

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 and AMNESTY INTERNATIONAL CANADA

Interested Parties

RESPONDENT'S FURTHER SUBMISSIONS ON REMEDY

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JUSTICE CANADA
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1. Canada is pleased to provide the following details on the immediate relief investments for child and family welfare services on reserve, further to its March 10, 2016 submissions.
2. On March 22, 2016, the Government of Canada proposed investments of \$8.4 billion over five years in First Nations families, youth and children as part of Budget 2016. This includes investments in key areas such as education, housing, school and community infrastructure, child and family services and family violence prevention. Through these investments, Canada will work in partnership with Indigenous peoples to improve the socio-economic conditions of Indigenous children, families and communities. The increased investments across the spectrum of programs for Indigenous people will have a positive impact on child welfare outcomes by improving overall conditions on reserve.
3. Importantly, other Government of Canada investments will positively affect Indigenous peoples across the country. In particular, investments in health infrastructure, culture, employment and job readiness, social benefits, early learning and development and the environment are critical to addressing some of the root causes of poverty and to ensuring that Indigenous children receive the best possible start in life.

IMMEDIATE RELIEF MEASURES

4. Budget 2016 identified new investments of \$634.8 million over five years to the First Nations Child and Family Services Program. These investments will enable the provision of greater prevention services to families and support critically needed program stability for front-line operations. Over the five-year period, investments will increase to make more funding available as front-line service capacity increases.
5. Specifically, the investments identified are: \$71.1 million in 2016-2017; \$98.6 million in 2017-2018; \$126.3 million in 2018-2019; \$162.0 million in 2019-2020; and \$176.8 million in 2020-2021, which is ongoing. These investments are intended

to be rolled out incrementally to provide time for service providers to hire and train additional, qualified staff and to expand prevention programming.

6. Specifically, immediate relief (\$71.1 million) for 2016-2017 will include:
 - \$54.2 million for the following:
 - immediate adjustments to Operations and Prevention through additional investments to update existing funding agreements;
 - increases to the per child service purchase amounts (including for prevention services);
 - funding for intake and investigation services;
 - upward adjustments for agencies with more than 6% of children in care; and
 - investments for providing federal support to expand provincial case management systems on reserve.
 - \$16.2 million for prevention funding in Ontario, British Columbia, New Brunswick, Newfoundland and Labrador and Yukon (non-EPFA jurisdictions) at nationally-consistent levels across all jurisdictions.
 - \$0.7 million to INAC resources for outreach, engagement and effective allocation of funding to service providers.
7. In addition to the investments identified in Budget 2016, INAC will continue to provide additional funding to meet needs, including:
 - maintenance funding to respond to budgetary pressures created as a result of provincial legislative changes to service delivery requirements, as they arise; and

- support for an engagement process going forward in conjunction with the National Advisory Committee and Regional Tables to work on medium and long-term reform.

UPDATE ON INAC'S INITIAL MEASURES RELATED TO PROGRAM REFORM

8. While the investments of Budget 2016 represent a concrete first step in improving outcomes for First Nations children and families, much-needed program reforms remain an urgent priority and will be developed in full partnership with First Nations.
9. A number of actions to begin this reform were identified in Canada's submissions of March 10, 2016 (paragraphs 9, 10, 11, 22, and 28). Below are details on the progress to date:
 - **National Advisory Committee:** On March 15, 2016, Canada invited the Assembly of First Nations, as co-chair of the National Advisory Committee, to initiate discussions on the re-establishment of this entity. The invitation was extended to the Caring Society and the Canadian Human Rights Commission. As previously noted, Canada believes the establishment of this Committee is a crucial step in addressing the medium to long-term changes to the FNCFS Program.
 - **Ontario and the 1965 Welfare Agreement:** On March 10, 2016, a meeting took place between then INAC Deputy Minister, Colleen Swords, and Ontario Ministry of Aboriginal Affairs Deputy Minister, Deborah Richardson, to discuss various issues, including child welfare in Ontario. Subsequently, on March 11, 2016, INAC Minister, Carolyn Bennett, met with Ontario's Minister of Aboriginal Affairs, the Honourable David Zimmer, to discuss key priority areas, including First Nations Child and Family Services in Ontario and the need to review the Ontario 1965 Agreement. These meetings have set the stage for the more substantive discussions that will take place with the First Nations.

- **Jordan's Principle:** INAC and Health Canada have begun discussions on the process for expanding the definition of Jordan's Principle, improving its implementation and identifying other partners who should be involved in this process. Over the next two to three months, Canada will begin engaging First Nations and the provinces and territories in these discussions. Beyond this, INAC will work with Health Canada and continue to engage with Indigenous peoples as partners to make real progress on the issues most important to them including health and mental health care.

SUBMISSIONS IN RESPONSE TO THE MARCH 31, 2016 REPLY SUBMISSIONS

10. Canada provides the following comments in response to the March 31, 2016 reply submissions of the Complainants, Commission and Chiefs of Ontario.
11. Any future National Advisory Committee discussions could include how best to determine the role of regional tables, links to First Nations organizations and provincial/territorial officials, as well as guiding principles and terms of reference similar to the previous iteration of the National Advisory Committee.
12. Canada's proposed approach to legal fees is appropriate and defensible in that it is the primary approach in determining the rates for counsel in cases where the federal government is ordered to pay for counsel. However, given the concerns raised in the Chiefs of Ontario and Caring Society submissions, Canada is willing to discuss additional options.
13. INAC has revised the Jordan's Principle section of its website reflecting that the federal response is under review in light of the Tribunal decision.
14. Canada will invite all parties to an information sharing session on its costing analysis for the immediate relief measures and will provide the relevant materials for this session.

15. If the parties are willing, a session could be organized to serve as an initial discussion on program reform, engagement and the other areas of possible support identified in Canada's submission of March 10, 2016 (at paragraph 30).
16. Progress updates will be provided to the Tribunal and parties on a regular basis.

CONCLUSION

17. Canada is committed to working with child and family services agencies, front-line service providers, First Nations organizations, leadership, communities, the Assembly of First Nations, the Caring Society and provinces and territories on steps towards program reform and meaningful change for children and families. The immediate relief measures outlined above are the essential first steps in this process.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

April 6, 2016



Jonathan Tarlton
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