which these increases were calculated.</b></p> <p><b>The Caring Society requests that the Respondent be order to immediately make the adjustments in the calculation of the operation and prevention budgets of FNCFS agencies, with respect to provinces and territories covered by Directive 20-1 and those covered by EPFA.</b></p>	<p>Any additional changes, updates or overhaul to Program funding formulas will be addressed through engagement with our partners as part of Program reform.</p> <p>As set out in Canada's March 10, 2016 submission (para. 16), some of the specific changes proposed by the Caring Society to the funding approach are based on dated studies and information. Should the Tribunal order Canada to implement the suggested approach, it may not meet the current day needs of First Nations children and families.</p> <p>Budget 2016 formulas were updated through a thorough process undertaken by the Department over the years and included a comprehensive cost driver study and trend analysis, based on the most current data available by jurisdiction. These updated amounts more accurately reflect the needs and requirements of the Program.</p> <p>Further information on how Budget 2016 investments were calculated can be found in Canada's May 24, 2016 submission in Annex B and are further elaborated on as part of this submission.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
6	<p>The Respondent has not shown that it has updated the 1965 Agreement.</p> <p><b>The Caring Society requests that the Respondent be ordered to update the schedule of the 1965 Agreement to reflect the current version of the <i>Child and Family Services Act</i> (Ontario) and ensure funding for the full range of statutory services including band representatives, children's mental health and</b></p>	<p>The 1965 Agreement is between the federal government and the Province of Ontario and will require joint provincial and federal agreement to undertake changes which will need to be considered as part of mid to long-term reform.</p> <p>Approximately \$8 million will be provided to Ontario and to the Mohawk Council of Akwesasne (Quebec residents) in 2016-17. By Year 4, service providers in Ontario, including the Mohawk Council of Akwesasne, will receive approximately \$18.2 million in new investments (funding is ongoing), for a five-year investment of \$70.5 million in additional program funding.</p>

<b>Caring Society Requests for Further Orders</b>		<b>INAC's Response to further Orders</b>
	prevention services.	INAC will actively work with Ontario and First Nation partners regarding how these investments can better support prevention activities for First Nations families and children.
7	<b>The Caring Society requests that the Respondent be ordered to immediately provide \$30,000.00 to the Aboriginal Peoples Television Network to transfer the tapes of the Tribunal hearings onto a publicly accessible format and provide sufficient funds to the National Centre for Truth and Reconciliation to store and manage public access to the tapes.</b>	<p>Canada reiterates its previous submission from May 24, 2016 that the Aboriginal Peoples Television Network was not a party to the Complaint. As a non-party, the Tribunal should not grant it relief as part of the remedies. In addition, this request should not be considered as an immediate relief remedy.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
8	<b>The Caring Society requests that the Respondent be ordered to review decisions to deny funding to support the development and operation of FNCFS Agencies particularly with regard to the applications for new agencies by the Okanagan Nation Alliance and Carcross First Nations.</b>	<p>Canada provides funding to all First Nation agencies delegated under provincial/territorial legislation to provide child and family services on-reserve. The request of the Caring Society can only be addressed through engagement and agreement with provincial and territorial governments, as well as First Nation partners.</p> <p>In addition, engagement is key to fully addressing how best to change funding methodologies to meet the needs of smaller agencies and ensure that they remain viable and operational.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
9	<b>The Caring Society requests that the Respondent be ordered to immediately fund a new iteration of the Canadian Incidence Study of Reported Child Abuse and Neglect</b>	<p>As previously noted, Canada is supportive of providing funding for a new iteration of the Canadian Incidence Study and is now working with its partners to undertake this work; therefore, an order by the Tribunal is not necessary. Most recently, discussions were held with PHAC and researchers from McGill's Centre for Research on Children and Families on June 22, 2016.</p> <p>Therefore an order by the Tribunal is not necessary.</p>
10		Canada's position on this issue remains the same as in its May 24, 2016

<b>Caring Society Requests for Further Orders</b>		<b>INAC's Response to further Orders</b>
	<b>The Caring Society requests that the Respondent be ordered to cease its practice of reallocating funding from other First Nations programs to address shortfalls in First Nations child and family services, education, social assistance and other programs.</b>	<p>submission. Budget 2016 investments will contribute to a more stable and predictable funding environment within INAC, reducing the need for reallocations from other critical programs such as infrastructure and housing. Any commitment relating to funding for programs other than the FNCFS Program is beyond the scope of this Complaint.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
11	<b>The Caring Society requests that the Respondent be ordered not to decrease or further restrict funding for First Nations child and family services or children's services covered by Jordan's Principle.</b>	As stated at para. 4 of Canada's March 10, 2016 submission, Canada agrees not to decrease or further restrict funding for First Nations Child and Family Services or children's services covered by Jordan's Principle.
12	<b>The Caring Society requests that the Respondent be ordered to update its policies, procedures (including FNCFS agency reporting procedures) and contribution agreements to comply with the Tribunal's order and communicate such reforms in detail and in writing to First Nations, FNCFS Agencies and the public.</b>	<p>Reform will involve a redesign of the Program's funding models, policies and procedures. Such work will require significant analysis and collaboration with all relevant key partners and is therefore a longer term process. In the interim, extending funding to support dedicated prevention programming in all jurisdictions will allow Canada to eliminate the outdated Directive 20-1. This represents a significant step in addressing concerns raised by the Tribunal and the parties. Canada reiterates that using existing funding mechanisms and procedures will ensure children and families continue receiving services and will prevent any disruption of these services. Canada will work with its partners to update and adjust processes as needed for next fiscal year.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
13	<b>The Respondent has not shown that these [additional program investments] amounts will allow FNCFS Agencies to provide services on par with the funding received by such agencies in other provinces. The Caring Society requests that an order be issued to this effect.</b>	Revised formulas used to support Budget 2016 investments were updated following a comprehensive cost driver study and trend analysis, based on the most current data available by jurisdiction. The aim of these investments is to ensure that services provided to First Nation children living on-reserve are equitable to those being received by children off-reserve.



<b>Caring Society Requests for Further Orders</b>		<b>INAC's Response to further Orders</b>
		Canada respectfully requests the Tribunal not grant the Caring Society's requested order as best efforts are already underway to enable the provision of equitable services to First Nation children living on-reserve.
14	<p><b>The Caring Society requests that the Respondent be ordered to pay an amount of \$5,000,000.00, adjusted for the compound rate of inflation from 2012 values pursuant to the Consumer Price Index, to be divided among FNCFS agencies in Ontario in proportion to the population of First Nations children residing on reserve that they serve, in order to allow them to provide prevention services.</b></p>	<p>As noted in Canada's May 24, 2016 submission, the amounts to address cost drivers and growth provided to the Program through Budget 2016 accounts for average yearly growth include: maintenance growth; agency operating costs, excluding salaries (e.g. rent, transportation, supplies and equipment); salaries; and increases in ratios of children in care.</p> <p>As part of INAC's immediate relief investment, approximately \$8.0 million will be provided to the Ontario Government and to the Mohawk Council of Akwesasne (Quebec residents) in 2016-17. By Year 4, service providers in Ontario, including the Mohawk Council of Akwesasne, will receive approximately \$18.2 million in new investments (funding is ongoing), for a five-year investment of \$70.5 million additional program funding.</p> <p>Canada respectfully requests the Tribunal not grant the Caring Society's requested order.</p>
15	<p><b>The Caring Society requests that all of the above-noted relief be made immediately.</b></p>	<p>For fiscal year 2016-17, Canada will be providing FNCFS service providers \$60.9 million; \$7.3 million, on an as-needed basis, to address agency growth; and \$2 million is also available to agencies to support the expansion of provincial case management systems on-reserve.</p> <p>Canada has previously stated that it has scaled incrementally to reflect the need to hire and train staff and to plan for the expansion of prevention services. In discussions with partners, should additional funds be requested to provide services in the short-term while long-term reform is being determined, Canada would review the circumstances and consider the need. Should pressures exceed the allocated budget, additional resources would be secured by INAC regional offices submitting requests to INAC Headquarters to receive additional funds to cover these requirements.</p>

<b>Caring Society Requests for Further Orders</b>		<b>INAC's Response to further Orders</b>
		Canada respectfully requests the Tribunal not grant the Caring Society's requested order.
<b>16</b>	<b>The Caring Society requests that the Respondent be ordered to provide the data relied upon to make these calculations.</b>	Further information on how Budget 2016 investments were calculated can be found in Canada's May 24, 2016 submission in Annex B and have been further elaborated as part of this this submission.