

**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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**HEARD BEFORE:** Ms. Sophie Marchildon, Panel Chairperson  
Mr. Edward P. Lustig, Panel Member

**PLACE HEARD:** Unknown

**DATE HEARD:** Tuesday, May 14, 2019

**APPEARANCES:** Dr. Cindy Blackstock  
Mr. David Taylor  
Ms. Sarah Clarke  
For the First Nations Child and Family  
Caring Society of Canada

Mr. Stuart Wuttke

Mr. Thomas Milne

For the Assembly of First Nations

Mr. Brian Smith

Ms. Jessica Walsh

For the Canadian Human Rights Commission

Mr. Robert Frater, Q.C.

Mr. Jonathan Tarlton

For the Attorney General of Canada

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**APPEARANCES:** Ms. Maggie Wente

For the Chiefs of Ontario, Interested Party

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**Recorded by:**

**Canadian Human Rights Tribunal**

240 Sparks Street, 6th Floor West

Ottawa, Ontario

K1A 1J4

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1                   **THE CHAIR:** Good morning.

2                   **MS. DUBOIS:** Good morning. Today I'd like  
3 to just call for appearances please starting with the  
4 Caring Society.

5                   **MR. TAYLOR:** David Taylor and Sarah Clarke  
6 for the Caring Society. And we're joined this morning by  
7 Dr. Blackstock.

8                   **MR. WUTTKE:** Good morning. Stuart Wuttke.

9                   **MR. MILNE:** Thomas Milne for Assembly of  
10 First Nations.

11                   **MR. SMITH:** Good morning. It's Brian Smith  
12 with the Canadian Human Rights Commission.

13                   **MS. WALSH:** And Jessica Walsh also for the  
14 Commission.

15                   **MR. FRATER:** Robert Fader, Q.C. for the  
16 Attorney General of Canada.

17                   **MR. TARLTON:** And Jonathan Tarlton

18                   **MS. WENTE:** It's Maggie Wente for Chiefs of  
19 Ontario.

20                   **THE CHAIR:** Thank you very much. So, as  
21 always, we the Panel to recognize that this hearing is  
22 taking place on the traditional and unceded territory of  
23 the Algonquin Peoples. And before we start Ms. Dubois will  
24 make sure that the witness swears -- yes. Thank you. And  
25 Mr. Frater or Mr. Tarlton will you be able to take the



1 witness into a few questions introductory and perhaps a  
2 little bit of her credentials because I haven't seen them  
3 unless I'm mistaken.

4 **MR. FRATER:** Okay.

5 **THE CHAIR:** Thank you.

6 **MS. JOANNE LOUISE WILKINSON**, (Affirmed)

7 **MS. DUBOIS:** Please state your full name for  
8 the record.

9 **THE WITNESS:** Joanne Louise Wilkinson.

10 **--- DIRECT EXAMINATION BY MR. FRATER:**

11 **Q.** Good morning, Ms. Wilkinson. What is  
12 your current position?

13 **A.** I'm the Assistant Deputy Minister for  
14 Child and Family Services Reform at Indigenous Services  
15 Canada.

16 **Q.** Okay. And how ---

17 **THE CHAIR:** Sorry to interject. Can you  
18 speak a little bit louder?

19 **THE WITNESS:** Certainly.

20 **THE CHAIR:** Thank you.

21 **--- BY THE WITNESS:**

22 **A.** I'm the Assistant Deputy Minister for  
23 Child and Family Services Reform at Indigenous Services  
24 Canada.

25 **Q.** And what are your general

1 responsibilities in that job?

2                   **A.** So, I am responsible for the First  
3 Nation Child and Family Services Program as well as the  
4 reform agenda which consists of the six-point plan that was  
5 announced further to the January emergency meeting last  
6 year.

7                   **Q.** Okay. And how long have you been in  
8 that position?

9                   **A.** I've been in the reform position since  
10 last March, March 2018. And I've been responsible for the  
11 program since October.

12                   **Q.** Okay. And prior to that where were you  
13 employed?

14                   **A.** Prior to that I was the Assistant  
15 Secretary for the Review of Laws and Policies related to  
16 Indigenous Peoples at the Privy Council Office.

17                   **Q.** Okay. And in relation to these  
18 proceedings you swore an affidavit on April 16th of this  
19 year?

20                   **A.** I did.

21                   **Q.** And do you have a copy of that before  
22 you?

23                   **A.** I do.

24                   **Q.** And I see a big binder before you. Is  
25 that your affidavit?

1                   **A.** Yes, I have two affidavits. I have the  
2 larger affidavit and the smaller one that's related to the  
3 Chiefs of Ontario.

4                   **Q.** Okay. And in those -- sorry, have you  
5 got one binder or two binders?

6                   **A.** I have two binders, yes.

7                   **Q.** And in those binders do you have  
8 anything other than the affidavit and exhibits to the  
9 affidavit?

10                  **A.** I have several copies of publicly  
11 available information. So, for example a printout of the  
12 terms and conditions of the program which is in larger  
13 print than is in the exhibit just for ease of viewing. I  
14 have a copy of Bill C-92. I have a few pieces of  
15 correspondence among the parties and that sort of thing.

16                  **Q.** Okay. And do you have any objection if  
17 counsel wants to see any of that material?

18                  **A.** Absolutely not.

19                  **Q.** All right. Since you swore either of  
20 those affidavits have you wanted to make any additions or  
21 corrections to either one of them?

22                  **A.** The only piece that I would flag is  
23 Exhibit 23 of the larger affidavit which includes one of  
24 the weekly tracking emails that we send out to all the  
25 parties. In the chart there was an error in Note 1. So,

1 on page 2 of the chart that was attached to that email  
2 there's a Note 1 that refers to the British Columbia region  
3 but it is related to a note that's tagged to Saskatchewan.  
4 So, that was an error and that error has since been fixed.

5 **Q.** Okay. Thank you. Those are all the  
6 questions I have.

7 **THE CHAIR:** Thank you. So, the first party  
8 will be Caring Society. Mr. Taylor.

9 **MR. TAYLOR:** Thank you very much, Chair.

10 **THE CHAIR:** Thank you.

11 **--- CROSS-EXAMINATION BY MR. TAYLOR:**

12 **Q.** Good morning, Ms. Wilkinson.

13 **A.** Good morning.

14 **Q.** Just so I can make sure I've got the  
15 correction on Exhibit 23 right.

16 **A.** Yes.

17 **Q.** So, the correction is just to strike  
18 Note 1 under Saskatchewan?

19 **A.** Correct.

20 **Q.** And then I see a second Note 1 under  
21 British Columbia.

22 **A.** Correct.

23 **Q.** And that one should stay there?

24 **A.** Yes.

25 **Q.** Okay. Thank you. So, I guess just to

1 return to your background which Mr. Frater was asking you  
2 about a little bit. I was wondering if you could tell me  
3 what your university education is?

4 **A.** Certainly. My university degree is in  
5 translation.

6 **Q.** Translation. And that's a bachelor  
7 degree?

8 **A.** It is.

9 **Q.** And do you have any graduate studies?

10 **A.** I have a certificate in governance and  
11 leadership from the University of Ottawa.

12 **Q.** Okay. And your translation degree was  
13 from?

14 **A.** The University of Ottawa.

15 **Q.** Okay. Right on. A fellow alumna; I'm  
16 also from the University of Ottawa. Now have you had any  
17 training or work experience in social work?

18 **A.** In social work specifically, no.

19 **Q.** Yes. No. And have you had any training  
20 or work experience in child and family services?

21 **A.** No.

22 **Q.** And are you a licenced professional?

23 **A.** No, I am not.

24 **Q.** Okay. And are you registered with any  
25 professional organizations?

1                   **A.** No, I am not.

2                   **Q.** Okay. So, just a question about the  
3 idea of the First Nations Child and Family Services program  
4 and inequities within it. So, when did you first become  
5 aware that First Nations were concerned that the FNCFS  
6 program was flawed, inequitable?

7                   **A.** Well, certainly I was aware because I  
8 worked in the department at the time of the complaint that  
9 was made originally. It was not an area for which I was  
10 responsible but certainly it was known in the department  
11 that that process was ongoing. And as somebody who's  
12 worked for decades in this field it was something that was  
13 of interest to me.

14                   **Q.** And so, where would you have been in the  
15 department at that time?

16                   **A.** In 2007 -- give me one moment -- I was  
17 in the British Columbia region.

18                   **Q.** Okay. And was that just with general  
19 responsibilities or was there a particular program area?

20                   **A.** So, in the British Columbia region I was  
21 first responsible for lands, what was then called Lands and  
22 Trust Services. So, lands programs, estates, governance,  
23 comprehensive community planning, those types of things. I  
24 was then responsible for Strategic Planning and  
25 Communications in British Columbia. Then I was the

1 Regional Director General in the Yukon region, then in the  
2 Ontario region. And then back to headquarters after that.

3 Q. And I think that was in Education?

4 A. That was in Education, yes.

5 Q. Now I understand you went to Privy  
6 Council Office after Education?

7 A. I did.

8 Q. And I understand that for at least a  
9 period of time you were Director of Operations, Social  
10 Development Policy?

11 A. I was.

12 Q. And did you encounter the complaint in  
13 any way in those responsibilities?

14 A. No. So, when I went to the Privy  
15 Council Office, I was responsible for Health Canada files,  
16 ESDC files, and Citizenship and Immigration files.

17 Q. And through your Health Canada work did  
18 you encounter Jordan's Principle at all at that time?

19 A. I did. I worked with Valerie Gideon and  
20 Sony Perron in terms of any policy approvals that they  
21 needed and that sort of thing.

22 Q. And this would have been prior to or  
23 after the orders from the Tribunal?

24 A. That was -- sorry, give me one moment  
25 I'll think of the years. So, it was during the period of

1 time that the work was ongoing but prior to the 2018 order.

2 Q. 2018 order. So, it would have been post  
3 the 2016 orders?

4 A. At or about the same time.

5 Q. Okay. And you've read the January 2016  
6 decision? That's the first one.

7 A. I have.

8 Q. And when did you first read it?

9 A. I first read it when I came back to the  
10 department in March of 2018 in full.

11 Q. 2018. And what's your understanding of  
12 what that first decision says?

13 A. Well so, I think the first decision  
14 certainly found that there were discriminatory practices in  
15 the program and called for a number of reforms to begin and  
16 for the discriminatory practices to end and for funding to  
17 flow to make up for those gaps.

18 Q. And did you read the next decision from  
19 April 2016?

20 A. Yes.

21 Q. And that would have been the same time,  
22 March 2018 when you returned?

23 A. Yes.

24 Q. Okay. And what did you understand the  
25 April decision to say?



1                   **A.** So, I would say it was -- sorry, I'd  
2 have to ---

3                   **Q.** It's not a memory test. If you can't  
4 recall that's ---

5                   **A.** I can't recall specifically the -- they  
6 have merged into one set of orders I would say in our view.

7                   **Q.** Well, certainly the Tribunal has said a  
8 number of times they should be read together.

9                   **A.** Yes.

10                  **Q.** The September 2016 decision, you would  
11 have read that also when you came back in March 2018?

12                  **A.** Yes. Yes.

13                  **Q.** And same for the May 2017 decision?

14                  **A.** Yes.

15                  **Q.** And February 2018 you would have read as  
16 well in March 2018?

17                  **A.** Yes. Yes.

18                  **Q.** And what's your understanding of the  
19 February 2018 decision then in terms of what orders that  
20 has given to ISC?

21                  **A.** Right. So, certainly that is the order  
22 that triggered the funding of prevention services for Band  
23 Reps to be covered in Ontario for small agencies, for that  
24 whole suite of issues to be addressed by the department  
25 immediately.

1                   **Q.** Now, another question just to move on to  
2 your team a little bit. Do you know what the Government  
3 Electronic Directory Service is or GEDS as it's more  
4 possibly known?

5                   **A.** Yes, I do.

6                   **Q.** And what's that? What is GEDS?

7                   **A.** GEDS is an electronic system whereby you  
8 can seek to identify people who are responsible for various  
9 programs and their contact information.

10                  **Q.** And so, if we look at Tab 1 of the kind  
11 of small volume you have in front of you.

12                  **A.** Yes.

13                  **Q.** And the Panel should have this. It's  
14 the volume titled, "FNCFSC Exhibits to May 14, 2019 cross-  
15 examination of Joanne Wilkinson." And so, Tab 1 would you  
16 recognize this as a printout from GEDS?

17                  **A.** I would.

18                  **Q.** And this says, "Child and Family  
19 Services Reform Branch" at the bottom and then there's six  
20 people listed?

21                  **A.** Yes.

22                  **Q.** And so, would these individuals be your  
23 essentially team as the ADM?

24                  **A.** Yes, they are. I would say though since  
25 this printout was done Cynthia Cantley(?) is no longer with

1 us. She was on a casual basis with us.

2 Q. Okay. So, that would be No. 3, Senior  
3 Advisor?

4 A. Yes.

5 Q. And Tab 2. This one says, "Children and  
6 Families Directorate."

7 A. Yes.

8 Q. And there's a list of 26 people. And  
9 there may have been some changes I understand. At least it  
10 says, "Date modified January 24, 2018."

11 A. Yes.

12 Q. This was printed yesterday as this is at  
13 least a current GEDS as of yesterday ---

14 A. But see the GEDS system is not always  
15 up-to-date.

16 Q. Up-to-date, yes. But these would be the  
17 individuals or the positions at least with responsibility  
18 for the FNCFS program?

19 A. Generally, yes.

20 Q. Generally.

21 A. Some of it has changed since that time.

22 Q. Of course.

23 A. But this is where you would find the  
24 list if you were to go on GEDS today.

25 Q. So, there may be some additions and

1 subtractions from these lists in terms of people reporting  
2 to you today?

3 **A.** Absolutely, yes.

4 **Q.** Now, does anyone on the team reporting  
5 to you -- so, kind of taking these two groups of people --  
6 am I missing anybody from these two branches?

7 **A.** You're missing the reform team that is  
8 led by Isa Gros-Louis.

9 **Q.** Yes. But does Ms. Gros-Louis's team, do  
10 they work on the FNCFS program?

11 **A.** No, they work on the reform agenda. But  
12 if -- I understood your question to be is there anybody  
13 else who reports to me.

14 **Q.** Right.

15 **A.** So, those folks report to me as well.

16 **Q.** Right. So, and if I can just try and  
17 summarize. When Ms. Isaac moved on to CanNor essentially  
18 her responsibilities for the FNCFS program were shifted to  
19 you?

20 **A.** They were.

21 **Q.** And so, you have almost two hats. One  
22 being the reform agenda which you titled it.

23 **A.** Yes.

24 **Q.** The other being the program delivery?

25 **A.** Yes.

1                   **Q.** And the reform agenda that's Bill C-92.  
2 Does that also encompass the long-term reform pursuant to  
3 the Panel's orders or is that something taken care of by  
4 the operational staff?

5                   **A.** So, Ms. Gros-Louis's area is responsible  
6 grosso modo for the six-point plan. We share some of those  
7 responsibilities with the program as well. So, she's  
8 responsible for the regional tables. One of the points in  
9 the six-point action plan is around working with trilateral  
10 tables across the country. And so, her team is responsible  
11 for that.

12                   Certainly, there's some cross-over with the  
13 team that you see reflected here. She's responsible on the  
14 jurisdiction side primarily. She's responsible for the  
15 legislation. The implementation of the orders certainly is  
16 the program side. The data and reporting strategy is  
17 something that is of interest to both sides of the house as  
18 well. Working with Métis and Inuit leadership is more on  
19 Isa's side of -- sorry, Ms. Gros-Louis's side of the house.

20                   **Q.** And in terms of the new funding  
21 approach, the long-term reform program to ensure the needs-  
22 based funding and the things that the Panel talked about.

23                   **A.** Right.

24                   **Q.** Or the Tribunal talked about at its  
25 January 2016 and subsequent orders.

1                   **A.** Yes.

2                   **Q.** Is that the Child and Family's  
3 directorate side or is that Ms. Gros-Louis's team? Who's  
4 responsible for that?

5                   **A.** So, I would say the implementation in  
6 terms of the program and the funding itself is on the  
7 program side. But we also view as you've I'm sure read in  
8 my affidavit that part of the long-term solutions are based  
9 in the legislation that we have before Parliament now.

10                  **Q.** And we'll get to the legislation a  
11 little bit later this morning. Now, does anyone on the  
12 team that's reporting to you and I guess it's the expanded  
13 team -- we'll have a notional third tab in our head here  
14 for Ms. ---

15                  **A.** Certainly.

16                  **Q.** --- Gros-Louis's team -- have social  
17 work training or experience?

18                  **A.** I don't know of any social work training  
19 and knowledge but we are actively recruiting to find people  
20 who do bring that perspective.

21                  **Q.** And do you have a timeframe on when that  
22 recruitment process will be done?

23                  **A.** Well, it's an ongoing process and so we  
24 hope to have some people starting very soon who can bring  
25 that perspective. As I say it's an active recruitment

1 process. We also work -- what you don't see here reflected  
2 are the teams in regions. So, the regional offices all  
3 have resources in terms of specifically implementing this  
4 work. And so, they continue to actively recruit. And we  
5 encourage them to seek people who bring a variety of  
6 perspectives including a social work background  
7 perspective.

8 **Q.** And you said in your answer with respect  
9 to your teams at least, or the teams that report to you,  
10 you said "very soon." Do you have specific candidates in  
11 mind? I mean, I don't want to disrupt a competition here.

12 **A.** I'm aware of one specific candidate. I  
13 don't want to jinx it by committing to it but I know that  
14 there's one particular very active case. But it's  
15 certainly something that we are conscious of and has been  
16 raised many times. And so, that is something that we, and  
17 for the teams in the regions, that we seek to actively  
18 recruit.

19 **Q.** So, it's -- if I can try and summarize  
20 it's something that your teams don't have presently but  
21 you're actively seeking?

22 **A.** I'm not aware of anybody although I may  
23 be wrong and I'm happy to correct that if I'm provided with  
24 other information. I haven't reviewed the CVs of everybody  
25 who's on the team. So, I wouldn't want to mis-speak if one

1 of them does have that background. But I'm not aware of  
2 it.

3 **MR. TAYLOR:** Mr. Frater, I'm wondering if  
4 the easiest way of dealing with this is if you could follow  
5 up with us and let us know if there's anyone either in the  
6 Children and Families Directorate, Ms. Gros-Louis's team or  
7 in the regions who have social work credentials?[u]

8 **MR. FRATER:** Yes, I am sure we can seek that  
9 information.

10 --- **BY MR. TAYLOR:**

11 **Q.** Another question is if anyone on the  
12 teams that report to you identify as a First Nations, Inuit  
13 or Métis person?

14 **A.** Yes.

15 **Q.** And what position do those people -- or  
16 I guess is there more than one person?

17 **A.** Yes.

18 **Q.** And what position do those individuals  
19 hold?

20 **A.** Both directors general at the moment. I  
21 don't want to get into kind of individuals just for privacy  
22 reasons because they are not necessarily to be disclosed.  
23 But certainly that's ---

24 **Q.** We don't necessarily need to go through  
25 the list.



1                   A. Right.

2                   Q. But are we talking assistants, policy  
3 analysts, program officers? What kind of roles?

4                   A. I would say throughout the spectrum. We  
5 have representation across the spectrum of the positions.

6                   Q. Now, in terms of the team's training has  
7 there been specific training on the First Nations Child and  
8 Family Services agencies?

9                   A. What do you mean by "training on the  
10 agencies"?

11                  Q. In terms of what, you know, what they  
12 are, how they operate, what their needs are? You know, if  
13 an individual comes to your team from either another  
14 department or another part of ISC what training are they  
15 given about the entities that they'll be working with in  
16 the field?

17                  A. So, there's a number of pieces of  
18 training. So, there's mandatory training in the department  
19 in terms of awareness and understanding of First Nation,  
20 Inuit and Métis culture and priorities and aspirations.  
21 And, certainly, when we have people come in to our program  
22 specifically the first thing that they do is read the  
23 orders. We make sure that they are working with their  
24 regional colleagues as well so that they understand  
25 particularly if it's somebody who's only ever worked in the

1 Ottawa setting.

2 As somebody who's worked in the regions it's  
3 important to me that they be exposed to what folks at the  
4 regional level work with, kind of how they work on a daily  
5 basis. But training on agencies specifically we don't have  
6 a course if you will. But certainly, that's exposure that  
7 they would gain through work experience and, you know,  
8 other training that we have in place.

9 Q. Now, you mentioned the CHRT decisions as  
10 part of what a new staff person has to read.

11 A. Yes.

12 Q. Are they given then they go away and  
13 they read or are there resources and materials that they  
14 have to read in addition to the decisions? How does that  
15 assimilation of knowledge process work for them?

16 A. Well certainly we, you know, we work  
17 with our colleagues in the First Nations and Inuit Health  
18 Branch who have a repository of information as well. We  
19 also share information. We regularly have updates from Dr.  
20 Blackstock for example with videos for people to watch,  
21 that sort of thing. And so, we encourage people to be  
22 absorbing that information as they take on those  
23 responsibilities.

24 Q. So, it's kind of an ad hoc arrangement  
25 or is there a set, you know, list of materials that someone

1 should read besides the decisions?

2           **A.** I've not seen it set out specifically in  
3 a kind of a planned format but every person would have a  
4 learning plan. And so, I would expect that those pieces  
5 would be found in their learning plans.

6           **Q.** And is it the employee's responsibility  
7 their learning plan or is there someone who checks that?

8           **A.** It's a joint responsibility. So, it's  
9 done with the employee and the manager. And we have a  
10 business management unit who coordinates training. So,  
11 they will regularly schedule a blanket exercise training  
12 for example. Or some of those other types of training  
13 activities that are best done in a group. And so, they're  
14 responsible for scheduling those and for ensuring that we  
15 have active participation.

16           **Q.** So, there's a process then for each  
17 employee in which as part of their job they have to learn  
18 certain things.

19           **A.** Yes.

20           **Q.** That the CHRT decisions would mould into  
21 but there's not necessarily a specific, you know, sub-unit  
22 of a training curriculum on the CHRT decisions that  
23 everyone has to take?

24           **A.** I wouldn't say that it's done in a  
25 curriculum format.

1 Q. How about for residential schools, is  
2 there a specific training on the history and legacy of  
3 those?

4 A. I wouldn't say that there's specific  
5 training but certainly there's -- sorry.

6 Q. Oh, no, continue please.

7 A. So, there isn't again a course per se  
8 but certainly the department and there's a departmental  
9 historian who offers courses in terms of treaties and  
10 impact of residential schools and other areas. So, as I  
11 say, there isn't a curriculum per se that I could point you  
12 to but certainly it's a very important facet of the  
13 department.

14 And, particularly, as we seek to recruit  
15 from elsewhere as well to make sure that, you know, the  
16 rest of the public service is understanding these issues.  
17 There's work being done with the Canada School of Public  
18 Service as well to make sure that there's more and more of  
19 that type of training available.

20 Q. Now, you mentioned the departmental  
21 historian. Are those elective exercises with the  
22 departmental historian?

23 A. They are elective, yes.

24 Q. Now, just a quick clarification. You  
25 mentioned blanket exercises but those aren't specific to

1 the CHRT orders?

2 **A.** No, no. Sorry, I didn't mean to imply  
3 that they were specific to the CHRT orders.

4 **Q.** No, and that was just for me to clarify.

5 **A.** Yes.

6 **Q.** Now, just in terms of child welfare and  
7 child development are there specific elements of your  
8 team's training that deal with those subjects?

9 **A.** No, but they're certainly something that  
10 we encourage people if they haven't been exposed to those  
11 sorts of processes before to explore.

12 **Q.** But that would be elective once again?

13 **A.** That would be elective, yes.

14 **Q.** Now, you're aware that at least over in  
15 FNIHB there's a process that's ongoing right now in terms  
16 of a training module?

17 **A.** Yes.

18 **Q.** Or a developing training module?

19 **A.** Yes.

20 **Q.** Will your employees be participating in  
21 that once it's developed?

22 **A.** So, I've been working with Valerie  
23 closely to make sure that we are aligned and that as she  
24 pushes forward in terms of the training she's been able to  
25 undertake in her branch. She also has some resources in

1 her office dedicated to this work that we don't have that  
2 person power in my office. So, we're absolutely working  
3 together to make sure that all employees can take advantage  
4 of that training.

5 **Q.** So, at this point training for your  
6 group will be somewhat contingent on Dr. Gideon's exercise  
7 coming to a product?

8 **A.** It's certainly related. You know, we're  
9 not precluded from exploring other options. But she  
10 certainly has been working very diligently to make sure  
11 that there is a, you know, a good compendium of training.  
12 And we certainly want to take advantage of that.

13 **Q.** And that if I'm right that's expected  
14 for spring of next year?

15 **A.** That's my understanding.

16 **Q.** And is that the period then in which  
17 you'd be looking at adopting that or adopting it for your  
18 side of the department or you sector?

19 **A.** Yes. I mean, we want to -- in all  
20 things really, we want to make sure that we're working in  
21 tandem and that employees are also able to access the same  
22 types of training no matter where they are in the  
23 department.

24 **Q.** Now, after Dr. Gideon's exercise is  
25 complete will there be an opportunity for outside parties

1 such as the Consultation Committee to consult on how that  
2 might apply to your sector?

3 **A.** I'd certainly be open to that, yes.

4 **Q.** I'd like to ask you a few questions  
5 about funding for the program.

6 **A.** Yes.

7 **Q.** So, if we can turn to -- I think you  
8 referred to as the big affidavit.

9 **A.** Sorry.

10 **Q.** No, that's fine. Paragraph 3 mentions  
11 that -- so, the expenditures within the program -- just  
12 give you a moment to catch up.

13 **A.** All right.

14 **Q.** There's a lot of paper there I  
15 understand.

16 **A.** There is a lot of paper, forgive me.  
17 Yes, Paragraph 3.

18 **Q.** So, you note that in 2015-16 the  
19 program's expenditures were 680.9 million. And that's  
20 grown to 1.2 billion in '18/'19?

21 **A.** Yes.

22 **Q.** Now, in the next paragraph you note that  
23 these funds come from Budget 2016 and Budget 2018. And  
24 then you say as well as additional funds the department  
25 provided to address pressures for agencies. So, just to

1 confirm, these additional funds they're outside the amounts  
2 listed in Budget 2016 and Budget 2018?

3 **A.** So, the two budget areas are the primary  
4 source of those funds but there are other sources of funds  
5 as well.

6 **Q.** Right. And so, are those sources of  
7 funds is that reallocation or cash management from other  
8 programs?

9 **A.** We try to limit. So, in terms of  
10 reallocation you'll hear tomorrow from my colleague, Mr.  
11 Thoppil, in terms of the reallocation policy. We do cash  
12 manage on a regular basis to ensure that funding is getting  
13 out to communities and agencies within the 15-day period.  
14 So, that's -- and you'll see sometimes some discrepancies  
15 in terms of claims that have come in but have not yet been  
16 paid. For example, those sorts of things can happen year  
17 over year.

18 **Q.** Can you explain to me what you mean by  
19 that last point, "claims that have come in and haven't been  
20 paid"? I'm not sure I understand.

21 **A.** So, for example as we ended last fiscal  
22 year, we have claims that come in because we have extended  
23 the deadlines for actuals for last fiscal year and  
24 retroactive claims. You may see coming up some -- they  
25 should be small but some changes in the numbers as we move



1 forward because claims that technically are for the '18/'19  
2 fiscal year may need to be paid in the '19/'20 fiscal year  
3 for example.

4 **Q.** I understand. I understand. Now, is  
5 there any of these additional funds that are an off-cycle  
6 appropriation?

7 **A.** So, we did at the end of last year  
8 access further funding in the amount of about a 100 million  
9 dollars to cover the claims that had come in.

10 **MR. TAYLOR:** Mr. Frater, I'm wondering if we  
11 could just have an itemization of the additional funds that  
12 she's referring to outside of 2016 and 2018?[u]

13 **MR. FRATER:** (Inaudible - mic not open)

14 **THE WITNESS:** I don't think I -- I don't  
15 have a document with me certainly but we could look at  
16 pulling something together.

17 **MR. TAYLOR:** Thank you.

18 **--- BY MR. TAYLOR:**

19 **Q.** Now, I have a few questions about the  
20 Budget 2018 announcement.

21 **A.** Yes.

22 **Q.** Now, are you aware of during what months  
23 Budget 2018 was developed?

24 **A.** I was not part of that process but  
25 generally speaking budget processes start, you know, over

1 the summer and into the fall on a normal cycle. But I was  
2 not part of the deliberations leading up to Budget 2018 on  
3 this matter.

4 **Q.** And you returned to the department in  
5 March of 2018. So, you were not in your position when the  
6 emergency meeting was held then?

7 **A.** I was not.

8 **Q.** Were you at the emergency meeting?

9 **A.** I was not.

10 **Q.** And the emergency meeting, that was in  
11 January 2018?

12 **A.** It was.

13 **Q.** And so, your understanding is that in  
14 the regular cycle the Budget 2018 amounts would have been  
15 fixed then by that point in the cycle?

16 **A.** They could have been but they could also  
17 have been added after that meeting.

18 **Q.** Now, in paragraph 5(c) of your  
19 affidavit, that's just at the bottom of page 2 here.

20 **A.** Yes.

21 **Q.** You note that Canada worked with  
22 partners to implement Budget 2018 investments. And you may  
23 not know the answer to this given where you were at the  
24 time but I was wondering if you have found out since what  
25 the involvement from partners in developing the Budget 2018

1 proposal was?

2 **A.** I'm sorry, I don't have that answer, no.

3 **Q.** Do you know how much of the 1.4 billion  
4 announced in Budget 2018 has been spent?

5 **A.** Not specifically from those funds but  
6 that -- we could include that in the undertaking that  
7 you've just asked for.[u]

8 **MR. TAYLOR:** Mr. Frater, is that acceptable?

9 **MR. FRATER:** Yeah.

10 **MR. TAYLOR:** Thank you.

11 **--- BY MR. TAYLOR:**

12 **Q.** Now, of the funds that remain to be  
13 spent from Budget 2018 announcement because I understand  
14 that operated over five or six years?

15 **A.** Yes.

16 **Q.** So, the remaining expenditures, are  
17 those subject to future government decision-making?

18 **A.** Well, they're subject to Parliamentary  
19 appropriations as all federal funding is. So, they are  
20 committed to in the fiscal framework. And, you know,  
21 that's -- the fiscal framework exists as it does now.  
22 Future governments can take decisions but that is what is  
23 in the current fiscal framework.

24 **Q.** Now, with respect to Budget 2019 you  
25 were present for the development of that document?

1                   **A.** For Budget 2019?

2                   **Q.** '19.

3                   **A.** Yes.

4                   **Q.** Is there any new funding for the FNCFS  
5 program in Budget 2019?

6                   **A.** No.

7                   **Q.** Do you know why government would host an  
8 emergency meeting in 2018 but then include no additional  
9 funding to address the emergency in 2019?

10                   **A.** Well, the funding was included in Budget  
11 2018.

12                   **Q.** So, the view of government is that the  
13 funds announced for 2, 3, 4, 5, 6 are sufficient to address  
14 the emergency then?

15                   **A.** So, I would say as we've discussed just  
16 prior that's what's currently in the fiscal framework. And  
17 there is the opportunity for the government to go back, or  
18 for the department to go back, and seek increased funding  
19 if there is a business case and policy cover to do so.

20                   **Q.** And is it also possible there could be  
21 policy decisions that are made and the funding would be  
22 decreased?

23                   **A.** I can't predict the future. So,  
24 certainly within the government system there are policy  
25 decisions that are taken on a regular basis. Governments

1 take those decisions as they go. Those aren't decisions  
2 that we necessarily make (inaudible).

3 **Q.** Right. But as a yes or no question is  
4 it possible that the amount of funding could be decreased  
5 by either a future government or by the current government  
6 in the future?

7 **A.** It is possible.

8 **Q.** Now, paragraph 13 of your affidavit,  
9 that's just over the page on page 5, you note then in Ms.  
10 Isaac's May 24, 2018 affidavit she said that all agencies  
11 receive their initial allocation of funding on or before  
12 April 1, 2019.

13 **A.** Yes.

14 **Q.** And I'm just wondering if the same is  
15 true of the initial allocation for '19/'20 meaning that  
16 that was provided to all agencies on or before April 1,  
17 2019?

18 **A.** I don't know for sure the answer to that  
19 question but certainly we could confirm that.[u]

20 **MR. TAYLOR:** Mr. Frater, can you confirm  
21 that? So, it would just be what ---

22 **MR. FRATER:** (Inaudible - mic not open)) re-  
23 state the request?

24 **MR. TAYLOR:** Yes. So, it would be whether  
25 the initial allocation for fiscal year 2019/20 was provided

1 to all FNCFS agencies on or before April 1, 2019.

2 **MR. FRATER:** Thank you.

3 **MR. TAYLOR:** Thank you.

4 **--- BY THE WITNESS:**

5 **A.** I would say though it's important to  
6 read that clause in its entirety as well. So, if funds are  
7 insufficient in the initial allocation the actuals process  
8 kicks in as well.

9 **Q.** And that would be consistent with the  
10 Tribunal's orders?

11 **A.** Correct.

12 **Q.** Now, at paragraph 15 speaking of the  
13 actuals orders and reimbursements. So, you mentioned the  
14 amount paid as of April 5, 2019 and we had that little  
15 correction there on the note. And I was just wondering if  
16 we go and look at Tab 3 of the little book that I've  
17 provided?

18 **A.** Yes.

19 **Q.** And do you recognize this as the actuals  
20 table for the period ending April 26, 2019?

21 **A.** Yes.

22 **Q.** And this is produced by your department?

23 **A.** It is.

24 **Q.** Or your team in the department?

25 **A.** Yes, it is.

1                   Q. And so, the number referred to in your  
2 paragraph 15 here was a 178.7 million that had been paid in  
3 actual costs and retroactive reimbursements. And so, if  
4 I'm reading this table correctly it would be the amount to  
5 total up to get to the new total would be what's at the  
6 bottom of Column B on the three pages. Am I right? So, it  
7 would be 117.1 million plus 90.8 million plus 3.5 million?

8                   A. Sorry, my eyes aren't seeing the numbers  
9 as well this morning as they should.

10                  Q. No, that's fine. Well, let me just ---

11                  A. But -- yes.

12                  Q. Maybe I'll take this a little bit more  
13 -- I'll step back a couple of steps. So, this first page  
14 if I understand how this table works correctly is ---

15                  A. Yes.

16                  Q. And, of course, this is a table that's  
17 familiar to both of us but may not be as familiar to the  
18 Panel so I'll take a minute.

19                  A. Certainly.

20                  Q. So, this is the -- the first page here  
21 is the retroactive reimbursements. So, this would be  
22 periods prior to February 1, 2018?

23                  A. Yes.

24                  Q. And there's a grand total here at the  
25 bottom and that would be 205. Now, this 205 number it's

1 not just agencies because we also have Band Rep claims  
2 within here.

3 **A.** Yes.

4 **Q.** And then at the bottom to this Column A  
5 is the amount of claims that you've received which is a  
6 163.2 million. And then the next column is the amount paid  
7 which is a 117.1 million. And then the last column here is  
8 the total claims remaining to be paid which is 46 million.

9 **A.** Yes.

10 **Q.** And then the second page is actuals  
11 requests for fiscal year '18/'19. So, that would be April  
12 1, 2018 to March 31, 2019?

13 **A.** Yes.

14 **Q.** And there's 262 claims there again.  
15 Same caveat not all agencies. That's right?

16 **A.** Yes.

17 **Q.** And so, a 130.7 million would be the  
18 amount received. 90.8 million is the amount paid. And  
19 then 39.8 million is the amount remaining?

20 **A.** Yes.

21 **Q.** And then the last page this is the new  
22 table. So, this would be for '19/'20. So, April 1st and  
23 going forward. And you've got 52, once again not all  
24 agencies because of the Band Reps claim. And 51.7 million  
25 is the amounts received, 3.5 million is the amount paid,



1 and 48.1 million is the amount remaining. Is that right?

2 **A.** Yes.

3 **Q.** Okay. Now, just with respect to  
4 prevention and operations the 32 claims here, I'm just  
5 looking at the last page, that would include non-agencies  
6 as well given how the funds are flowing for prevention in  
7 Ontario? Or is that only agencies?

8 **A.** That includes small agencies in Quebec,  
9 Band Rep services in Ontario, and prevention and operations  
10 in Ontario.

11 **Q.** But, specifically, for prevention  
12 operations Ontario is it only agencies who receive that  
13 funding or do communities receive prevention funding  
14 through actuals as well?

15 **A.** So, there are more eligible recipients.  
16 So, there could be other recipients in that column.

17 **Q.** Okay. Thank you. And then just -- we  
18 won't take quite as long with the next tab. Tab 4, I was  
19 just -- if you could just confirm you recognize this as the  
20 March 29, 2019 table?

21 **A.** That's how it's marked, yes.

22 **Q.** Yeah, I wouldn't expect you to have a  
23 photographic memory of all these tables.

24 **A.** No, I will not admit to that.

25 **Q.** But that looks ---

1                   **A.** It does look like it would be, yes.

2                   **Q.** And that would be the last table that  
3 would cover the 2018/19 fiscal year? Because then next  
4 table would have been '19/'20?

5                   **A.** It would cover what we had reported for  
6 '18/'19. But as I mentioned previously given the extension  
7 of the deadline it will not represent the fullness of  
8 '18/'19 claims given that folks now have until September  
9 30th to submit those claims for '18/'19.

10                  **Q.** Right. But this would be the -- as of  
11 the end of the fiscal year the amount of claims received.

12                  **A.** Correct.

13                  **Q.** At that time.

14                  **A.** Yes.

15                  **Q.** And then the last one is Tab 5. This  
16 would be the December 14, 2018 table. Same question that  
17 not necessarily that you would recognize it specifically as  
18 this but that is what this is on its face.

19                  **A.** It does appear to be that, yes.

20                  **Q.** Yes. Now, just with respect to the data  
21 underlying these charts at paragraph 36(k) of your  
22 affidavit and this one's a bit harder to necessarily pin  
23 down because it kind of flows over given the sub-  
24 paragraphs. I've got it at page 11.

25                  **A.** I do as well.



1 amounts paid by ISC. ISC intends to  
2 share this information on claims  
3 received, approved, and denied with the  
4 CCCW. This information will be shared  
5 on a confidential basis as part of our  
6 joint work to implement the orders of  
7 the Canadian Human Rights Tribunal and  
8 will not be shared outside the context  
9 of this work."

10 **A.** Yes.

11 **Q.** And then you note here that they have  
12 until April 8th to raise any concerns.

13 **A.** Yes.

14 **Q.** Now, if we could just turn to Tab 6 in  
15 the little book, and if you can go to page 3.

16 **THE CHAIR:** Excuse me, Mr. Taylor. I just  
17 had a question. Is there a reason why we see at Tab 5 it's  
18 a draft format of the chart but it's dated December 14,  
19 2018? So, I'm just wondering because we see a lot of  
20 drafts and on our perspective, you know, when we have a  
21 finalized document it bears more weight.

22 **THE WITNESS:** Um-hmm.

23 **THE CHAIR:** Do you not finalize your charts  
24 at some point for the department?

25 **THE WITNESS:** We do but I would say in this

1 case and in a number of cases they are draft because they  
2 will continue to change.

3 **THE CHAIR:** Okay. So, it's ongoing?

4 **THE WITNESS:** It is an ongoing process, yes.

5 **THE CHAIR:** Thank you.

6 **THE WITNESS:** Yes.

7 **THE CHAIR:** Thank you.

8 **--- BY MR. TAYLOR:**

9 **Q.** And if it might be of assistance, just  
10 to confirm the charts that we looked at Tabs 3, 4, and 5  
11 those are sent by you to the Consultation Committee members  
12 on a roughly weekly basis?

13 **A.** Yes.

14 **Q.** And so, those are sent out by email?

15 **A.** They are.

16 **Q.** Yes. And the format that they're sent  
17 out in email they have that draft watermark on them?

18 **A.** Yes. I mean, it's again because there's  
19 a continual process.

20 **Q.** Not for why but just to confirm that  
21 that's the -- I mean, I could have appended the emails, the  
22 covering emails, from Ms. Wilkinson but trying to just  
23 trace back that ---

24 **A.** Right.

25 **Q.** You'd agree with me there's something

1 you said ---

2 A. You did not insert them, yes.

3 Q. Yeah.

4 A. Yes.

5 Q. You send in the ordinary course to ---

6 A. We do.

7 Q. --- AFN, Commission, Chiefs of Ontario,  
8 NAN and their client reps?

9 A. Yes.

10 Q. So, we're just at Tab 6, page 3 here.

11 So, this is a December 10, 2018 email from Dr. Blackstock  
12 to you. And it's -- actually well -- if we actually look  
13 at the last page this would be an example of one of the  
14 emails you send out every week?

15 A. Correct.

16 Q. The:

17 "Please find attached:

18 No. 1) The report on agency claims  
19 submitted to Canada for reimbursement."

20 As that would be the iteration for the week  
21 of December 10th of the reports we've been looking at?

22 A. Yes, that's the standard email that goes  
23 out with the charts attached.

24 Q. So, we would see the dates updated but  
25 essentially the body of the text stays the same?

1                   **A.** Correct.

2                   **Q.** Now, in response to this email on  
3 December 10th Dr. Blackstock writes to you and says:

4                                "Thank you, Joanne. To give us a  
5 better idea of how the reimbursements  
6 are working can you send us a list with  
7 the following information by agency?"

8                   And then you say agency name, or rather Dr.  
9 Blackstock says:

10                                "Agency name, whether their budget was  
11 in surplus, balance or deficit in 2016,  
12 '17/'18 fiscals, amount requested, and  
13 amount paid."

14                   So, these four points this is the  
15 information then that you're referring to in your Exhibit  
16 21 when you're writing out to the agencies? Is that right?

17                   **A.** Yes.

18                   **Q.** Okay. Now, you responded in March 2019.  
19 So, about three months later. And you apologized for the  
20 delay and then you noted the reason for the delay had been:

21                                "The need to seek guidance from experts  
22 on access to information and  
23 privacy/proactive disclosure in order  
24 to confirm if we are in a position to  
25 be able to share the level of detail

1                   that you requested. Unfortunately,  
2                   obtaining this input took much longer  
3                   than anticipated.”

4                   Now, I'm wondering do you recall that the  
5 answer back to this was essentially that the problem you  
6 were raising had already been solved last year with the  
7 agency assessments?

8                   **A.** I understand that that was -- the  
9 perspective was that that was the same type of issue that  
10 had been raised before, yes.

11                   **Q.** Now, is there a reason that you took  
12 three months to respond as opposed to raising this concern  
13 in December after receiving Dr. Blackstock's email?

14                   **A.** In retrospect I should have replied  
15 immediately to say that we needed to do this checking.

16                   **Q.** Okay. Now, in your email at Exhibit 21  
17 you noted an April 8th deadline for concerns to be raised  
18 by agencies. Has ISC received any concerns from agencies  
19 about information sharing?

20                   **A.** Not to my knowledge, no.

21                   **Q.** So, given that there have been no  
22 concerns that have come in and we're over a month past the  
23 deadline do you have a sense of when the parties are going  
24 to be getting this information?

25                   **A.** It should be very soon.



1                   **Q.** Can you help me with "very soon"? Is it  
2 tomorrow, next week, next month?

3                   **A.** I would say probably within the next  
4 couple of weeks; certainly, before the next CCCW meeting in  
5 June.

6                   **Q.** Okay. And do you know which date in  
7 June the CCCW is?

8                   **A.** I believe it's June 2nd.

9                   **Q.** I think it may be the 17th but not -- we  
10 can compare calendars later.

11                   **A.** Sorry. We could -- yes. Sorry.

12                   **Q.** It's not necessarily material but it is  
13 in June?

14                   **A.** It is in June.

15                   **Q.** Okay. Now, at paragraph 35 of your  
16 affidavit you note that Canada's working on a deficits  
17 analysis for '17/'18.

18                   **A.** Yes.

19                   **Q.** And I'm just wondering when are you  
20 expecting that deficits analysis to be complete?

21                   **A.** So, we are working on that now. I would  
22 say both in relation to this and your previous question the  
23 focus for the staff currently is making sure that the  
24 claims are processed quickly. So, certainly with fiscal  
25 year end happening at the end of March we had a significant

1 influx of claims. We also had a significant influx of  
2 claims for the beginning of the new fiscal year. And so,  
3 the priority has been assigned to processing those claims.

4                   So, certainly there has been more of a delay  
5 here than I would ordinarily like to see but that is why  
6 there has been that delay. Because we have prioritized  
7 having the claims processed so that the money can get to  
8 folks on the ground. In terms of completing the analysis,  
9 I would hope that that would be done before the next CCCW  
10 meeting in June.

11                   **Q.** And so, the folks doing this analysis  
12 they're folks on your team in headquarters then?

13                   **A.** Yes, they work with the regional folks  
14 as well but the responsibility for the work is at  
15 headquarters.

16                   **Q.** And what kind of expertise do these  
17 folks have?

18                   **A.** I'd say that there's a mix of expertise.  
19 There's folks who have a long history in terms of program  
20 implementation and as well folks who come from more of a  
21 financial background to ensure that we have that mix of  
22 skills. They also work with experts in our chief financial  
23 officer and results delivery area.

24                   **Q.** Now, in terms of this and the last  
25 request, you know, you've noted the influx of claims as

1 kind of slowing things down.

2                   A. Um-hmm.

3                   Q. Was there any thought given to  
4 increasing staffing on your team around that time to be  
5 able to do both the CCCW work and responding to the actuals  
6 orders at the same time?

7                   A. Yes. So, we've in fact reached out to  
8 our colleagues throughout the department and sought what I  
9 would call surge capacity so that we could bring in folks  
10 from other areas of the department who have similar skill  
11 sets who could help to move those pieces forward. And we  
12 have had some success in that vein but it is a large  
13 volume.

14                   And as noted -- just make sure I point you  
15 to the right paragraph -- in paragraph 3 over 98 percent of  
16 the funding goes directly towards frontline service  
17 delivery. So, our program administrative cost is less than  
18 two percent. So, we have kept it below that two percent to  
19 make sure that the bulk of the money is going out to  
20 communities and to agencies.

21                   And so, as I say, we certainly look to our  
22 colleagues to assist when we have periods where that surge  
23 capacity would be helpful. And we've had success in that  
24 vein.

25                   Q. But certainly, part of the consequence

1 of that -- I mean, obviously some of it's capacity, some of  
2 it's this privacy issue but, you know, Dr. Blackstock  
3 raised some questions about the data that we're getting  
4 about what's going out on the ground. And that was over  
5 five month's ago and there's still no answer.

6 **A.** I appreciate that it has been delayed.  
7 We need to do due diligence with recipients to ensure that  
8 we are not sharing information that they don't want shared.  
9 So, that's why we had to take that step. And, as I say,  
10 that information will be available shortly.

11 **Q.** I've asked you some questions about the  
12 appeals process within your program, or the program.

13 **A.** Yes.

14 **Q.** Now, you mentioned this at paragraph 20  
15 of your affidavit. And you refer to it as an interim  
16 appeals process there. So, just wondering, it's interim on  
17 the way to what? What's the end state of the appeals  
18 process in your view?

19 **A.** Um-hmm. So, the appeals process we've  
20 brought in over and above the orders in order to ensure  
21 that there is that level of escalation and appeals. We've  
22 called it interim only because we want to make sure that  
23 there's an understanding that we remain open to refinement,  
24 to advice from partners so that partners don't feel that  
25 this is a process that we have set in stone. That there

1 remains the opportunity for improvement to it as we move  
2 along and gain more experience as we deal with more actual  
3 appeals.

4 Q. I mean, you mention it's over and above  
5 the orders but are you aware that in the May 2017 decision  
6 the Panel referred to within the context of Jordan's  
7 Principle Canada turning its mind to an independent appeals  
8 process involving expertise?

9 A. Absolutely I am, yes.

10 Q. Now is division of this interim and  
11 where it's going is it to merge up with what FNIHB is  
12 working on in terms of the external expertise on their  
13 appeals committee?

14 A. Certainly, we're working closely with  
15 FNIHB to make sure that we're aligning. It is different  
16 expertise perhaps that may be required for appeals. It's a  
17 different sort of program type that we're looking at. So,  
18 we may want to look at different ways of doing things. But  
19 we're certainly -- we work very very closely with the folks  
20 on the Jordan's Principle side to make sure that processes  
21 are aligning where they make sense. And, you know, to make  
22 sure that we're providing a level of service that balances  
23 out.

24 Q. And you're aware that there are roughly  
25 12 proposed members on the FNIHB appeal committee?

1                   **A.** I know that there's a draft that's being  
2 discussed and that that's on their list of potential ---

3                   **Q.** And would you agree with a list that's  
4 12 people long that there would be opportunity there for  
5 your department or your sector of the department to have  
6 input if there's a particular expertise your program needs  
7 in an appeal member?

8                   **A.** There certainly could be.

9                   **Q.** Now, for the present process who is  
10 hearing appeals at this point?

11                   **A.** So, the appeals are heard by Dr. Gideon  
12 and by the senior assistant deputy minister for regional  
13 operations within the department.

14                   **Q.** And that's Ms. Clairmont?

15                   **A.** That is Ms. Clairmont, yes.

16                   **Q.** And do you know anything about Ms.  
17 Clairmont's background?

18                   **A.** I couldn't speak to that, no.

19                   **Q.** Okay. So, you don't know if she has any  
20 direct work experience with First Nations child welfare?

21                   **A.** I do not know that.

22                   **Q.** Okay.

23                   **THE CHAIR:** Excuse me. I just had a  
24 question.

25                   **THE WITNESS:** Um-hmm.

1                   **THE CHAIR:** Who determined who would be on  
2 the appeals committee?

3                   **THE WITNESS:** So, the department proposed  
4 this appeals process. It was discussed among parties and  
5 then within the department. And I would say this is before  
6 October so the rationale is not something that I can speak  
7 to specifically but those were the two individuals  
8 identified. Similar, I believe, to the Jordan's Principle  
9 process which has two assistant deputy ministers from  
10 within the department making those decisions.

11                   **THE CHAIR:** And you oversee the committee or  
12 do you not?

13                   **THE WITNESS:** So, I don't participate in the  
14 committee because I'm involved in to some extent in the  
15 decision-making. So, the program officials support the  
16 process but I don't participate in the process.

17                   **THE CHAIR:** Okay. Thank you.

18 --- **BY MR. TAYLOR:**

19                   **Q.** So, I just might clarify. So, an appeal  
20 of a denial made today ---

21                   **A.** Yes?

22                   **Q.** --- that would go to Dr. Gideon and Ms.  
23 Clairmont?

24                   **A.** Yes.

25                   **Q.** And they would be the decision-makers on

1 that?

2 A. Yes.

3 Q. In terms of whether that would be  
4 allowed or not. And on the Jordan's Principle side is it  
5 yourself and Dr. Gideon?

6 A. Yes, it is.

7 Q. So, at this point a Jordan's Principle  
8 denial that was appealed would go to yourself and Dr.  
9 Gideon. So, that the present appeals process, the interim  
10 one, is on both sides two ADMs who are hearing appeals.

11 A. Yes.

12 Q. And the future state, at least the one  
13 that we're speaking -- when we speak about the FNIHB  
14 process is that there would be a committee of external  
15 experts who would hear appeals from denials. And there's  
16 some question in terms of whether it would be structured  
17 the same way for both programs. But that's -- the external  
18 individuals participating is not the reality on the ground  
19 today?

20 A. That is not the reality today.

21 Q. Yeah. Now, I'd like to ask are you  
22 aware of the proposal from the CCCW from the April meeting  
23 that a CCCW member be invited to observe FNCFS appeals?

24 A. I was not aware of that, no.

25 Q. Okay. Now, paragraph 27. So, you note



1 that seven claims have been denied as of April 5, 2019?

2 A. Yes.

3 Q. Do you know how many claims have been  
4 denied as of today?

5 A. I believe it's 13.

6 Q. 13. Have any appeals been successful  
7 from any of these denials?

8 A. No. There have been two appeals. So,  
9 all recipients have been notified and of those there have  
10 been two appeals so far. And both of those appeals have  
11 been denied.

12 Q. Now, in terms of the denials, the 13  
13 denials, what were the reasons for the denials?

14 A. So, I would say -- I don't have the full  
15 list in front of me, but generally it comes down to  
16 eligibility. So, claims that are presented that are not  
17 eligible per the terms and conditions.

18 Q. So, could you help me with what kinds of  
19 eligibility issues you'd be seeing then?

20 A. So, for example there's one involving an  
21 ineligible recipient in Ontario as an example. There has  
22 been one referring to deficits in other program areas. And  
23 so, that is not something that would be eligible from a  
24 (inaudible).

25 Q. And what do you mean when you say "a

1 deficit in another program area”?

2           **A.** So, a deficit in I believe it was income  
3 assistance for a First Nation in the Atlantic region. So,  
4 this program can't cover deficits in other program areas  
5 so, that would have been denied.

6           **Q.** So, are we talking like a monetary  
7 deficit? Like the, I guess individual or group of  
8 individuals would be eligible for assistance within this  
9 program but the program doesn't have enough money to cover  
10 it?

11           **A.** No. It's a completely different  
12 program. So, under like income assistance, right, the CFS  
13 program does not cover income assistance payments. Those  
14 come out of a different program area.

15           **Q.** Right. But I'm trying to understand  
16 your use of the word “deficit.” So, if that's an idea of  
17 the program in question doesn't have enough money ---

18           **A.** No. So, the First Nation had a deficit  
19 in terms of what it had paid out for income assistance to  
20 its members. And so, they incurred a deficit within the  
21 First Nation. And so, the claim was to cover that deficit  
22 in income assistance payments.

23           **Q.** I see.

24           **A.** And that is not something that is  
25 eligible under the program, our program.

1                   **Q.** Now, if there's a gap in services that  
2 results from this deficit in terms of they don't have funds  
3 to offer another program because of this deficit is that  
4 something that would be considered outside the scope -- so,  
5 if there's a prevention program that the First Nation  
6 wanted to offer through their agency but they couldn't fund  
7 it because of the deficit is that something that you'd  
8 consider in terms of ---

9                   **A.** Yes, if it was prevention programming  
10 that would be a different case.

11                   **Q.** And in terms of the scope of prevention  
12 activities does mental health fall within the scope of  
13 prevention?

14                   **A.** Mental health services do fall within  
15 the scope, yes.

16                   **Q.** And how about post-majority services?

17                   **A.** So, we will cover post-majority if it is  
18 something that is covered by the province. And under -- I  
19 don't want to get ahead of ourselves but under C-92. So,  
20 should C-92 receive royal assent if Indigenous laws were  
21 passed that addressed post-majority care then that is  
22 something that would be available within that scope.

23                   **Q.** Now, in terms of ---

24                   **THE CHAIR:** If I understand -- I'm sorry.  
25 Sorry. If I understand correctly your answer is we are

1 examining the norm whether it's from the First Nation or  
2 the province and then the program tries to meet that norm?  
3 Is that ---

4 **THE WITNESS:** So, for example, if there were  
5 in -- I don't want to misspeak -- one of the prairie  
6 provinces, I believe Alberta. Anyway, one of the prairie  
7 provinces there is a possibility under their legislation of  
8 post-majority agreements with individuals for post-majority  
9 care. And so, that's something that we can cover under the  
10 program.

11 **THE CHAIR:** Yes. And if there were no  
12 legislation then ---

13 **THE WITNESS:** Then we could not. Correct.

14 **THE CHAIR:** Thank you.

15 --- **BY MR. TAYLOR:**

16 **Q.** And I guess if I can maybe just ask a  
17 couple of questions about the background to that.

18 **A.** Um-hmm.

19 **Q.** So, my understanding is that the current  
20 terms and conditions essentially tie what a First Nations  
21 agency can do to the provincial regime. So, essentially  
22 the First Nations agency needs to be delegated under the  
23 provincial legislation.

24 **A.** Yes.

25 **Q.** And at that point the federal government

1 can fund?

2 **A.** Yes.

3 **Q.** And so, the federal government will not  
4 fund something within a province where that is not in the  
5 suite of services that falls under the provincial  
6 legislative framework?

7 **A.** We don't have the authority to do that.  
8 Right.

9 **Q.** And when you say "you don't have the  
10 authority" you mean that what treasury board has given to  
11 the department in terms of here are the things you can  
12 spend money on. That falls outside of it?

13 **A.** That's within the terms and conditions,  
14 yes.

15 **Q.** Now, were there any concerns raised  
16 about that at the Consultation Committee when the terms and  
17 conditions were being discussed?

18 **A.** I don't recall specifically but I'm  
19 certain that it was.

20 **Q.** I believe you have a table at Exhibit 32  
21 of your affidavit which is -- let me just make sure I've  
22 got the right one here. So, there's some flipping required  
23 to find it here. It actually may be easiest to go from the  
24 back of the documents.

25 **A.** Certainly.

1                   Q. So, the last yellow page. And I don't  
2 know if everyone else's has yellow pages in it but  
3 certainly the book -- Exhibit 32 is an email from Lisa  
4 Nafziger to Lisa Connelly. And then underneath there's an  
5 email from yourself to CCCW and it refers to four  
6 attachments. And then the third one is a document entitled  
7 "Canada's response to outstanding comments/concerns  
8 received from the Consultation Committee on Child Welfare  
9 regarding the FNCFS terms and conditions." Do you see that  
10 in the covering email there?

11                   A. Sorry, I was trying to find where you  
12 were in the chart.

13                   Q. Oh, no, if you're at the table that's  
14 fine. So, this is the -- just so we're looking at the same  
15 thing. Ms. Wilkinson, if we can just confirm that ---

16                   A. Yes.

17                   Q. That's the table?

18                   A. Sorry, there's a lot of paper. This  
19 one, right?

20                   Q. Yes.

21                   A. Yes. Yes.

22                   Q. Hopefully everyone else is following  
23 along with me in this somewhat hard to navigate exhibit.

24                   **UNKNOWN VOICE:** Could you just describe it  
25 for the record?

1                   MR. TAYLOR: Yeah.

2     --- BY MR. TAYLOR:

3                   Q. So, it's a table. It's after the last,  
4 at least in my version, yellow sheet. It's a 10 page  
5 table. So, it will be the last 10 pages of the exhibit.  
6 And it's titled, "Canada's response to outstanding  
7 comments/concerns received from the Consultation Committee  
8 on Child Welfare regarding the FNCFS terms and conditions."  
9 And there's a number of columns here. So, from column  
10 that's the, I guess the originator of the comment? Is that  
11 right, Ms. Wilkinson?

12                   A. Yes.

13                   Q. And then the comment and the question  
14 which is what the comment or question would be? Am I  
15 right?

16                   A. Yes.

17                   Q. And then the response and that's ISC's  
18 response to the comment?

19                   A. Yes.

20                   Q. And then updates and notes. And that  
21 would be I suppose anything following the response?

22                   A. Yes.

23                   Q. And there's -- at least on the first  
24 page here a grey -- at least on my version its grey,  
25 horizontal column saying, "Jurisdiction"?

1                   A. Yes.

2                   Q. And so, that would be essentially the  
3 themes of the concerns?

4                   A. Yes.

5                   Q. Now, the comment here is "Why is First  
6 Nations jurisdiction excluded?" And there are a few other  
7 comments here under jurisdiction about Yukon residency,  
8 widening the definition to include First Nations model, and  
9 acknowledgement of First Nations assuming jurisdiction.  
10 And the response here on the first page is:

11                               "Currently the FNCF program funds  
12 provincially delegated Child and Family  
13 Services agencies to manage and deliver  
14 child welfare services on reserve.  
15 This allows the FNCFS program to  
16 support the delivery of child welfare  
17 services in the First Nation  
18 communities while respecting provincial  
19 authority."

20                   So, that's what you were referring to then  
21 when you were saying that that's -- your authorities  
22 essentially map on to the provincial ones. Is that right?

23                   A. That's right, yes.

24                   Q. Okay. So, if it's outside the scope of  
25 the province's services -- so if, you know, province A says



1 post-majority services up to age 24 and province B says  
2 post-majority services up to age 21 then a First Nations  
3 Service agency in province A could go to 24.

4 **A.** Right.

5 **Q.** And province B would be to 21?

6 **A.** Yes.

7 **Q.** Okay. Now, my understanding -- and you  
8 sit on Jordan's Principle's appeals? Is that right?

9 **A.** I do.

10 **Q.** Now, if a First Nations person who is 22  
11 in province B went to Jordan's Principle and noted that  
12 service gap they wouldn't be eligible for funding under  
13 Jordan's Principle.

14 **A.** Correct.

15 **Q.** Because they are over the age of  
16 majority?

17 **A.** Correct.

18 **Q.** Thank you. Now, a question on the  
19 denials. How are the agencies advised when there is a  
20 denial? So, those 13 denials how do they know their  
21 request has been denied?

22 **A.** So, they're informed in writing so that  
23 they are aware of the denial and that they're also made  
24 aware of the appeals process should they choose to access  
25 it.

1                   **Q.** And is that a letter or is it an email?

2                   **A.** I believe it's an email. I don't send  
3 them myself but I believe it's an email.

4                   **Q.** And do you know what the email says in  
5 terms of the specific reasons for the denial? Are they  
6 given an explanation?

7                   **A.** I don't believe we have an exhibit that  
8 provides a copy of it but we could certainly provide a  
9 generic version of that if that's helpful.

10                   **MR. TAYLOR:** Well, actually I was going to  
11 ask Mr. Frater if we could have a copy then of the 13  
12 denial emails that have gone out so far?[u]

13                   **MR. FRATER:** There's a privacy concern. (mic  
14 not open).

15 **--- BY THE WITNESS:**

16                   **A.** I was just going to say we would have to  
17 double-check on privacy concerns in that regard but  
18 otherwise there's no impediment.

19                   **MR. TAYLOR:** Mr. Frater, I mean, we have my  
20 email in the small book. I don't think we need to go it.  
21 But I think as you know I have some concerns about the  
22 privacy rationale. You know, this is provided under an  
23 implied undertaking when it's disclosed particularly when  
24 it's in response to a request for information.

25                   At the Caring Society we've had a very

1 robust practice of redacting personal information in  
2 Jordan's Principle exhibits where families and children  
3 could be identified. So, I think we've demonstrated our  
4 commitment where there's confidentiality concerns. In any  
5 event, I think Canada's disclosure obligations go over and  
6 above. So, can you confirm -- are you objecting on the  
7 basis of confidentiality?

8 **MR. FRATER:** No, I am saying we would like  
9 to provide them but we have to take into account privacy  
10 concerns. If we get by that we'll provide them.

11 **MR. TAYLOR:** I mean, I'm not sure that's  
12 satisfactory in terms of ---

13 **MR. FRATER:** There isn't a problem until  
14 there's a problem is my position.

15 **MR. TAYLOR:** What's your timeline though? I  
16 mean, because it's been five months on the information  
17 underlying the actuals table.

18 **MR. FRATER:** I'll get back to you after I  
19 discuss with the client how quickly we can produce it.

20 **MR. TAYLOR:** Well, perhaps we can return to  
21 this in the afternoon then. Because it's -- we need some  
22 timelines here in terms of if we're going to have to seek  
23 assistance in obtaining the documents.

24 --- **BY MR. TAYLOR:**

25 **Q.** Could we turn to Tab 8, please? This is

1 in your big affidavit.

2 A. Yes.

3 Q. Now, this is the third page in here.

4 This is a document. The title is "First Nations Child and  
5 Family Services Program Interim Appeal Process/Appeal  
6 Decision Template."

7 A. Yes.

8 Q. Now, I note that under considerations it  
9 says:

10 "In rendering a determination on  
11 appeal, the following factors should be  
12 considered."

13 And it sets out, I note, seven factors. So,  
14 these are the factors then that Dr. Gideon and Ms.  
15 Clairmont are to be considering?

16 A. Yes.

17 Q. Now, the second bullet is "The best  
18 interests of children."

19 Do you know if Dr. Gideon and Ms. Clairmont  
20 have received any training on best interests of children?

21 A. I couldn't say specifically.

22 Q. But you'd agree that if is a criteria  
23 that they're supposed to be applying in rendering the  
24 appeals that's an important thing to know?

25 A. It's certainly an important thing to

1 know. Whether that would be something that would be gained  
2 through experience or through specific training I think  
3 would be the subject of discussion. But certainly, that is  
4 an important area for them to be aware of.

5 **MR. TAYLOR:** Mr. Frater, can you let us know  
6 if Ms. Clairmont has received any specific training on the  
7 best interests of children?[u]

8 **MR. FRATER:** Yes.

9 **MR. TAYLOR:** Thank you.

10 **--- BY MR. TAYLOR:**

11 **Q.** Now, Ms. Wilkinson, I have some  
12 questions on the data management which you refer to in  
13 paragraph 22(c) of your affidavit.

14 **A.** Yes.

15 **Q.** And so, you say:

16 "Canada worked with partners to develop  
17 a more permanent online reporting  
18 system for prevention. The system was  
19 launched on April 1, 2019 for 2019/20  
20 and information was shared with the  
21 CCCW on March 19, 2019."

22 And then you have the email and attachments  
23 sharing the information at Exhibit 11. So, my question is  
24 whether any CCCW or NAC members participated in the  
25 development process?

1                   **A.** Yes, they did.

2                   **Q.** And was IFSD's feedback sought as part  
3 of this development process?

4                   **A.** I couldn't answer specifically if they  
5 were engaged in the development of the system itself. But  
6 certainly, those members both of the committee and of the  
7 department would have been aware of what we knew at the  
8 time in terms of the IFSD's findings.

9                   **Q.** So, the ---

10                   **A.** But the system is more of a tracking  
11 system.

12                   **Q.** So, when you say "the committee" you  
13 mean the committee that developed the system?

14                   **A.** Sorry, I meant the Consultation  
15 Committee.

16                   **Q.** Right. But I mean, in your paragraph  
17 here you say the CCCW received the information before it  
18 was launched.

19                   **A.** Yes.

20                   **Q.** So, which members participated in  
21 developing the system?

22                   **A.** I don't have a list with me. The one I  
23 can tell you off the top of my head is Marilyn Birch from  
24 NAC was involved.

25                   **Q.** From NAC. I see.



1 yes.

2 Q. Can you give me a rough idea of, you  
3 know, 20, 40, 5?

4 A. Oh, goodness. In terms of communities  
5 I've visited. Oh, dozens.

6 Q. But in terms of the actual -- the  
7 agency.

8 A. The agencies itself I would not see it.  
9 I haven't seen them in every community for sure. I've seen  
10 them over the years as I've travelled for the department.

11 Q. So, having seen some of these spaces  
12 would you agree that agencies need buildings that are  
13 tailored to children and families when they deliver their  
14 services?

15 A. Certainly, that's always optimal.

16 Q. So, you would agree that they would need  
17 that?

18 A. I think, you know, it's very helpful to  
19 have space that is tailored when you're delivering any type  
20 of service.

21 Q. But you agree that as a particular need  
22 for delivering child and family service a building that is  
23 properly adapted to those clientele, the children and  
24 families, that that's part of delivering that service?

25 A. Yes.



1                   **Q.** And are you aware that the FNCFS program  
2 has been without funds for major capital since directive  
3 20-1 was implemented in 1991?

4                   **A.** So, we currently have the -- so, we no  
5 longer define minor versus major capital as per a request  
6 of the Consultation Committee, we refer to it as capital.  
7 And we have expanded that definition within the terms and  
8 conditions. And we have also upped the available cap for  
9 those funds from 1.5 million to 2.5 million dollars.

10                   **Q.** Do you recall the Caring Society raising  
11 concerns about removing this major/minor capital  
12 distinction?

13                   **A.** In fact, it was the Caring Society who  
14 suggested that we remove the minor/major capital  
15 distinction.

16                   **Q.** I mean, that's not quite my  
17 recollection. My recollection was that the threshold was  
18 raised with respect to inflation but the idea of minor  
19 capital -- I guess we should maybe step back and do some  
20 defining. So, major capital as that's, you know, properly  
21 termed is essentially building a new space or expanding  
22 space.

23                   **A.** Yes.

24                   **Q.** And the notion at least of the 1.5  
25 million is that major capital projects will tend to be more

1 than that amount of money. Is that right?

2           **A.** Well, major capital tends to involve,  
3 and again I'm sure there are definitions that we could  
4 point to that I don't have in front of me, major capital  
5 tends to be the purchase or construction of a building that  
6 is of a significant size. Minor capital tends to be more  
7 building repairs, that sort of thing.

8           **Q.** Maintenance.

9           **A.** Maintenance, yes. Or building repairs,  
10 that sort of thing.

11           **Q.** Or facility condition if it's, you know,  
12 replacing a roof.

13           **A.** Yes.

14           **Q.** Or those kind of longer-term items to  
15 extend the life of a building?

16           **A.** Yes.

17           **Q.** And so, you don't recall the Caring  
18 Society being concerned that removing major and minor  
19 capital is going to obscure what kinds of programs are  
20 going forward?

21           **A.** I could be recollecting incorrectly but  
22 my recollection of the CCCW discussions were that there was  
23 a desire for us to remove the labels of minor and major and  
24 refer to it as capital. I'm not saying for a moment that  
25 that means that there wasn't a concern expressed that there

1 could be projects that would be over and above 2.5 million  
2 dollars. But, in my view, that was something that we did  
3 pursuant to a request of the Consultation Committee.

4 **Q.** So, the current status then of capital  
5 within the FNCFS program is that if it's under 2.5 million  
6 it's an eligible expenditure but if it's over 2.5 million  
7 it's not? Is that right?

8 **A.** So, the terms and conditions -- and we  
9 can go through them in some detail if that's helpful to  
10 members -- but the definition of capital has been expanded  
11 so it includes building repairs as per the orders. But it  
12 also now includes capital expenses that could involve  
13 construction or a purchase and that those sorts of items  
14 are now considered an eligible expense.

15 **Q.** But the threshold expenditure limit is  
16 ---

17 **A.** The threshold expenditure has been  
18 increased from 1.5 million to 2.5 million.

19 **Q.** So, if it's on the list of eligible  
20 items and if it's under 2.5 million that's something that  
21 the agency can do? Is that right?

22 **A.** Yes. Certainly, I mean, there are  
23 complications -- I shouldn't say complications -- but our  
24 funding is specific to on reserve. And so, given that  
25 building on reserve care needs to be taken to work with the

1 First Nation to ensure that any capital development is done  
2 within the frame that the First Nation has in mind. So, if  
3 the First Nation has a comprehensive community plan, they  
4 have a major capital plan, an infrastructure plan, those  
5 considerations need to be taken into account.

6 **Q.** Now, in terms of if a building did need  
7 to be constructed is that something that can be done for  
8 2.5 million in your experience?

9 **A.** It would depend on the building.  
10 Certainly, if there was a housing need for example where  
11 there was a specific link back to children in care or  
12 prevention that's something that you could do for under  
13 that amount.

14 **Q.** Now, I guess in terms of the -- you  
15 mentioned the link. So, the terms and conditions have set  
16 out the eligible expenditure items and the cap on expense.  
17 Is that cap, is it a per project cap or is an agency year  
18 cap? So, is it 2.5 million for the year or is it 2.5  
19 million per project?

20 **A.** That's a project cap.

21 **Q.** Okay. Now, in terms of being able to  
22 fund the projects though that's either got to come from the  
23 agency budget or if there's a link to prevention through  
24 the actuals request?

25 **A.** Yes.

1                   Q. So, if there were a prevention request  
2 that had a capital -- so, say for instance an agency  
3 doesn't have space to offer prevention programming in  
4 because it's been under 20-1 and that's not something  
5 that's been part of the agency's history given funding they  
6 could apply for an expansion under prevention for  
7 prevention staff?

8                   A. They could apply, yes.

9                   Q. And would that be something that would  
10 be ineligible when you receive the request or would that be  
11 an eligible ---

12                  A. We'd have to look at the specific  
13 request.

14                  Q. Not getting into the amount or the  
15 configuration but just as a principle.

16                  A. Um-hmm.

17                  Q. If it was an expansion of a building to  
18 provide prevention services that could be an eligible  
19 actual expenditure?

20                  A. If there were an expansion to an exiting  
21 building that -- yes.

22                  Q. And if it was the construction of a new  
23 building? If, you know, if the agency didn't have space  
24 and needed or was a new agency, some of these Ontario  
25 agencies that are in this pre-delegation phase.

1                   A. Yes.

2                   Q. Or, you know, moving forward would that  
3 be eligible under the actuals component?

4                   A. Construction and purchase is eligible as  
5 an expense.

6                   Q. So long as it's under 2.5 million?

7                   A. Yes.

8                   Q. So, if it's outside of the four -- I  
9 suppose if it's outside of a small agency as one, you know,  
10 entity.

11                   A. Yes.

12                   Q. Or the four areas being prevention,  
13 intake investigations, legal services, or building repairs  
14 and there's a capital request how does that get funded if  
15 you're an agency?

16                   A. So, it would need to come out of the  
17 kind of operating costs. But if it were linked to  
18 prevention then we would need to look at it separately.

19                   Q. So, if there was a, you know, a facility  
20 that had reached the end of it's natural life, you know,  
21 let's say, you know, a 40-year old building or a 30-year  
22 old building or a building in a particular area that had  
23 wear and tear and a wholesale replacement was required not  
24 all of that could be funded through the actuals. They'd  
25 have to find money from their existing budget to do the

1 remainder of the project, if they were a larger agency over  
2 a thousand?

3           **A.** I mean, I think we'd need to look at the  
4 specific cases and we'd need to look within the Nation to  
5 see what the Nation's infrastructure plan looked like as  
6 well to make sure that we were aligning with what the  
7 Nation intended to do as an overall plan.

8           **Q.** Now, are you aware that the Caring  
9 Society's been raising this issue of kind of the need for a  
10 more comprehensive approach on capital since 2018 through  
11 the CCCW?

12           **A.** I'm aware that they have raised it  
13 repeatedly, yes.

14           **Q.** And you're aware the department's  
15 response has been essentially a need for more information  
16 about community needs?

17           **A.** Yes, there is a need for more  
18 information in terms of community needs.

19           **Q.** And you've reviewed IFSD's report?

20           **A.** Yes.

21           **Q.** And you know that IFSD had some  
22 information and recommendations on capital?

23           **A.** Yes.

24           **Q.** So, what does the department need next  
25 or now? What's remaining? I mean, IFSD spoke to about 70

1 percent of agencies, I think.

2 **A.** Um-hmm.

3 **Q.** It was well over 65-70.

4 **A.** Yes.

5 **Q.** And came back with a report even that  
6 gave a number or a range of a number in terms of capital  
7 investment that would be required.

8 **A.** Um-hmm.

9 **Q.** And there were no funds generally for  
10 major capital for agencies in budget 2019. Am I right?  
11 Because there was no new funds?

12 **A.** Right.

13 **Q.** So, what's left? What does ISC need to  
14 be able to move forward on a capital strategy for agencies?

15 **A.** So, I think in part we need to be  
16 working closely with our colleagues on the infrastructure  
17 side of the department in order to make sure that all of  
18 those pieces are aligning within a community, within how  
19 the Nation manages its infrastructure.

20 In terms of the needs certainly the IFSD  
21 report was very helpful and identified a number of those  
22 pieces, and as you mentioned identified an amount. It did  
23 not take into account Budget 2018 investments. So, that is  
24 part of the work that we expect will continue from this  
25 point forward. And then we need to look at how this fits



1 into the broader long-term pieces while going forward.

2 Q. So, thinking back to the list of kind of  
3 your teams and bearing in mind Ms. Gros-Louis's kind of  
4 third group of people there.

5 A. Um-hmm.

6 Q. Are there people on those lists whose  
7 job it is to chase this capital thing down?

8 A. I would say it lies more on the program  
9 side. The program side has been working with the  
10 infrastructure program to look at how we manage this moving  
11 forward. From the reform perspective that's certainly a  
12 piece that's front and centre in terms of how we ensure  
13 that long-term reform addresses the needs in communities.

14 Q. Now, in terms of the program side, I  
15 mean, the October meeting was I think -- the October CCCW  
16 was the first one you attended as the ADM responsible for  
17 the program.

18 A. Yes.

19 Q. Is that right?

20 A. Yes.

21 Q. And do you recall raising these kinds of  
22 points about the infrastructure, you know, the need to  
23 consult ISC's infrastructure team, to talk to communities.  
24 Do you recall raising those considerations then?

25 A. I don't recall raising them then. I

1 certainly know that that's a discussion that has been  
2 ongoing over time.

3 **Q.** But, certainly, it would be fair to say  
4 it's been many months that that discussion has been  
5 ongoing?

6 **A.** It's an ongoing discussion for sure.

7 **Q.** And has the infrastructure team, or the  
8 folks on the program side who are charged with capital,  
9 have they been engaging each other and communities in the  
10 last months?

11 **A.** I couldn't give you kind of specific  
12 dates and times of meetings and that sort of thing but it's  
13 an ongoing discussion.

14 **Q.** Ongoing discussion. Is there a sense on  
15 when there will be essentially a plan for how to address  
16 the capital needs going forward?

17 **A.** Well, I think, you know, we have  
18 processes in place. We have fora like the Consultation  
19 Committee, like the NAC, National Advisory Committee. We  
20 have trilateral tables in every province. And so, that's  
21 where these discussions need to continue to happen to make  
22 sure that we have all of the information that we need.

23 We're also hoping that the new system that  
24 you referred just before will help to give us some of that  
25 data as well. I think overall as I mentioned before part

1 of the six-point plan in terms of reform is data and  
2 reporting. And there's a large challenge on that front  
3 because not every system across the country collects data,  
4 doesn't define data the same way, those sorts of things.  
5 So, all of that kind of works into the mix.

6 **Q.** But you don't have a specific timeframe  
7 for a capital plan for agencies then?

8 **A.** I don't have a specific timeframe for a  
9 plan, no.

10 **Q.** Now, do you recall raising a directive  
11 on capital that was forthcoming back at the October  
12 Consultation Committee meeting?

13 **A.** Yes. And so, that is work that is  
14 underway and we intend to share that with CCCW prior to the  
15 June meeting.

16 **Q.** But do you recall raising that it was  
17 forthcoming and coming by the next meeting in October,  
18 November and February?

19 **A.** I don't think we made a commitment to a  
20 specific meeting but it certainly has been an ongoing  
21 discussion, yes. And it's through those discussions that  
22 we have been able to achieve the progress under the new  
23 terms and conditions and in terms of raising the limit from  
24 1.5 to 2.5. So, there's certainly been progress in terms  
25 of how we address capital currently with a continued

1 commitment to act on a capital directive.

2           **Q.** And will the parties have an opportunity  
3 to be providing feedback once the directive comes out or is  
4 it going to be ---

5           **A.** Of course, yes. That's ---

6           **Q.** So, it will be a draft?

7           **A.** That's why I mentioned we would share it  
8 before the next CCCW meeting in June.

9           **MR. TAYLOR:** Chair, I've been going for  
10 about an hour and twenty-five. If this is a convenient  
11 time for you, we could take a break.

12           **THE CHAIR:** Thank you for your evidence so  
13 far. I would direct you not to discuss your evidence until  
14 you've completed your testimony today.

15           **THE WITNESS:** Certainly.

16           **THE CHAIR:** Unless counsel has questions  
17 about the documents that were referred to earlier. Aside  
18 from that please refrain from discussing your testimony.

19           **THE WITNESS:** Of course.

20           **THE CHAIR:** And we'll take 15 minutes. And  
21 is there anything else that we need to discuss at this  
22 point? No. So, let's be back at twenty to 11:00. Thank  
23 you.

24           **THE WITNESS:** Thank you.

25 --- Upon recessing at 10:25 a.m.

1 --- Upon resuming at 10:40 a.m.

2 **THE CHAIR:** I'm sorry. I know it's a long  
3 day for you. If there's any need for you to take a break  
4 just me know.

5 **THE WITNESS:** Absolutely. Thank you.

6 **THE CHAIR:** Mr. Taylor, are you ready?

7 **MR. TAYLOR:** I'm ready, Chair.

8 **THE CHAIR:** Yes.

9 **MR. TAYLOR:** Thank you.

10 --- **BY MR. TAYLOR:**

11 **Q.** Ms. Wilkinson, I'd just like to go back  
12 to capital for a moment.

13 **A.** Yes.

14 **Q.** And I don't have a copy with me of all  
15 of the records of decision from the CCCW meetings. So, I'm  
16 going to show you something on my colleague, Ms. Clarke's  
17 computer.

18 **A.** Okay.

19 **Q.** And I discussed this briefly with Mr.  
20 Frater. Just for the record this would be found in the  
21 supplementary joint record of documents that Canada filed I  
22 believe it was at the end of January which contained the  
23 final records of decision up until that point. So, this is  
24 a record of decision from the November 19, 2018  
25 Consultation Committee meeting. So, I'll just bring it

1 over to you.

2 A. Okay.

3 Q. Give me a moment. So, do you see that  
4 at the top of the document it says, "Consultation Committee  
5 on Child Welfare Assembly of First Nations, 16th floor,  
6 large boardroom, November 19, 2018, 9:00 a.m. to 12:00  
7 p.m.?"

8 A. Yes.

9 Q. And you see in attendance -- do you see  
10 your name it's about the fifth or sixth one down, Ms.  
11 Joanne Wilkinson?

12 A. Yes.

13 Q. Now, if you'll scroll down with me to  
14 the bottom of page 5. Do you see it says, "ISC updates  
15 capital needs"?

16 A. Yes.

17 Q. Now, just over the page at the top of  
18 page 6 it says:

19 "Until all capital is funded and a full  
20 funding model is implemented Dr.  
21 Blackstock strongly urged the  
22 distinction between minor and major  
23 capitals continues to be made.  
24 Additionally, both categories serve  
25 different needs which should not be

1                   obscured due to conflation.”

2                   So, seeing that do you have any further  
3 reflection on your recollection that conflating the  
4 distinction came at the recommendation of the Caring  
5 Society?

6                   **A.** Certainly, I acknowledge that it's in  
7 the minutes. I do recall a discussion where we discussed  
8 removing them. Frankly, from my perspective it's -- we can  
9 do either. I believed to be operating under the view that  
10 the preference of the Consultation Committee was to not  
11 distinguish but I completely acknowledge that that is in  
12 the record of decision. And so, we can certainly adjust  
13 and continue to have those discussions.

14                   I think that's part of the importance of  
15 continuing to have these fora and these discussions is that  
16 these discussions evolve. And so, I cannot recall which  
17 meeting it was that I recall the discussion around a desire  
18 to remove them but I acknowledge that it's certainly in  
19 this record of decision that the request was to maintain  
20 them.

21                   **Q.** Thank you. I'll just take Ms. Clarke's  
22 computer back.

23                   **A.** I don't want to touch it very much.  
24 Thank you.

25                   **Q.** So, I've just handed you, Ms. Wilkinson,

1 a one-page email. And it's February 15, 2019. And it's to  
2 Kerry Francis. And it's FNCFS again, that's a generic  
3 program email address?

4 **A.** It is.

5 **Q.** Do you know who Kerry Francis is?

6 **A.** I do not know the individual, no.

7 **Q.** But at NOG.ca. Do you know  
8 Nogdawindamin?

9 **A.** Yes.

10 **Q.** And that's a First Nations Child and  
11 Family Services agency?

12 **A.** Yes, of course.

13 **Q.** And this email text does this look like  
14 the kind of denial email that you were speaking of before  
15 the break?

16 **A.** It does.

17 **Q.** Now, I note the second paragraph:

18 "The department has finalized the  
19 review of your current year claim  
20 request within the five business days  
21 maximum timeline. The twelve million  
22 six hundred and ninety-one thousand  
23 twenty-nine dollar and forty-three  
24 cents claim amount is denied because  
25 the mental health and health related to



1 costs are ineligible under the terms  
2 and conditions of the First Nations  
3 Child and Family Services program."

4 A. Um-hmm.

5 Q. So, just in terms of that notation on  
6 mental health. I had understood from your evidence before  
7 the break that mental health was eligible for prevention?

8 A. Mental health services are. Services to  
9 individual children and families are eligible but the  
10 setting up of -- I'll use the word clinic for lack of a  
11 better word but my recollection is that this claim was for  
12 the setting up and staffing of -- I'm sorry, I'm trying to  
13 think of a better word than clinic, but a clinic type of  
14 operation.

15 Q. So, is your evidence then that the kinds  
16 of services that are eligible are those that are existing?  
17 So, if an agency wants to assign existing mental health  
18 services to a family and have those funded it can be  
19 funded. But if they need to create a position or hire a  
20 worker for mental health that that's not eligible?

21 A. The operations of a clinic -- forgive  
22 me, I'll just use that word -- the services themselves are  
23 an eligible cost. It's the staffing up and operation of a  
24 clinic per se that would not be eligible.

25 Q. Now, is there an appeal of this

1 decision?

2                   **A.** I would have to check that. I believe  
3 there was.

4                   **Q.** And do you know if it was allowed?  
5 Well, I suppose you said both appeals have been denied so  
6 ---

7                   **A.** Both appeals have been denied. So, I  
8 believe this is the second one.

9                   **Q.** Yes. And I suppose the alternatives are  
10 either there was no appeal and it remained denied or it was  
11 appealed and it was denied.

12                   **A.** Correct.

13                   **Q.** Because we know both appeals were  
14 denied.

15                   **A.** Yes.

16                   **Q.** Okay.

17                   **THE CHAIR:** Would you recall what region  
18 this emanates from?

19                   **THE WITNESS:** From Ontario.

20                   **THE CHAIR:** I understand that but would that  
21 be a remote area. What I'm trying to get at is were there  
22 surrounding services that could offer mental health  
23 services?

24                   **THE WITNESS:** Yes. Yes. We do pay for  
25 mental health services within this agency's area of

1 operation for services to individuals to access those  
2 services.

3 **THE CHAIR:** Okay. So, you would do the  
4 analysis to make sure that surrounding services are  
5 available before denying this type of claim? I'm trying to  
6 figure out if it emanated because there was no surrounding  
7 services or no access to mental health services and they  
8 were asking -- because you can't provide services if you  
9 don't have, you know, service providers.

10 **THE WITNESS:** Right. I would say -- so,  
11 there's -- the regional officials involved would be very  
12 familiar with the area in which this agency operates. It's  
13 because we pay the claims very -- on an expedited basis.  
14 We don't do a deep analysis in terms of those types of  
15 factors but certainly we have ongoing conversations with  
16 agencies about the needs in their communities. And as I  
17 say we would pay for individual services but not for the  
18 actual operation of that type of a centre.

19 **THE CHAIR:** Would your analysis when you're  
20 making this determination inquire if those services exist,  
21 in fact, and are accessible?

22 **THE WITNESS:** That would be one of the types  
23 of things that we would look at. I don't have the  
24 specifics of this case in front me.

25 **THE CHAIR:** Yes.

1                   **THE WITNESS:** So, I can't tell you exactly  
2 what analysis was done. But that's certainly a  
3 consideration that factors in.

4                   **THE CHAIR:** Okay. Thank you. Sorry. Thank  
5 you.

6 --- **BY MR. TAYLOR:**

7                   **Q.** Just on geography is it your  
8 understanding Nogdawindamin is in the Sudbury area?

9                   **A.** That general area, yes.

10                  **Q.** I'm sorry, one moment. Now, for  
11 something like this where a request for mental health  
12 services come in where there is no -- they're attempting to  
13 create a service. Would that be something that when it's  
14 denied that your sector of the department would refer over  
15 to Jordan's Principle?

16                  **A.** I believe this case did go over to the  
17 Jordan's Principle area, yes.

18                  **Q.** And do you know what the outcome was  
19 there?

20                  **A.** I don't recall.

21                  **MR. TAYLOR:** Mr. Frater, can I make a  
22 request for information in terms of the outcome of  
23 Nogdawindamin's request to Jordan's Principle?[u]

24                  **MR. FRATER:** Assuming it went there.

25                  **MR. TAYLOR:** Assuming it went there of

1 course. Yes.

2 **MR. FRATER:** Okay. We'll see if we can get  
3 that information.

4 **MR. TAYLOR:** Thank you.

5 --- **BY MR. TAYLOR:**

6 **Q.** Ms. Wilkinson, I'd like to ask you some  
7 questions about the IFSD report now.

8 **A.** Yes.

9 **Q.** So, you're aware, of course, of the  
10 Institute for Fiscal Studies and Democracy's December 2018  
11 report?

12 **A.** I am.

13 **Q.** And you've read it?

14 **A.** I have.

15 **Q.** Now, paragraph 10(a) of your affidavit  
16 notes that Indigenous Services provided about two million  
17 in funding through AFN for this report. And I guess we can  
18 go there again. That's your big affidavit.

19 **A.** Yes.

20 **Q.** And 10(a).

21 **A.** Yes, I have it. Thank you.

22 **Q.** It says:

23 "ISC provided approximately two million  
24 in funding through AFN for IFSD to  
25 conduct an analysis of existing needs

1 assessments as well as a cost analysis  
2 of agency needs to support the  
3 development of an alternative funding  
4 model for First Nations Child and  
5 Family Service agencies."

6 And that was pursuant to a Tribunal order?

7 **A.** Yes, that was to further the development  
8 on the needs analysis front.

9 **Q.** Now, are you aware that a significant  
10 portion of the two million dollars supported a First Nation  
11 Child and Service agency representatives to travel to  
12 Ottawa and Saskatoon to participate in data collection  
13 workshops?

14 **A.** I couldn't tell you what the numbers are  
15 but certainly that was part of the work that was done.

16 **Q.** And you're aware that that was funded  
17 through that two million dollar allocation?

18 **A.** I don't have specific knowledge about  
19 the breakdown of the funding and how it was allocated.

20 **Q.** Now, you're aware that the First Nations  
21 representatives on the National Advisory Council approved  
22 the second phase of IFSD's research during the meeting in  
23 February?

24 **A.** They recommended it, yes.

25 **Q.** And you're aware that all First Nations

1 representatives on the CCCW had confirmed their agreement  
2 to IFSD moving forward with its second phase no later than  
3 the April 2, 2019 CCCW meeting?

4 **A.** There was a discussion at that meeting,  
5 yes.

6 **Q.** And you're aware that the outcome of  
7 that discussion was the First Nations parties agreed that  
8 the second phase should proceed?

9 **A.** I'm aware that that was the outcome of  
10 the discussion that there was a preference for that to  
11 proceed, yes.

12 **Q.** Now, I have a question for you about  
13 paragraph 10(i) of your affidavit. And this was a comment  
14 you'd made earlier today about the IFSD report only  
15 focussing on '17/'18 financial information of agencies.

16 **A.** Um-hmm.

17 **Q.** Now, you'd agree though that the IFSD  
18 started its work, I believe, it was about this time last  
19 year and completed it in December 2018?

20 **A.** Yes.

21 **Q.** And the fiscal information for 2018/19  
22 wouldn't have been complete until three months after IFSD's  
23 report was done?

24 **A.** The full amount of actuals would not  
25 have been available, yes.

1 Q. Right. Now, you raise a number of  
2 considerations in paragraph 10(j) that you say:

3 "Canada communicated to..."

4 Well, I say you say communicated but here do  
5 you mean communicated to the CCCW or who's the I guess the  
6 audience for these concerns or considerations is what you  
7 call them?

8 A. That was communicated to -- it was an  
9 email exchange that went back and forth among myself, Mr.  
10 Thompson from AFN, and Dr. Blackstock that was subsequently  
11 shared by AFN with all CCCW members.

12 Q. And so, that email exchange that's the  
13 one you've attached at Exhibit 1?

14 A. Yes.

15 Q. Now, if we look at Tab 8 of the little  
16 book I've left with you at the start of today do you  
17 recognize that as the continuation of that chain? So,  
18 after your email on page 3 that says:

19 "Hi there..."

20 Which I think is the first of the Exhibit 1.  
21 Mr. Orr(?) forwards it to the other members.

22 A. Yes.

23 Q. Dr. Blackstock asks the proposal be  
24 circulated and then there's a -- and Ms. Matthews has a  
25 response there.



1                   **A.** Yes.

2                   **Q.** And at Tab 9 this is an email April 25th  
3 from myself to Mr. Frater about the IFSD report. Have you  
4 seen this email before?

5                   **A.** I believe it was forwarded to me but I  
6 would have to double-check that.

7                   **Q.** But certainly, the concerns ---

8                   **A.** But the content of it is not a surprise  
9 to me.

10                  **Q.** Right. The concerns are not surprising  
11 to you?

12                  **A.** No.

13                  **Q.** Okay. Now, if you look at Tab 7 of the  
14 little book. So, this is an email from Rachelle Ayoub and  
15 I noted she was on the GEDS list on Tab 1.

16                  **A.** Yes.

17                  **Q.** She's your senior policy advisor?

18                  **A.** She is.

19                  **Q.** And it says that it's on behalf of  
20 Joanne Wilkinson?

21                  **A.** Yes.

22                  **Q.** And so, did you draft this email or  
23 approve it?

24                  **A.** I approved it and signed it in a letter  
25 format yesterday.

1 Q. Yes.

2 A. Yes.

3 Q. And I believe if you turn over two pages  
4 the letter format is the back of the ---

5 A. Yes. They are the same.

6 Q. Yes. And that was sent yesterday at  
7 2:04 p.m.?

8 A. It was.

9 Q. And in the email you state that:

10 "ISC is prepared to support further  
11 research up to the amount requested of  
12 approximately 1.7 million."

13 Is that right?

14 A. That's right.

15 Q. Now, is this in response to the IFSD  
16 proposal for further research to establish a new funding  
17 approach?

18 A. It's in response to the email that Mr.  
19 Thompson sent me that attached the IFSD proposal, yes.

20 Q. All right. And is there a reason that  
21 the email/letter don't mention IFSD specifically?

22 A. Well, the funding would flow to AFN from  
23 us. So, similar to last year's arrangement the department  
24 did not contract IFSD. The department provided funding to  
25 the Assembly of First Nations and the Assembly of First

1 Nations then contracted their preferred contractor which  
2 was IFSD.

3 Q. But it was your expectation in approving  
4 the 1.7 million that IFSD would be the entity carrying out  
5 the work?

6 A. I expect from AFN's perspective that's  
7 who they would contract, yes.

8 Q. And I said "when you approved" but I  
9 guess I should confirm. So, was the 1.7 million, was that  
10 an approval at your level or at what level did that have to  
11 come?

12 A. No, I approved that.

13 Q. Approved that. Now, going back to the  
14 big affidavit, paragraph 10. I've now lost the specific  
15 reference but you raised at one point the issue of a need  
16 to identify a source of funds for this work to continue?

17 A. Yes.

18 Q. That's right?

19 A. Yes.

20 Q. So, what was the source of funds in the  
21 end of the 1.7 million?

22 A. So, the source of funds will come from  
23 within the program.

24 Q. Within the program. So, within the  
25 First Nations Child and Family Services Program?

1                   **A.** Yes.

2                   **Q.** So, is that going to be a reallocation  
3 or a cash management?

4                   **A.** We will have to double-check the flow of  
5 funding currently but my expectation is that we would do  
6 cash management in the very short term and then just make  
7 sure that it comes -- but it will all come from within the  
8 program. We're not reallocating it from somewhere else.

9                   **Q.** From somewhere else.

10                  **A.** It's from within the program.

11                  **Q.** Now, you mentioned that 98 percent of  
12 the program is funds that are going out to communities.

13                  **A.** Yes.

14                  **Q.** And so, is that -- the source of the 1.7  
15 million is it from the 98 percent going to communities or  
16 is it from the two percent that's on administration?

17                  **A.** It needs to be grants and contributions  
18 dollars because that's how we flow funding to recipients.  
19 So, it would come out of the grants and contributions  
20 budget.

21                  **Q.** But can you help me? I'm not sure which  
22 side of the 98 percent or the two percent grants and  
23 contributions are.

24                  **A.** It would come out of the 98 percent.

25                  **Q.** Okay. And do you have an identified

1 list at this point of which sources the 1.7 million is  
2 being taken from from the 98 percent then?

3 A. I don't.

4 Q. When do you expect that will exist?

5 A. As soon as we get the paperwork in place  
6 to get the money out the door.

7 Q. So, you at this point haven't identified  
8 necessarily where exactly the 1.7 million is coming from?  
9 You just know the -- *le besant*(?) kind of the pot of funds  
10 that it's coming out of?

11 A. Exactly.

12 Q. And will you tell the CCCW the source of  
13 those funds once it's determined.

14 A. Oh, certainly. I'm happy to. Yes.

15 Q. And why is it that it has to be taken  
16 from grants and contributions funding?

17 A. Because we have a contribution agreement  
18 with the Assembly of First Nations. And so, that's how we  
19 transfer money to that organization.

20 Q. But the -- what is it about the form of  
21 transfer to the AFN that necessitates that the money coming  
22 from ISC's side has to come out of the grants and  
23 contributions pool?

24 A. Because the money that we transfer --  
25 the contribution agreement is for grants and contributions

1 funding.

2 Q. Yes. So, I understand the funds that  
3 leave the department have to be grants and contributions  
4 funding.

5 A. Right.

6 Q. But in terms of within the four corners  
7 of the department isn't it an option to your department to  
8 re-profile funds from administration over to grants and  
9 contributions?

10 A. There are opportunities throughout the  
11 year if the department needs to to convert dollars at a  
12 cost. And so, if we were in a position where that was  
13 necessary that's an option that could be looked at.

14 Q. When you say "at a cost" I don't  
15 understand what that means.

16 A. And Mr. Thoppil would be better placed  
17 to answer this than I am. But when -- within the federal  
18 framework if you are converting operations and maintenance  
19 dollars which are essentially the dollars upon which the  
20 department operates, salaries, training, et cetera. If you  
21 are converting those dollars into grants and contributions  
22 dollars and vice versa it's not a one-to-one exchange. I  
23 don't know what the exchange rate per se is. But there is  
24 -- it's not a one-to-one transfer of dollars.

25 Q. And would it also be an option to fund

1 it through a new appropriation; through a supplementary  
2 estimates process?

3 A. That's always an option if there's  
4 funding that's available.

5 Q. Do you know what the operations and  
6 maintenance budget for the department is? Not just within  
7 the program but at large?

8 A. I don't have those numbers, no.

9 Q. Okay. Now, do you recall that Dr.  
10 Blackstock's first email to you on this next step of the  
11 IFSD project was in February of 2019?

12 A. I don't have it in front of me but that  
13 sounds quite possible.

14 Q. We could look at it.

15 A. Yes.

16 Q. I believe it's in your Tab 1, last page,  
17 page 6. Wednesday, February 6, 2019.

18 A. That does sound familiar, yes.

19 Q. Yeah. So "Good afternoon, Joanne."

20 A. I think it was about a month before we  
21 received the proposal.

22 Q. Yes. Actually, it was exactly a month  
23 as I recall.

24 A. Yes.

25 Q. The proposal was March 6th. Now, is

1 there a reason that you didn't ask for the proposal right  
2 away in February when Dr. Blackstock contacted you?

3 **A.** We had already discussed the need for a  
4 proposal prior to that, that we would need a proposal for  
5 any further work. That would not have been a surprise in  
6 March.

7 **Q.** Right. But you didn't follow up in  
8 February to say, "Hey, where's the proposal?"

9 **A.** Not in writing, no.

10 **Q.** Did you follow up in other means?

11 **A.** I don't recall exact conversations but  
12 certainly from the time that there was a desire expressed  
13 for further work it was flagged that a proposal would be  
14 needed.

15 **Q.** Now, in terms of from March 6th when the  
16 proposal comes in to April 2nd when the Consultation  
17 Committee meeting happens, I understand there were a few  
18 concerns that you raised along the way and those are  
19 summarized. Let me know if this is fair. Those are  
20 summarized in paragraph 10(i) and (j) of your affidavit?

21 **A.** Yes.

22 **Q.** So, why wasn't a special meeting  
23 convened to discuss these concerns as opposed to leaving  
24 them until April 2nd?

25 **A.** So, we did discuss the possibility of a



1 separate meeting and our collective schedules didn't allow  
2 for that to happen but there was certainly lots of email  
3 traffic happening.

4 **Q.** And in terms of the April 2nd meeting  
5 when it was conveyed that, you know, there's a desire for  
6 this to move forward, and then my email to Mr. Frater three  
7 weeks later and then the decision on May 13th. Why did it  
8 end up taking so long for this to get approved?

9 **A.** Well, as I mentioned here, we had to  
10 identify funds, we engaged with discussions internally as  
11 well, and with AFN to ensure that there was clarity moving  
12 forward in terms of what was required. And it does take  
13 time to have these approvals and due diligence take place  
14 in order to get approvals done.

15 **Q.** Now, looking at 10(j)(iii) you note one  
16 of your concerns on proposed timeline for additional  
17 research resulting in the establishment of a new funding  
18 methodology being delayed to 2020?

19 **A.** Yes.

20 **Q.** So, you're concerned with the timeliness  
21 of the result? And I think that was a concern that you  
22 conveyed in one of your March emails to Dr. Blackstock, was  
23 it not?

24 **A.** Yes.

25 **Q.** So, the additional two months, two and a

1 half months, from conveying that concern to approving the  
2 proposal that's certainly going to push out the time  
3 required to achieve a new funding approach, is it not?

4 **A.** I can't speak for IFSD's work plan.

5 **Q.** But certainly, the proposal you received  
6 in March of 2019 spoke to a spring 2020 implementation?

7 **A.** It spoke to a report by the end of the  
8 fiscal year and the 1.7 million dollars that we've  
9 identified is for this fiscal year.

10 **Q.** Yes.

11 **A.** So, our hope would be that the report  
12 would still come in before March 31, 2020.

13 **Q.** But certainly, they'll have more work to  
14 do in less time given the time it's taken to approve their  
15 proposal?

16 **A.** Yes.

17 **Q.** Now, another one of the concerns you  
18 raise is at 10(j)(ii) this interest for Indigenous  
19 researchers to be included in the work?

20 **A.** Yes.

21 **Q.** And is that a concern coming from ISC or  
22 is that a concern from the CCCW?

23 **A.** That's a concern that I raised.

24 **Q.** And is that a concern you heard at the  
25 NAC?

1                   **A.** I did not hear it at the NAC. I was not  
2 present for that NAC discussion.

3                   **Q.** But you're aware that in terms of First  
4 Nations participation that there were over 70 agencies who  
5 attended workshops and shared their information.

6                   **A.** Absolutely. Yes.

7                   **Q.** In the first phase.

8                   **A.** Yes.

9                   **Q.** Now, in terms of your comment at  
10 10(j)(iv) you raise consideration on how the three studies,  
11 the Ontario Special Study, Nishnawbe Aski Nation Remoteness  
12 Quotient, and IFSD will need to be integrated into the new  
13 funding model for the program.

14                   **A.** Um-hmm.

15                   **Q.** Did Chiefs of Ontario or Nishnawbe Aski  
16 Nation ever advise Canada that IFSD's second phase of work  
17 should wait until their respective studies were complete?

18                   **A.** No. And that's not what I was implying  
19 through raising this point. I think the point that I was  
20 trying to make in all of these areas was that the IFSD work  
21 is not exclusive of other research that is happening.

22 There have been significant investments in the Ontario  
23 Special Study and the NAN Remoteness Quotient.

24                   And what we really need to get to is to a  
25 new funding methodology, that's the goal and making sure

1 that we get to that goal as efficiently as possible. And  
2 taking all of these points of work into consideration I  
3 think is something that's important to do.

4 I raised the point about First Nation  
5 researchers and Indigenous researchers because IFSD's  
6 original work did not include that. And I found that a  
7 missed opportunity to ensure particularly for an  
8 organization that is housed within a university we have  
9 numerous Indigenous scholars who are rising through the  
10 ranks.

11 And so, I felt it important to flag that it  
12 would be helpful in a broader context to ensure that those  
13 voices -- certainly I acknowledge that a number of -- many  
14 many many agencies have been involved. But trying to  
15 ensure that those researchers are included in this type of  
16 work I think is important from a broader perspective.

17 Q. Now, in terms of this next phase of  
18 IFSD's work do you have a sense of when IFSD can start the  
19 research?

20 A. So, we'll be speaking with AFN in terms  
21 of how -- if they are able to cash manage that moving  
22 forward or if we need to get money in the bank per se. So,  
23 we'll be working very closely with them to make sure that  
24 it starts quickly.

25 Q. And with the exception of the transfer

1 of funds either from IFSD to AFN or within AFN I won't  
2 speak for my friends, from your perspective is there any  
3 other impediment to IFSD getting up and running with its  
4 work?

5 **A.** Not from my perspective, no.

6 **Q.** And in terms of ethical research  
7 guidelines will the same guidelines that guided the first  
8 phase of the work guide the second phase?

9 **A.** I would assume so, yes.

10 **Q.** Now, in terms of the department's work  
11 in bringing these three studies together at the end do you  
12 have anyone on your team who has academic training or  
13 research analysis background that will inform how to  
14 amalgamate these three studies? Or what's the plan there  
15 if you don't?

16 **A.** So, we certainly have a number of folks  
17 within the department and within the program who do have  
18 some expertise in pulling these types of pieces together.  
19 I think that we absolutely can -- we can always improve  
20 upon that and we work with our partners.

21 And so, this is not something that we would  
22 do unilaterally. This is -- these are relationships that  
23 we value in terms of making sure that these pieces move  
24 together in a way where everybody has a voice in terms of  
25 how that gets brought together.

1                   It's not our intention, certainly not our  
2 intention to develop a funding methodology alone. That's  
3 part of the point that I was making here is that all of  
4 these pieces need to come together so that we can make sure  
5 that a new funding methodology reflects all of those  
6 perspectives.

7                   **Q.** And you'd agree that it, at least at  
8 this point, it's premature to set out how that bringing  
9 everything together and the non-unilateral work will look  
10 given that the research isn't complete yet? At least for  
11 two of the three pieces. I understand the NAN report is  
12 in.

13                   **A.** Yes. So, certainly there have been  
14 delays in the process in terms of -- for many different  
15 reasons and lots of different factors. And it's important  
16 to do the work right. It's more important to do it right  
17 than to do it by a certain date.

18                   And so, we acknowledge that and we've kind  
19 of extended that ability both for the Ontario Special Study  
20 and for the NAN Remoteness Quotient work. That being said,  
21 you know, we do want to get to a new funding methodology.  
22 But as I said it will be the work of all partners to try to  
23 bring those options together.

24                   **Q.** So, there are still discussions to be  
25 had then among all partners to make those discussions.

1                   **A.** Oh, absolutely.

2                   **Q.** Well, I supposed I just said further  
3 discussions to have discussions. But there's more talking  
4 to be done. That's the ---

5                   **A.** We discuss a lot so ---

6                   **Q.** Oh, I'm aware. Now, you say in  
7 paragraph 10(j)(v) that ISC wants to fully participate in  
8 the research to ensure an effective transition from  
9 implementation of the new funding model. And, certainly,  
10 in your -- just going to Tab 7 in the little book here  
11 that's something I see repeated. I say:

12                               "ISC is firmly committed to integrity  
13                               and objectivity and it is not the  
14                               department's intention to influence  
15                               respondents in their provision of  
16                               information to any researchers.  
17                               However, ISC needs to be at the table  
18                               as this research project proceeds to  
19                               enable us to make the strongest  
20                               possible case for any new federal  
21                               funding model."

22                               Do you agree that ISC's participation at the  
23 table has to be guided by OCAP, the Ownership, Control,  
24 Access, and Possession (inaudible)?

25                   **A.** I think we all need to be guided by

1 that, yes.

2 Q. Yes. And have you articulated the  
3 specific ways in which ISC wants to fully participate with  
4 anyone since you've raised these concerns?

5 A. I think that's the discussion that we  
6 need to have as we look at how this research rolls out to  
7 make sure that we -- it's important that we be part of the  
8 discussions and part of the thinking behind where these  
9 pieces come from so that we can make the best possible case  
10 as we move forward in terms of what a new funding  
11 methodology could look like.

12 Q. And when you say "the best possible  
13 case" that's to Treasury Board?

14 A. Well, it could potentially be through  
15 the policy development process, potentially through Cabinet  
16 if we need new policy authorities, and certainly through  
17 the Treasury Board process.

18 Q. So, certainly once the department  
19 finishes its work whatever that looks like because those  
20 discussions have to be discussed and will be forthcoming  
21 there will be other entities within government that have to  
22 sign off on the new funding approach before it rolls  
23 forward?

24 A. Yes.

25 Q. And that will include central agencies?



1                   **A.** Yes.

2                   **Q.** Cabinet?

3                   **A.** Potentially.

4                   **Q.** And if more funds are required  
5 ultimately Parliament?

6                   **A.** Potentially.

7                   **Q.** Now, when are these discussions about  
8 ISC's role at the table going to happen? Will that wait  
9 for the next CCCW meeting or are you going to line  
10 something up before?

11                   **A.** No, I think we can have those  
12 discussions starting tomorrow.

13                   **Q.** Well, tomorrow at least for cross-  
14 examining Mr. Thoppil. So, we'll ---

15                   **A.** That's true. So, yes. So, I'll let you  
16 have fun with Mr. Thoppil. And, in fact, I'll be at the  
17 Ontario Joint Gathering tomorrow. So, perhaps Thursday  
18 but all to say soon. This is -- I mean, you know, we're  
19 not looking to delay anything. We are seeking to get to  
20 the end point as well.

21                   **Q.** I mean, I guess it's just a bit hard for  
22 me to understand the April 2nd to May 13th, you know,  
23 because they're -- like what was going on in those  
24 intervening six weeks? Because I think you had the message  
25 at least clearly from the CCCW side trying to answer all

1 the concerns that you raised. So, how did it take another,  
2 you know, 42 days for us to get to where we are where we're  
3 now wanting to move forward in these discussions very  
4 quickly?

5                   **A.** Well, I mean, there's a lot of due  
6 diligence that has to be done internally. We had to  
7 identify as I mentioned the source of funds. We needed to  
8 have discussions internally to ensure that there was  
9 comfort in terms of these types of pieces moving forward.  
10 Certainly, optimally could we have, you know, done this  
11 earlier? Absolutely.

12                   But as I say there are a number of pieces  
13 going -- we have put the priority on the claims and getting  
14 the claims out the door. But this is -- you know, we need  
15 to do our due diligence internally. The deputies as noted  
16 in one of the exhibits met with IFSD directly to hear from  
17 them in terms of their findings and also what they saw  
18 moving forward. So, those types of steps needed to take  
19 place.

20                   **Q.** And the deputies' meeting that was late  
21 March?

22                   **A.** I don't have the date in front of me.

23                   **Q.** And it may be mentioned in your  
24 affidavit.

25                   **A.** March 26th. Yes, yes.

1 Q. Thank you.

2 A. It's at (k).

3 Q. Now, you said it was your decision to  
4 approve the 1.7 million?

5 A. Yes, because it's from the program.  
6 Yes.

7 Q. So, who had to be comfortable with it  
8 besides yourself?

9 A. Well, I mean, I don't always enter into  
10 these things without having discussions. And certainly,  
11 because the deputies had met with IFSD I wanted to make  
12 sure that they were comfortable as well. And so, those  
13 discussion happened as well.

14 We also wanted to make sure that because AFN  
15 is the contract holder if you will that there was comfort  
16 there in terms of moving forward. And so, those -- I say  
17 those are the discussion that have been ongoing. And so, I  
18 was very happy to be able to send the approval letter  
19 yesterday.

20 Q. And so, the discussions those were with  
21 Mr. Perron who's the Associate Deputy Minister, Mr.  
22 Tremblay who's the Deputy Minister, AFN.

23 A. Yes.

24 Q. Were there other discussions that held  
25 this thing up?

1                   **A.** I wouldn't characterize it as holding it  
2 up but there were ---

3                   **Q.** How would you characterize a six-week  
4 delay for discussions?

5                   **A.** I would characterize it as due diligence  
6 and ensuring that we were able to identify a source of  
7 funds that was not expected for this fiscal year.

8                   **Q.** Now, in terms of these concerns about  
9 participating at the table will those be articulated before  
10 a meeting with, I assume, the CCCW or with IFSD? Or will  
11 that be another discussion that's going to have to take  
12 place for that list to be generated?

13                   **A.** I don't know that there's a list per se  
14 that we would need. I think we just need to talk about how  
15 this rolls out. But I don't anticipate there being a list  
16 per se.

17                   **Q.** Now, did ISC provide any information to  
18 IFSD during the first phase of their work?

19                   **A.** I don't have knowledge of that.

20                   **Q.** Okay. Are there any procedures that are  
21 going to happen within the department to make sure that if  
22 IFSD needs information from ISC that's given in a timely  
23 way?

24                   **A.** I'm not aware of their having requested  
25 anything but certainly if there is information that they

1 require we would do our best to obtain that keeping in mind  
2 any sort of privacy rules as well.

3 Q. Certainly, it seems from your concerns  
4 you've articulated about ISC being at the table that there  
5 will be some role for ISC in terms of providing material to  
6 IFSD. Would you agree?

7 A. They haven't asked for it. I don't want  
8 to assume that. But if they do, we're certainly open to  
9 having that conversation.

10 Q. And you'll set up -- will there be  
11 methods or I guess pathways set up to deliver this  
12 information more promptly and not have, you know, a high  
13 number of claims put it on the back burner?

14 A. Again, I would not characterize it as  
15 being on the back burner but I would say we -- I mean, we  
16 have had discussions leading to this point. This will  
17 enable things to roll out more smoothly I think in terms of  
18 making sure that concerns are acknowledged and addressed  
19 and discussed.

20 And we've worked very closely with AFN and  
21 with the Caring Society and other CCCW members. We expect  
22 that coordination and cooperation to continue. We have  
23 having gone through the discussion on privacy we, I think,  
24 would have a more expeditious path in terms of being able  
25 to check that information more quickly in the future on

1 other areas. So, if that's required that legwork has  
2 already been done in advance.

3 Q. Now, looking at Tab 10 of the small book  
4 that I provided you this morning. This is an email from  
5 Dr. Blackstock yesterday afternoon at 2:42 p.m.

6 A. Yes.

7 Q. Have you seen this email?

8 A. I have seen it. I have not yet been  
9 able to respond to it.

10 Q. Now, she raises four concerns in this  
11 email. What's the plan for responding to these concerns so  
12 that this work can move forward? Well, I guess you've  
13 already said that the work can move forward once the  
14 funding is in place. But what's the plan in terms of  
15 getting back to Dr. Blackstock here?

16 A. Well, I mean, I will certainly get back  
17 to her in writing. I would say just kind of preliminarily  
18 I would just note that we do not provide funds to IFSD. We  
19 provide the funds to AFN and AFN holds that contract. So,  
20 that is not a contract that we manage. That would take  
21 significantly more time to get into place federal  
22 contracting rules and processes being what they are.

23 So, it's a much more expeditious way to do  
24 it is to have AFN hold that contract. So, I think some of  
25 the underlying concerns in the first two points are

1 mitigated by that as an example. But, certainly, I expect  
2 to have answers to Dr. Blackstock in the coming days.

3 Q. One point as I understand it one of the  
4 things ISC would like to see some work done on is the First  
5 Nations not served by an agency. So, those served directly  
6 by the province.

7 A. Um-hmm.

8 Q. And my understanding at least is the  
9 proposal that IFSD had put forward was focussed on agency-  
10 served nations.

11 A. Yes.

12 Q. So, what happens if, you know, there's  
13 extra work required to look at and assess these other  
14 nations and that results in needing more than 1.7 million  
15 in funding?

16 A. Well, then that would be an amendment to  
17 the proposal that we would then look at and see how we  
18 could deal with that.

19 Q. And what would the decision-making  
20 timeframes be on that?

21 A. Well, I think that would be relatively  
22 fast. We'd need to do some due diligence but certainly the  
23 bulk of it would have already been done for this initial  
24 piece.

25 Q. So, in paragraph 11 of your affidavit,

1 this is in the big one, you say the last sentence of the  
2 paragraph is:

3 "Although the approach for future  
4 research is still to be determined  
5 Canada is of the view that forums such  
6 the CCCW and the NAC are an effective  
7 approach in reaching a resolution and  
8 moving these issues forward."

9 So, you'll agree with me the CCCW is ordered  
10 by the Tribunal and isn't a creation of Canada?

11 **A.** Yes, absolutely.

12 **Q.** And you'll agree that the 207 million or  
13 so -- at least it was a 178.7 as of April 5th in actual  
14 cost funding and retroactive reimbursement that has already  
15 gone out, that arose as result of the Tribunal order and  
16 that wasn't an idea adopted out of NAC?

17 **A.** That did come out of the Tribunal order,  
18 the payment on actuals, yes.

19 **Q.** And the IFSD robust FNCFS agency  
20 capacity study resulted from a Tribunal order and not from  
21 a NAC recommendation or a CCCW recommendation?

22 **A.** I'm not familiar with those having been  
23 -- well, it wouldn't have been out of CCCW because it  
24 didn't exist.

25 **Q.** I'm sorry, I couldn't hear you.



1           **A.** Sorry. It wouldn't have been out of  
2 CCCW because CCCW did not exist prior to the orders. I'm  
3 not familiar with all of the previous NAC discussions.

4           **Q.** But, certainly, the reason that ISC  
5 funded AFN to fund IFSD was because of the Tribunal order?

6           **A.** It was certainly linked to the Tribunal  
7 order, yes.

8           **Q.** Now, is it a coincidence the  
9 announcement came on the eve of your cross-examination for  
10 the 1.7 million for IFSD?

11           **A.** Is it a coincidence?

12           **Q.** Yeah. It just happened yesterday  
13 afternoon?

14           **A.** Well, I would have preferred that it be  
15 last week but we've, you know, we had to make sure that we  
16 had things drafted properly and, you know, that the wording  
17 was correct, that sort thing. I would have preferred that  
18 it go last week but as it turned out it was yesterday.

19           **Q.** So, did the fact that you were coming  
20 for cross-examination today did that have a sharpening  
21 affect on your team's attention to it going out yesterday  
22 as opposed to tomorrow or Thursday?

23           **A.** Well, I mean, I would -- as I say the  
24 earlier the better. So, I would say it's not a direct  
25 result. There would have been an answer coming regardless

1 of when I was being cross-examined.

2 Q. Are you aware that when ISC or, I guess,  
3 at the time it was INAC announced funds for the first  
4 agency needs assessment that was the twenty-five thousand  
5 per agency, are you aware that that was October 28, 2016?

6 A. I'm not aware of that.

7 Q. Okay. So, you wouldn't also then be  
8 aware that there was a compliance report due on October 31,  
9 2016?

10 A. As I say, I was not part of the program  
11 in 2016. So, that's not knowledge that I can speak to.

12 Q. And are you aware of when the Child  
13 First Initiative was announced, the first iteration of it  
14 in 2016?

15 A. No.

16 Q. So, you wouldn't be aware it was July 5,  
17 2016?

18 A. I'm not aware of that, no.

19 Q. And so, you also wouldn't be aware then  
20 that there was a Tribunal compliance report due on July 6,  
21 2016?

22 A. No.

23 Q. Do you agree with me that there's no way  
24 for the NAC or for the CCCW to compel ISC to make a  
25 decision? If ISC disagrees or if ISC hasn't decided the

1 CCCW and NAC don't have any tools to make that happen?

2 **A.** Well, I would say -- I mean, we approach  
3 it in a spirit of partnership and those are four that are  
4 important absolutely. Is there a legal trigger? No. But  
5 certainly, that's part of why we have these fora in place  
6 and the trilateral tables across the country is to make  
7 sure that issues are being raised and that we are having  
8 regular meetings so that we can provide updates. And so  
9 that we can understand deadlines and those sorts of things.

10 **Q.** But you agree the capital directive has  
11 been outstanding for many months?

12 **A.** The capital directive is outstanding and  
13 it will be to the Consultation Committee before the next  
14 meeting.

15 **Q.** And you'd agree that the request for  
16 more detailed information on an agency-by-agency level  
17 about actuals and retroactive reimbursement that's been  
18 outstanding for many months?

19 **A.** That has been outstanding longer than  
20 that it should have been, yes. And we are treating it as a  
21 priority.

22 **Q.** And we've gone over in some detail that  
23 the IFSD Phase 2 proposal that also took many months to  
24 come to fruition?

25 **A.** I wouldn't say it took many months. It

1 took several -- a number of weeks to come to fruition. We  
2 received the proposal March 6th and the due diligence was  
3 done.

4 **Q.** I mean, two months is more than one  
5 month, is it not?

6 **A.** Two months is more than one month, yes.

7 **Q.** Some questions for you about Bill C-92.

8 **A.** Yes.

9 **Q.** So, where is Bill C-92 in the  
10 legislative process right now?

11 **A.** So, it's currently had second reading in  
12 the House and it is undergoing pre-study by both the House  
13 of Commons Committee and by the Senate Committee.

14 **Q.** And if Bill C-92 passes will it be  
15 necessary to amend the terms and conditions so that the  
16 program could fund an agency that's delegated by a First  
17 Nation as opposed to the province?

18 **A.** I think that's an issue that would need  
19 to be addressed in the implementation phase. So, we are  
20 working with partners to co-develop a transition governance  
21 structure. And that's exactly the type of issue that would  
22 be discussed within that distinctions-based structure.

23 **Q.** But, certainly, the response in that  
24 chart that we looked in Tab 32 to the Caring Society's  
25 comment about First Nations jurisdiction was that the

1 program authorities at this point only cover provincial  
2 delegation. Is that right?

3 **A.** Yes.

4 **Q.** So, at this point if a First Nation  
5 passed a law the existing terms and conditions don't  
6 provide the authority for that law to be the source of an  
7 agency's delegation?

8 **A.** Currently. Correct.

9 **Q.** So, there would need to be an amendment  
10 after C-92 passes?

11 **A.** In order to fund through the program,  
12 yes.

13 **Q.** Yes. And whose decision is it to amend  
14 the terms and conditions to the program?

15 **A.** Whose decision is it?

16 **Q.** Yeah. Whose authority along the way  
17 from, you know, if the idea comes up at the CCCW or from  
18 your policy team, Ms. Wilkinson, we need to make these  
19 amendments. Where does it go after you agree that the  
20 amendments need to be made?

21 **A.** So, we would need to do a Treasury Board  
22 submission because Treasury Board approves the terms and  
23 conditions. And so, that necessitates work across the  
24 department including with the chief financial officer with  
25 those in the policy and strategic area with central

1 agencies to ensure as I mentioned earlier. If there's new  
2 policy cover that's required that is generally a Cabinet  
3 process. And then the Treasury Board process itself is  
4 managed by Treasury Board and would go to Treasury Board  
5 ministers for a decision.

6 **Q.** Now, should Bill C-92 pass how soon  
7 after royal assent would transition structures start being  
8 developed?

9 **A.** So, we are working with partners to  
10 develop those structures now. They are not yet in place.  
11 We continue to have those discussions in terms of what that  
12 could look like. And so, that's -- we're not waiting for  
13 the Bill to be passed in order to set up those fora.

14 **Q.** So, you mentioned "we" which I take it  
15 is ISC.

16 **A.** Yes. Sorry.

17 **Q.** In those discussions?

18 **A.** Yes.

19 **Q.** And "partners." So, who are those  
20 partners that the discussions are happening with?

21 **A.** So, we are preliminarily dealing with  
22 the AFN, ITK, and the Métis National Council, but  
23 certainly, it's a broader discussion. And so, for AFN for  
24 example they have a legislative working group which  
25 includes a number of experts and representatives from

1 across the country. So, it's not just Mr. Thompson for  
2 example. It's a broad spectrum of folks who have a keen  
3 interest in this work.

4 **Q.** And are you involving the Consultation  
5 Committee in these transition structure designs?

6 **A.** I think that's certainly an option. As  
7 I say this is not something that has been decided yet.  
8 We're in the very preliminary stages of looking at what it  
9 could look like. And we have not declared any view in  
10 terms of what it needs to look like.

11 **Q.** But at this point the Consultation  
12 Committee hasn't been involved?

13 **A.** At this point, no. I mean, as I say  
14 it's been very preliminary discussions with the legislative  
15 working group which includes some members.

16 **Q.** So, if C-92 passes whose authority is it  
17 to ensure that the funding provided under the new system is  
18 consistent with the principles established in the Tribunal  
19 orders?

20 **A.** I'm sorry, could you repeat that?

21 **Q.** So, if C-92 passes and there's this new  
22 delegation that operates what's the process or mechanism  
23 for ensuring that however that system operates is  
24 consistent with the Tribunal orders?

25 **A.** Well, I think that we would still from a

1 federal perspective want to ensure that those orders are  
2 being taken into account. Ultimately the goal is that  
3 Nations would take that responsibility in terms of  
4 developing their own laws, developing what it looks like in  
5 the system. And certainly, as we know there's lots of  
6 appetite for respect of the orders in communities as well.

7 **Q.** So, you'd agree that First Nations  
8 should be making decisions about their kids?

9 **A.** Absolutely.

10 **Q.** Is it within your authority to ensure  
11 that First Nations agencies are going to be provided with  
12 additional costs to cover any increased costs related to  
13 Bill C-92?

14 **A.** I'm not sure what type of costs you have  
15 in mind.

16 **Q.** So, if there are transition costs or  
17 policy development that's necessary by an agency to be  
18 prepared to assume this new jurisdiction and that's costs  
19 over and above their day-to-day under the program is that  
20 within your authority to ensure or would you have to seek  
21 authority elsewhere for that?

22 **A.** Well, I think that's again part of what  
23 we need to look at in terms of implementation. Those types  
24 of discussions would need to be part of, for example,  
25 coordination agreements that are called for under the



1 legislation. So, those discussions would need to ensure  
2 that all of those pieces were in place not just from us but  
3 from provincial governments if need be, from nations. But  
4 it would be the Indigenous governing bodies taking on  
5 jurisdiction as opposed to agencies taking on jurisdiction  
6 themselves.

7 **Q.** Now, I'm going to try and phrase this so  
8 that it's not a legal question. So, assist me if I've  
9 asked it the wrong way. But the mechanisms within Bill C-  
10 92 don't address funding for services delivered under  
11 Indigenous laws. Am I right in that?

12 **A.** So, there's a reference to funding in  
13 the preamble but there is no reference within the body in  
14 terms of funding specifically. The Bill is really more  
15 about jurisdiction and principles as opposed to funding.

16 **Q.** And to paraphrase the preamble is an  
17 acknowledgement of the call for funding. Is that right?

18 **A.** Um-hmm.

19 **Q.** So, it's not a recognition of the need  
20 for funding? Would you agree?

21 **A.** I think it's an acknowledgement that  
22 that need exists.

23 **Q.** Now, in terms of the mechanisms the Bill  
24 is going to set up it's my understanding that funding is to  
25 be determined based on these coordination agreements I

1 believe they're called?

2 **A.** Yes, that would be part of it. Yes.

3 **Q.** Between the federal, provincial, and  
4 Indigenous governing body. Federal government, provincial  
5 government, Indigenous governing body. But it's also my  
6 understanding that if no coordination agreement is reached  
7 after one year the Indigenous law could be enforced and the  
8 governing body could begin administering it effectively?

9 **A.** It could.

10 **Q.** Does that not raise the prospect of laws  
11 being enforced with no funding being in place for them?

12 **A.** I would submit that it's unlikely that  
13 an Indigenous governing body would want to do that in the  
14 absence of having those discussions for sure. But it's  
15 certainly an option should the Indigenous governing body  
16 choose to do so to take that on in the absence of a  
17 coordination agreement having been resolved.

18 **Q.** Now, I believe you sought the feedback  
19 of the Consultation Committee, not you necessarily  
20 specifically, but the department sought the feedback of the  
21 Consultation Committee on a draft of Bill C-92?

22 **A.** Yes.

23 **Q.** And was it raised in those consultations  
24 that the funding principles in the Human Rights Tribunal  
25 decisions should be included in C-92?

1                   **A.** I was not present for those discussions  
2 but my understanding is yes.

3                   **Q.** And in the end, they weren't included?

4                   **A.** They are not included, no.

5                   **Q.** Do you know why not?

6                   **A.** The Bill is about jurisdiction and about  
7 the principles as opposed to being about the funding per  
8 se.

9                   **Q.** Now, in terms of Budget 2019 ---

10                  **THE CHAIR:** I'm sorry. Is it your  
11 understanding that if a First Nation assumes jurisdiction,  
12 they would not need any funding? Because over and over  
13 we've heard from Canada that some First Nations did not  
14 have capacity to provide services, for example, prevention  
15 services.

16                  **THE WITNESS:** Um-hmm.

17                  **THE CHAIR:** So, are they not interrelated?

18                  **THE WITNESS:** Certainly, you need funding in  
19 order to provide services. And so, those are ongoing  
20 discussions that happen. So, there are some examples where  
21 there are by-laws for example which cover Child and Family  
22 Services and those are services that are funded through the  
23 program. So, you know, the program itself continues to  
24 provide the funding. And so, we would need to look at as  
25 cases emerge in terms of what that would look like.

1                   **THE CHAIR:** Thank you.

2           **--- BY MR. TAYLOR:**

3                   **Q.** But my understanding is that analysis  
4 will be case-by-case based on whatever law Parliament  
5 passes and the terms and conditions as they may be amended.  
6 Is that right?

7                   **A.** I'm sorry, could you repeat that?

8                   **Q.** The analysis of what to do as nations  
9 begin taking on this jurisdiction how the program may or  
10 may not apply to them, that's going to be a case-by-case  
11 analysis? Is that right?

12                   **A.** Well, I think that's again -- sorry to  
13 be repetitive -- but that's why we need these transition  
14 governance structures in place so that we can have those  
15 discussions early and make sure that we are setting Nations  
16 up for success as they go down this path.

17                   **Q.** Now, with respect to Budget 2019 ---

18                   **A.** Yes.

19                   **Q.** --- were there any funds set aside in  
20 Budget 2019 for the implementation of Bill C-92?

21                   **A.** No, not specifically.

22                   **Q.** And are you aware that Budget 2019 did  
23 set funds aside for the implementation of Bill C-91 which  
24 is the Indigenous Languages Act?

25                   **A.** I am not familiar with their budget

1 setup.

2 **Q.** Now, if Bill C-92 passes is that going  
3 to put ISC in the position of having to reallocate funds  
4 from the existing program budget to the new system  
5 including development costs?

6 **A.** I don't think we can know that yet.

7 **Q.** So, how is that going to be budgeted for  
8 or decided once it happens?

9 **A.** Well, again we -- this is why need to do  
10 the transition governance piece to make sure that we're  
11 clear. And we have tables underway through our sister  
12 department Crown Indigenous Relations Canada where they are  
13 looking at these types of examples across the country, and  
14 so, all of those examples will develop over time.

15 **MR. TAYLOR:** Chair, given the early start  
16 time, I wonder if this might be a convenient time to break  
17 for lunch? I think I should have half an hour or less when  
18 we come back which I hope will not pose a problem for my  
19 friends. If it will we can maybe confer over the break.

20 **THE CHAIR:** We'll be back at 1:00. Is that  
21 sufficient for everybody? I guess that is. Okay, see you  
22 at 1:00.

23 (BREAK)

24 **THE CHAIR:** Okay. Good afternoon. I hope  
25 that everybody had a good lunch. And, Mr. Taylor, are you

1 ready to continue, or Ms. Clarke. I don't want to  
2 discriminate.

3 **MR. TAYLOR:** No, that's fine, Chair. I'll  
4 continue. Before I went on, I just wanted to check whether  
5 there was anything arising from your end?

6 **THE CHAIR:** Well, I'm still thinking about  
7 it. I've advised Canada as well. And I made a note. It  
8 may come up later.

9 **MR. TAYLOR:** Okay.

10 **THE CHAIR:** Thank you.

11 **--- BY MR. TAYLOR:**

12 **Q.** So, Ms. Wilkinson, I have a few more  
13 questions about Bill C-92.

14 **A.** Um-hmm.

15 **Q.** Now, one of those questions is is we'd  
16 spoken about the preamble to Bill C-92 before the lunch  
17 break and its recognition of a call for funding. That's  
18 what we see in the preamble is a recognition of a call for  
19 funding as opposed to a ---

20 **A.** Yes. The preamble includes the -- and  
21 I'll just read it into the record for folks so they know  
22 the wording.

23 "Whereas the Government of Canada  
24 acknowledges the ongoing call for  
25 funding for Child and Family Services

1                   that is predictable, stable,  
2                   sustainable, needs-based, and  
3                   consistent with the principle of  
4                   substantive equality in order to secure  
5                   long-term positive outcomes for  
6                   Indigenous children, families, and  
7                   communities.”

8                   **Q.** And thank you for the clarification on  
9                   the acknowledgement wording there as opposed to  
10                  recognition. Important to be specific. Now, in terms of  
11                  the call for funding that is, you know, stable,  
12                  predictable, all those things. Are you aware that that’s a  
13                  call that goes back many decades from First Nations  
14                  communities?

15                  **A.** Certainly, in the engagement process  
16                  that we undertook over the summer and fall we heard that  
17                  loud and clear from people that this was an ongoing call.

18                  **Q.** And have you reviewed the National  
19                  Policy Reviews report from 2000?

20                  **A.** I have not, no.

21                  **Q.** Not. And how about the Wen:de reports  
22                  from 2005?

23                  **A.** I have reviewed them. It’s been some  
24                  time but yes.

25                  **Q.** And so, you’re aware that in the 2005 in

1 the report "Coming To The Light Of Day" that report  
2 addressed the link between jurisdiction and funding?

3           **A.** I couldn't comment specifically to the  
4 wording but certainly it's a linkage that's been made for  
5 some time.

6           **Q.** And "The Journey Continues" which  
7 followed up on it, Recommendation 2. And I don't have this  
8 in the little book but it's in the record before the  
9 Tribunal Recommendation 2 was:

10                            "To expand the current range of  
11                            jurisdictional models funded by the  
12                            directive to include First Nations  
13                            legislation."

14                            Were you aware of that recommendation?

15           **A.** Again, I couldn't tag it to the specific  
16 page on the report but certainly it's language that I have  
17 heard before.

18           **Q.** Yes. Now, given that the link at least  
19 there with the Wen:de and PR recommendations between  
20 funding and jurisdiction whose decision was it to separate  
21 the funding and jurisdiction in Bill C-92? Because you'd  
22 said earlier that C-92 is about jurisdiction.

23           **A.** So, there was a significant undertaking  
24 of an engagement process over the summer and fall involved  
25 65 engagement sessions with over 2,000 participants. There



1 were multiple engagements with agencies, with kind of key  
2 stakeholders, with chiefs and communities and we did hear  
3 that funding is an issue.

4 Certainly Budget 2018's investments combined  
5 with previous investments represent an enormous increase.  
6 The program's budget has doubled in the last few years.  
7 And so, that is a significant amount of money that has been  
8 invested in the system.

9 But it's important to recognize that we  
10 don't want to invest in a system that is broken. And so,  
11 part of the broader conversation that needs to happen is  
12 represented by all six points of the six-point plan that  
13 I've alluded to earlier.

14 So, Bill C-92 isn't the only solution. It's  
15 the opening of the door to solutions that lie in  
16 communities. And the Bill is meant to provide the frame  
17 for Indigenous governing bodies to exercise that  
18 jurisdiction. And certainly, part of that as you see  
19 reflected in the wording around a coordination agreement as  
20 an example is the need for those discussions to be ongoing.  
21 But the Bill is meant to set the frame for that  
22 jurisdictional conversation.

23 Q. And why can't funding principles be part  
24 of that frame in terms of the ground on which the  
25 jurisdiction is going to be exercised?

1           **A.** So, again these are submissions that I  
2 know people have made to the pre-studies that are happening  
3 in the House of Commons and in the Senate. That's the  
4 appropriate place for those discussions at this point given  
5 that the Bill is before Parliament.

6           And the minister has certainly indicated in  
7 his appearances that he welcomes the input from those  
8 committees. And we will see where that path takes us. We  
9 haven't -- not yet seen reports from either of those  
10 committees. They continue to hear from witnesses. And I'm  
11 sure we'll continue to have that conversation.

12           **Q.** And do you have any recommendations on  
13 whether the Bill should include funding principles?

14           **A.** I can't answer that question. That  
15 would be advice and that's advice that goes within an  
16 existing Cabinet-related system.

17           **Q.** Just a couple of quick questions about  
18 appeals to return to that subject momentarily.

19           **A.** Yes.

20           **Q.** Tab 8 of the big affidavit.

21           **A.** Yes.

22           **Q.** That's kind of a bundle of documents  
23 here regarding appeals. Now, this, it looks like it's the  
24 third page here, I think we looked at it earlier with the  
25 considerations. This is the appeal decision template.

1                   A. Yes.

2                   Q. And it says "Decision." So, the two  
3 boxes here "Decision" and "Rationale for decision" this is  
4 the two assistant deputy ministers would be putting their  
5 -- essentially the outcome of the appeal in here?

6                   A. Yes.

7                   Q. Are there minutes taken of appeal  
8 decisions beyond this form?

9                   A. I don't participate in that portion and  
10 there are reasons for that. So, I can't tell you if there  
11 are minutes specifically.

12                   Q. Is there a similar form to this for the  
13 appeals you do participate in for Jordan's Principle?

14                   A. There is, yes.

15                   Q. And are there minutes taken separately  
16 from this form?

17                   A. I'm not aware of minutes being taken.

18                   Q. So, the decisions are recorded on the  
19 form?

20                   A. The decisions are recorded on the form.

21                   MR. TAYLOR: Mr. Frater, regarding the two  
22 appeals that have gone forward and were denied if we could  
23 have a copy of the decision forms for those two?[u]

24                   MR. FRATER: (Inaudible - mic not open)

25                   THE WITNESS: There should be decision forms

1 on the file. The only caveat I would mention is privacy  
2 again but I think that's part of the broader discussion  
3 around the undertakings.

4 **MR. TAYLOR:** So, Mr. Frater, subject to that  
5 privacy point which we can maybe discuss after we're done  
6 with Ms. Wilkinson at least. But I think it may be a  
7 discussion we should involve the Panel in at least  
8 preliminarily.

9 --- **BY MR. TAYLOR:**

10 **Q.** And, sorry, just on C-92 the decision at  
11 least at the outset to separate funding and jurisdiction,  
12 who was it that made that decision?

13 **A.** There's not one person who makes those  
14 types of decisions. So, bills are developed based on  
15 Cabinet decisions in terms of policy cover. And then as  
16 mentioned we, in this case, co-developed options  
17 acknowledged by the three Indigenous leaders when the bill  
18 is introduced.

19 I think a critical point being that First  
20 Nation, Métis and Inuit national leadership acknowledged  
21 the co-development process and acknowledged that this is a  
22 step forward in terms of the jurisdictional pieces. And  
23 it's now in the hands of parliamentarians. And so, any  
24 decisions around that piece forward is in the hands of  
25 parliamentarians.

1                   **Q.** But in terms of before it gets to  
2 Parliament and, you know, without heading into the Cabinet  
3 matrix in your co-development process the idea of doing  
4 funding later or having funding be outside of the frame was  
5 that a federal government idea or did that come from the  
6 co-development process?

7                   **A.** I would say that funding was certainly  
8 an active subject of discussion during the entirety of the  
9 co-development process.

10                   **Q.** And in terms of that the decision to  
11 move forward with a bill that didn't contain it that was a  
12 decision that was made by the federal government?

13                   **MR. FRATER:** Well, with respect we've gone  
14 through this several times now and I've given my friend a  
15 lot of latitude. But, ultimately, he's asking for Cabinet  
16 confidences. It's up to Parliament to draft the  
17 legislation and make those decisions.

18                   **MR. TAYLOR:** If the answer is it was  
19 Cabinet's decision or if the answer is it was the minister  
20 that tabled it in Parliament that's fine. But I asked the  
21 question of who is the decision made by and I got a long  
22 answer about co-development.

23                   **MR. FRATER:** The Bill speaks for itself, Mr.  
24 Taylor. And it reflects whatever decisions have been made.  
25 Asking this witness in my submission is not at all

1 relevant. The Bill is what it is.

2 **MR. TAYLOR:** Well, I'm at a bit of a loss  
3 because the question I've asked is who decided and the  
4 answer I got was a lengthy one about federal government and  
5 co-development. And, I mean, if the answer is Cabinet  
6 approves the bill that goes in that's fine by me. I'm just  
7 looking for a concrete answer on this.

8 **--- BY THE WITNESS:**

9 **A.** What I can say and I would reiterate the  
10 point around Cabinet confidence. I cannot break Cabinet  
11 confidence. I appreciate your desire to have more concrete  
12 information but I cannot break Cabinet confidence.

13 **Q.** No. And, I believe, I began my question  
14 saying I wasn't asking to get into the Cabinet ---

15 **A.** Right.

16 **Q.** --- decision-making matrix.

17 **A.** So, I can't get into that decision-  
18 making process.

19 **Q.** Okay. All right, I'll leave it at that.  
20 So, I'd like to ask you a few questions about -- actually,  
21 just before I ask you a few questions about long-term  
22 reform I'm not sure if you were on your emails this morning  
23 before you came in but I believe the CCCW received an email  
24 about the Kids Rights index report that just came out.

25 **A.** I did see that before I came in, yes.

1                   **Q.** Yes. So, that was an email from Dr.  
2 Blackstock?

3                   **A.** Yes. I did not have an opportunity to  
4 follow through to the link but ---

5                   **Q.** But, certainly, Dr. Blackstock in the  
6 email noted Canada was somewhere around 50th with regard to  
7 the recent Kids Rights?

8                   **A.** I believe she originally indicated 52nd  
9 and then corrected it to say 49th.

10                  **Q.** 49th.

11                  **A.** Yes.

12                  **Q.** Your memory is good. Thank you, Ms.  
13 Wilkinson. So, a couple of questions about long-term  
14 reform. So, you're aware that the Tribunal phased its  
15 remedial process in this matter to deal with immediate  
16 reform up front and then long-term reform to follow?

17                  **A.** Yes.

18                  **Q.** Would you agree with me that with the  
19 exception of this Community Wellness and Jurisdiction  
20 Initiative funding announced in Budget 2018 the funding  
21 announcements that have come for the program since January  
22 2016 have been in response to Tribunal orders?

23                  **A.** I think they certainly have contributed  
24 to implementing the orders, yes.

25                  **Q.** And are you aware of Canada's role in

1 the Indian residential school system in the Sixties Scoop?

2 **A.** Not in great detail but certainly yes.

3 It's obviously an important factor in reconciliation.

4 **Q.** But you know what Indian residential  
5 schools in the Sixties Scoop what that is?

6 **A.** Yes, yes. Yes.

7 **Q.** And you're aware that these two colonial  
8 practices had devastating impacts on First Nations  
9 children?

10 **A.** I am.

11 **Q.** Would you agree with me that the  
12 staggering number of First Nations children in care today  
13 has had a devastating and irrevocable impact on First  
14 Nations children, families, and communities?

15 **A.** Absolutely. I think that's why we're  
16 here today having these conversations about how we change  
17 the system to provide for better outcomes for children.

18 **Q.** And are you on Twitter, Ms. Wilkinson?

19 **A.** I am not.

20 **Q.** Okay. You're aware of Twitter?

21 **A.** I am aware of Twitter.

22 **Q.** And you're aware the Minister of  
23 Indigenous Services has a Twitter account?

24 **A.** I am aware of the fact that he has a  
25 Twitter account.



1 Q. So, we can just look at Tab 11, please.

2 Now, I'll preface this this isn't a question about  
3 compensation. Obviously, that's been dealt with and is  
4 under reserve. But in his tweet -- this is April 18, 2019,  
5 Minister O'Regan. And do you recognize this as Minister  
6 O'Regan's Twitter page? Or at least his Twitter handle  
7 @SeamusORegan?

8 A. It appears to be his Twitter page, yes.

9 Q. And you see the check mark in the little  
10 seal next to his name?

11 A. Yes.

12 Q. And you're aware of Twitter's practice  
13 of verifying users?

14 A. I am not but it certainly appears to be  
15 the account.

16 Q. As Assistant Deputy Minister this  
17 appears to be your Minister's Twitter account?

18 A. It does, yes.

19 Q. Now, the Minister notes that he's:

20 "As with residential schools in Sixties  
21 Scoop we are not opposed to  
22 compensation for historical harm."

23 And then is a second tweet in the phrase  
24 says:

25 "Collaboration rather than litigation

1 is the best way to right historical  
2 wrongs and advance reconciliation with  
3 Indigenous Peoples.”

4 Is it the department's position that what's  
5 been happening in recent years in the FNCFS program is  
6 historical or is it present day?

7 A. Well, I think it's a combination of the  
8 impacts of the historical harms that have been done and the  
9 current system which we all acknowledge is not producing  
10 the outcomes that would be desired for Indigenous kids.

11 Q. Now, do you recall the Panel's analogy  
12 in its 2016 decision in January about a house with a weak  
13 foundation?

14 A. Generally, yes.

15 Q. So, just to help the general  
16 recollection of it the Panel noted that adding support  
17 pillars to a house with a weak foundation in an attempt to  
18 straighten and support the house is not enough. And the  
19 Panel said, and this is a quote:

20 “At some point the foundation needs to  
21 be fixed or ultimately the house will  
22 fall down. Similarly, a reform of the  
23 FNCFS program is needed in order to  
24 build a solid foundation for the  
25 Program to address the real needs of

1                   First Nations children and families  
2                   living on reserve.”

3                   Would you agree with me that the solid  
4 foundation for the program is not yet in place?

5                   **A.** I would agree that the solid foundation  
6 for a system that works for Indigenous kids is not in  
7 place.

8                   **Q.** And would you agree with me that the  
9 funding announcements to date have not yet had to do with  
10 the long-term funding approach for the program?

11                   **A.** I would say that our hope is that they  
12 will contribute to it by paying actual costs in a whole  
13 host of areas for agencies by covering all costs for small  
14 agencies. The goal is that those agencies and processes  
15 and the system will start turning towards a prevention  
16 model as opposed to a model where the funding triggers have  
17 traditionally not been on the prevention side. That’s why  
18 the shifting focus needs to be on prevention. So, I would  
19 ---

20                   **Q.** So, the shift is not yet complete?

21                   **A.** No, the shift is not yet complete.

22                   **Q.** Okay. Those are my questions, Ms.

23 Wilkinson. Thank you very much.

24                   **A.** Thank you.

25                   **THE CHAIR:** Thank you very much.

1                   **MR. TAYLOR:** Just before we move on ---

2                   **THE CHAIR:** Yes.

3                   **MR. TAYLOR:** Just as a couple of  
4 housekeeping items, I wonder if we might mark both the book  
5 of exhibits and the loose email that I handed around as  
6 exhibits?

7                   **THE CHAIR:** Yes. Yes, one moment please.  
8 Ms. Dubois.

9                   **MS. DUBOIS:** Sorry, I don't have a  
10 microphone that's why I'm here.

11 **EXHIBIT NO. 1 (ENTERED) - 11 TAB BOOK TITLED FNCFCSC**

12 **EXHIBITS TO MAY 14, 2019 CROSS-EXAMINATION OF JOANNE**

13 **WILKINSON**

14 **EXHIBIT NO. 2 (ENTERED) - EMAIL FROM SCFPN SENT FEBRUARY**

15 **15, 2019 AT 5:46 P.M. TO KERRY FRANCIS**

16                   **THE CHAIR:** Thank you.

17                   **MR. TAYLOR:** Now, the other housekeeping  
18 thing I should note is that despite discussion with my  
19 friend over the lunch break in which he encouraged me to  
20 remember to mark the book for Dr. Gideon as an exhibit I  
21 neglected to do so last time. So, I'm certainly in the  
22 Registry's hands in terms of how we might want to take care  
23 of that. It was I believe a 5-tab volume.

24                   **MS. DUBOIS:** (Inaudible). Do you have a  
25 copy with you? (not on mic).

1                   **MR. TAYLOR:** Unfortunately, I don't. I can  
2 bring a hard copy tomorrow if that would help remedy the  
3 situation? And my apologies for neglecting to do that last  
4 time. Thank you very much.

5                   **THE CHAIR:** That completes the housekeeping  
6 matters? Okay. Thank you. So, we'll move on to the AFN.  
7 Do you have any questions, Mr. Wuttke?

8                   **MR. WUTTKE:** Yes, the AFN does have a few  
9 questions. Not many. We shouldn't be that long. Most of  
10 the concerns we had were addressed by my friends from the  
11 Caring Society.

12 **--- CROSS-EXAMINATION BY MR. WUTTKE:**

13                   **Q.** So, good afternoon.

14                   **A.** Good afternoon.

15                   **Q.** We have a few questions for you.

16 Turning to paragraph 4 in your affidavit you talk about the  
17 budgets of 2016 to 2018 with respect to increases in  
18 funding for the First Nation Child and Family Services  
19 Program. Now, we note that your affidavit speaks to pretty  
20 much going to year 2021 as far as to 2016 enhancement for  
21 the 2018 of 1.4 billion dollars. It goes for six years  
22 ending at 2024. Can you advise what will happen after  
23 these dates?

24                   **A.** So, there would need to be more work in  
25 the interim to look at what the fiscal framework would look

1 like after that point. These are current budgets and there  
2 is ongoing funding that is embedded in those amounts. Over  
3 and above that that would be new budget processes that  
4 would determine moving forward from there, new  
5 Parliamentary appropriations.

6 **Q.** Okay. And with respect to that what is  
7 Canada's long-term commitment towards -- I should say  
8 beyond a six-year benchmark?

9 **A.** Right. So, I think -- I mean, clearly,  
10 we're committed to long-term reform. I've mentioned a  
11 couple of times the six-point plan in terms of making sure  
12 that this is a reform of the system. And that there's a  
13 clear commitment to ongoing work with partners in terms of  
14 moving this very important file forward.

15 From a budgetary point of view there is A-  
16 Base funding which is the funding that's permanently in the  
17 program. And these are amounts over and above that. And  
18 future governments will determine the budget allocations as  
19 budgets go on year after year.

20 **Q.** And with respect to the A-Base funding  
21 that will also continue should Bill C-92 pass?

22 **A.** Yes. A-Base funding -- I shouldn't use  
23 jargon. So, A-Base funding refers to funding that is  
24 permanently allocated to the program on an ongoing basis.  
25 And so, that funding remains. That is kind of the basis

1 upon which these increments have been added.

2                   **Q.** Okay. Thank you. Moving on to  
3 paragraph 7 of your affidavit. You speak about Canada  
4 committing to continue paying actual needs until an  
5 alternate funding system is in place.

6                   **A.** Yes.

7                   **Q.** Can you provide the Panel with some  
8 indication of when that alternate funding system will be  
9 launched?

10                   **A.** So, we spoke earlier about the ongoing  
11 work with the AFN and with research partners like IFSD, the  
12 Ontario Special Study which is ongoing. NAN also has  
13 recently completed some work on a Remoteness Quotient. So,  
14 the proposal recently submitted looks to the end of this  
15 fiscal year for that work to come in from IFSD.

16                   Certainly, we would like to get that new  
17 funding methodology in place as soon as possible also  
18 recognizing that there is still a lot of work done in order  
19 to get there. And there would be as I mentioned earlier  
20 the policy development and budgetary processes needed to  
21 make that happen.

22                   **Q.** Okay. Thank you. Similarly, in  
23 paragraph 22 from (a) to (l) you speak to prevention  
24 programming and also with a reference to the new data  
25 management system for prevention and data online.

1                   **A.** Yes.

2                   **Q.** What is the current status update of the  
3 new data management system?

4                   **A.** So, it was just launched on April 1st.  
5 And we had some training to do in terms of making sure that  
6 people understood the system and how to use it. It is  
7 quite user-friendly. For somebody who's not on the Twitter  
8 I was able to follow along in terms of how the system  
9 works.

10                   So, it is designed to be responsive to needs  
11 and to start giving us some of that more detailed data.  
12 And to be more seamless for agencies in terms of being able  
13 to input that data directly and see for themselves as well  
14 kind of trends over time and those types of things. So,  
15 it's in its early stages but it was developed in concert  
16 with a number of partners and so we're anticipating some  
17 good results.

18                   **Q.** So, would you suggest that it's already  
19 being rolled out or is it ---

20                   **A.** It is being rolled out, yes.

21                   **Q.** Moving on to capital. You spoke to  
22 capital this morning and you mentioned that some program  
23 such as prevention could be addressed with respect to  
24 capital infrastructure. And this is at paragraph 49 of  
25 your affidavit. So, we were talking about Canada funding



1 over 15.4 million dollars in actual costs for retro  
2 reimbursements for building repairs.

3 A. Yes.

4 Q. And you mentioned early this morning  
5 that there were a number of categories where certain line  
6 items could fall under capital and would be covered such as  
7 matters with respect to prevention and others.

8 A. Um-hmm.

9 Q. Is that correct?

10 A. I'm just going to go to -- I believe  
11 it's in Exhibit 19. I'm just pulling out a copy with  
12 larger print for ease of reading. I just want to quote to  
13 you from -- so, under section 6 which says, "Type and  
14 nature of eligible expenditures." Under the ---

15 Q. This is under Tab 19 you said or  
16 paragraph 19?

17 A. Sorry, Tab 19, Exhibit 19. The terms  
18 and conditions for the program. So, I'll read them out.  
19 There's a category entitled, "Infrastructure purchase,  
20 maintenance and renovations." And this details the  
21 purchase or construction of capital assets such as  
22 buildings that support the delivery of FNCFS Services.  
23 That also talks about vehicles, information technology,  
24 ground services, renovations. It details a whole number of  
25 types of building repairs. So, that's where you would find

1 the listing of what's eligible.

2 Q. Okay. And that was for amounts that  
3 were under the 2.5 million? Am I correct?

4 A. Yes. Yes.

5 Q. So, anything above 2.5 million that  
6 would go to the First Nations general capital  
7 infrastructure requests?

8 A. So, at the moment the two point five cap  
9 is what we have in place now. And what we are -- we're  
10 working with our colleagues in infrastructure to look at  
11 how we could work with nations who have their own capital  
12 plans. Because we are only able to fund on reserve it's  
13 important that those discussions happen at the community  
14 level to ensure that it's an integrated model on the ground  
15 level.

16 Q. So, with respect to the capital plans of  
17 First Nations that would also include things like schools.

18 A. It would, yes.

19 Q. Nursing stations, water stations?

20 A. Yes.

21 Q. And all that would fall under capital?

22 A. Yes.

23 Q. So, essentially First Nations are tasked  
24 with choosing which is a priority as far as any capital  
25 infrastructure in their community?

1           **A.** Well, I would say that nations are  
2 always setting priorities in those areas absolutely. There  
3 are budgets that we all need to live within on that front.  
4 And certainly, the infrastructure program is no stranger to  
5 that reality.

6           But we've also done a lot of work in a  
7 number of areas across the country in terms of  
8 comprehensive community planning. So, that for example is  
9 a way in which Indigenous governing bodies and nations can  
10 work with all of the areas within the community and with  
11 community members in terms of what's a priority for  
12 community members and how that relates to the vision for  
13 the community as a whole and what makes sense over the  
14 longer term.

15           So, that if you are building a school for  
16 example if it makes sense to build a daycare at the same  
17 time or to put in some skills development training into  
18 that same building -- I mean, a lot of remote areas if you  
19 have equipment in the community kind of maximizing those  
20 opportunities as the funds become available.

21           **Q.** And as far as the budget allocation that  
22 you mentioned those are set by ISC, are they not?

23           **A.** So, the infrastructure dollars are based  
24 on the fiscal framework. And I don't work in that area so  
25 I don't pretend to be an expert but that budget is a budget

1 that is fixed through Parliamentary appropriations.

2 Q. Okay. Thank you. Going to paragraph 55  
3 in your affidavit you talk about a reference group  
4 involving AFN, ITK in Canada with respect to developing  
5 some of the proposed legislations before Parliament. With  
6 respect to some of the long-term funding commitments my  
7 friend was referring to I was wondering if you can speak  
8 about with the respect to additional resources that were  
9 provided in the budget, financial resources. Can ISC  
10 inform the Tribunal how First Nation agencies should plan  
11 their financial resources in the long term and will the  
12 additional resources be sustained?

13 A. Sorry, I just want to make sure I  
14 understand the question as it relates to paragraph 55.

15 Q. Yeah. It's paragraph 55 and also the  
16 legislative framework that's being proposed in Parliament.  
17 Or even just generally as far as long-term funding.

18 A. Right. So, I think -- I mean, there's  
19 -- I think we would set out that the program again has  
20 doubled in funding over the last few years. Certainly,  
21 those investments are ones that are subject to  
22 Parliamentary appropriations and the budget process. But  
23 they are a clear indication that this government takes  
24 seriously the needs of agencies and communities in order to  
25 improve the system.

1                   Q. Okay. And with respect to future  
2 planning is ISC planning to develop a type of performance  
3 budget framework to assess how additional resources will  
4 impact child well-being and capacity within First Nation  
5 agencies on reserve in carrying out child safety and  
6 prevention services?

7                   A. So, in terms of -- you called it a  
8 performance budgetary framework?

9                   Q. Performance -- yes.

10                  A. We certainly are looking at performance  
11 measures and a performance framework in terms of outcomes  
12 for the program and outcomes in terms of the (inaudible)  
13 being moved in terms of the experience that Indigenous kids  
14 are having and that the agencies are -- the services that  
15 they're able to deliver. And clearly that will be tracked  
16 against the budgetary investments.

17                  I think as well this links to the broader  
18 discussion about moving from the funding of actuals as we  
19 are now into a more sustainable long-term funding  
20 methodology. And that will be billed as we've discussed  
21 earlier based on research from a number of fronts as well  
22 as outcomes that we see coming out of these investments  
23 that have been made over the last few years.

24                  Q. So, with respect to the actuals that are  
25 being delivered at the current time the new framework will

1 sort of incorporate what's been going on, on the ground, as  
2 far what the department now is actually funding?

3 **A.** I think we absolutely need to be looking  
4 at that. It's an area where it's -- these aren't  
5 investments that necessarily see fruit overnight. And so,  
6 this is a long-term strategy in terms of tracking how  
7 shifting the focus to prevention will over time reduce the  
8 number of kids in care. You know, will that be a dramatic  
9 impact overnight? No, because the system as we all know is  
10 broken and we need to fix many aspects of it.

11 It's not just a funding issue. Certainly,  
12 funding is part of it. But there are a number of  
13 performance outcomes we need to be tracking and working  
14 together. It's not just about the federal government  
15 tracking it based on the dollars. It's about how partners  
16 are seeing that performance as well.

17 **Q.** Okay. Moving on to paragraph 58 you  
18 talk about ISC is exploring a co-development of a  
19 distinction-based transition governance structures.

20 **A.** Oh, I'm sorry, 58?

21 **Q.** 58, yes.

22 **A.** Yes, sorry. Yes.

23 **Q.** I was wondering if you can provide the  
24 Tribunal with what you mean by "distinctions-based"?

25 **A.** So, by distinctions-based we would mean

1 First Nations, Inuit, and Métis as a distinctions-based  
2 structures. I do think too we need to also look at where  
3 there are common issues. They won't always intersect the  
4 issues that will be addressed at those distinctions-based  
5 tables if you will but certainly there are overlapping  
6 issues. And we need to make sure that we have a good forum  
7 for those discussions to happen as well.

8           **Q.** All right. And will distinctions-based  
9 analysis also look at the differences between the  
10 Indigenous Nations themselves whether you're Cree, Ojibwe,  
11 Mi'kmaq?

12           **A.** I would say we haven't gone to that  
13 level of detail yet but certainly I expect that as we have  
14 kind of deeper and deeper discussions about what this means  
15 from a nation perspective, I'm sure nations will want to  
16 explore that aspect of it as well.

17           **Q.** Moving on to paragraph 59 of your  
18 affidavit. You indicate that Canada is of the view that  
19 the work that's being done with respect to Child Welfare  
20 Services now is consistent with this Panel's rulings in  
21 2018. And basically, you note that it's in line with the  
22 spirit of UNDRIP reconciliation and the Panel's orders will  
23 remain in place until one of the four following things  
24 occurs one of which is a Nation-to-Nation agreement  
25 respecting self-governance. Now, would you agree that a

1 Nation-to-Nation agreement is different from legislation?

2 **A.** I think the legislation as it's  
3 proposed, sets the framework for those Nation-to-Nation  
4 agreements to occur within that frame.

5 **Q.** But under legislation you don't  
6 necessarily need an agreement for a First Nation to  
7 exercise jurisdiction?

8 **A.** No, you do not. There are several  
9 paths, yes.

10 **Q.** Thank you. I think I just have one more  
11 question. In paragraph 64 you indicate that Canada wants  
12 to move away from reporting to the Tribunal and no more  
13 cross-examinations. It's more focussed on a collaborative  
14 process. Is that still a general sentiment by your  
15 department?

16 **A.** Yes, absolutely. I mean, I think, you  
17 know, we note here the Attorney General's directive on  
18 civil litigation involving Indigenous Peoples and certainly  
19 we absolutely believe that the path forward lies in  
20 collaboration and working together in partnership as  
21 opposed to in front of a litigious process.

22 **Q.** Okay. Given that what assurances can  
23 you give the Panel and the parties that we'll not have to  
24 resort to coming back to the Tribunal or a court in the  
25 future?



1           **A.** I think a few things. One we would say  
2 that we are substantively and substantially implementing  
3 the orders, and in a number of cases have gone beyond what  
4 the orders have suggested. So, I've mentioned the appeals  
5 process as one. Legislation as part of the long-term  
6 process is certainly another. We've, as mentioned earlier,  
7 as well expanded the approach to capital. The order was  
8 for building repairs. And so, we've extended that beyond  
9 to include as we heard from partners construction and  
10 purchase of buildings as well as raising the cap.

11           We also in terms of small agencies raised  
12 the definition from 800 children living within the  
13 community to 1,000. That's raised the number of small  
14 agencies who have all actual costs covered from 42 to 52.  
15 If you include the small communities in Quebec that raises  
16 it to 60. So, just that definition alone which again goes  
17 beyond the orders has extended the reach of those actual  
18 costs to a broader audience.

19           I would say and I'm sure we will talk about  
20 this later as well but extending deadlines for the  
21 provision of claims. For retroactive claims we've extended  
22 it several times and for actual claims in '18/'19. So,  
23 we've responded to what we've been hearing and I would say  
24 that that's due to the relationships that we have been  
25 developing over time among the parties and among partners

1 more broadly to not just meet where the orders have been  
2 directing us to go. Some of which are longer term and will  
3 take more time.

4                   But the processes that need to be in place  
5 to enable that reform to continue those processes are in  
6 place. There's momentum behind this file. You know, there  
7 may not always be complete agreement in terms of how to  
8 achieve it but there's more momentum on this file than  
9 there has ever been. Having a Bill in front of Parliament,  
10 having Parliamentarians engage on this, having both the  
11 House and the Senate engage in pre-study I think  
12 demonstrates the interest in moving the yardsticks forward  
13 on Child and Family Services.

14                   **Q.** Thank you. And all that work's been  
15 done within this current government's mandate.

16                   **A.** Yes, it has.

17                   **Q.** And should a government change there is  
18 no assurance that that work can continue?

19                   **A.** Well, we live in a democracy that has  
20 certain rules around elections. And I can't predict the  
21 future but I can say there are many processes in place that  
22 we are committed to consulting, continuing to have those  
23 discussions. You know, we have the Bill before Parliament.  
24 We certainly hope that that is passed in this session. And  
25 those lay the frame for governments that will come.

1 Q. All right. I have no further questions.

2 Thank you.

3 **THE CHAIR:** Thank you. Ms. Wilkinson?

4 **THE WITNESS:** Yes?

5 **THE CHAIR:** You understand that the pieces

6 that you referred to were immediate relief. Do you

7 understand that the Tribunal had phased ---

8 **THE WITNESS:** Yes, absolutely.

9 **THE CHAIR:** Okay.

10 **THE WITNESS:** Yes.

11 **THE CHAIR:** And do you recall that in our

12 decision in 2016 we also said cease the discriminatory

13 practice according to all the findings in the decision?

14 **THE WITNESS:** Yes.

15 **THE CHAIR:** Okay. Thank you. And I just

16 wanted to know who's next? Is it you, Ms. ---

17 **UNKNOWN VOICE:** (Inaudible - mic not open)

18 **UNKNOWN VOICE:** We do not have any

19 questions. Thank you.

20 **THE CHAIR:** Okay.

21 --- **EXAMINATION BY THE CHAIR:**

22 Q. And before you just start, I've asked

23 you to reflect on the -- a broad question.

24 A. Yes.

25 Q. I just wanted to know if I was a social

1 worker and I started working tomorrow in your department  
2 what would you tell me in terms of -- what's the plan  
3 moving forward to address not only reform as ordered by the  
4 Tribunal but what's the departmental plan?

5 **A.** Absolutely. So, thank you for the  
6 question, it's nice to think broadly sometimes as well as  
7 into the specifics. And I would say this department was  
8 created really to work itself out of a job. Our focus is  
9 on service delivery and making sure that we are designing  
10 those in partnership with Indigenous organizations and  
11 people so that Indigenous Peoples can take over those  
12 services.

13 So, by way of example, the BC First Nations  
14 Health Authority is one that people often point to as an  
15 example of what can be done. And, ultimately, that is the  
16 goal is for First Nations People, Inuit People, Métis  
17 People to run their own system and provide their own  
18 services, and for us to not be in this discussion, right?  
19 It really is about Indigenous people taking that over.

20 And our job now is to make sure that we are  
21 setting up systems and processes to enable that to happen  
22 over the longer term. I think as well it's a department  
23 that has a number of regional presences as well. And that  
24 for us is really key in terms of having our ear to the  
25 ground and making sure that policy development and program

1 development that is done here in Ottawa is reflective of  
2 the priorities that we hear from our partners on the  
3 ground.

4                   So, that I think -- you know, we've had a  
5 number of new people join the department and really that's  
6 the attraction. That's certainly what attracted me to come  
7 back to the department is that it is a different mindset to  
8 get to a place where the service delivery is not about us.  
9 It is for Indigenous People to run those systems. So, the  
10 department is creating a strategic plan, it is putting  
11 resources in place to make sure that that is the key driver  
12 in terms of the vision that we want to achieve.

13                   **Q.** And would that strategic plan be already  
14 in place or do you have a copy of that plan?

15                   **A.** It's not in place yet. It's something  
16 that we are working on. As I say, it is a new department.  
17 And so, you know, we have worked very closely with our  
18 sister organization, Crown Indigenous Relations. But it  
19 takes time to kind of separate those things out and make  
20 sure that we are developing our own plans of that nature.  
21 So, that is work that underway now.

22                   **THE CHAIR:** Okay. Thank you.

23 **--- EXAMINATION BY MEMBER LUSTIG:**

24                   **Q.** Thank you for your evidence.

25                   **A.** Thank you.

1                   Q. So, long-term reform initiatives by the  
2 nature of the term mean long term. And I understand that  
3 there is a dynamic to this that continues. But in your  
4 mind's eye as a person who is currently charged with the  
5 responsibility of putting into place a new system, so to  
6 speak, can you give us some indication as to when that new  
7 system, albeit one that has to be continually re-visited  
8 I'm sure over the years, but a new system to replace what's  
9 in place now will be in place? Do you have sort of an idea  
10 of when that might be?

11                   A. I appreciate the question. And I would  
12 just say that it's not about us putting a system into  
13 place. It's about Nations taking that on and Nations  
14 putting those systems into place whether they are First  
15 Nations, Inuit or Métis. So, it's really for them to  
16 define what that looks like and for us to be supporting  
17 development.

18                   The first issue I ever worked on in the  
19 previous department was the Nisga'a Final Agreement. And I  
20 was the regional director general in the Yukon region as  
21 well where the majority of Nations are self-governing.  
22 That is the future. That is the future of Nations being  
23 self-determining, being self-governing.

24                   And for the federal government to get out of  
25 the way of those Nations governing themselves. And, again,

1 as I say supporting? Absolutely. Being helpful where we  
2 can be helpful. But it's not about us developing and  
3 running a system. It's about Nations taking that on.

4 **Q.** Okay. That's fair. What you've  
5 deferred to is First Nations taking, shall we say,  
6 ownership of the process away from federal government.

7 **A.** Um-hmm.

8 **Q.** But given your perspective and your  
9 background do you have any sense of when that might occur?  
10 And I don't mean you to be specific but just give me an  
11 idea of what currently, right now as you sit here what you  
12 see as the prognosis. Where do you think this is going to  
13 end and when?

14 **A.** So, I would say -- and I would base this  
15 on the engagements that we undertook over the summer and  
16 fall. We had very good discussions with people in terms of  
17 the time that that will take. Some Nations are ready to go  
18 tomorrow. There's some Nations who are already doing this.  
19 Some will take more time and, you know, may want more time  
20 to do that.

21 And so, it's not -- we don't want to be  
22 dictating what that timeframe looks like. We want people  
23 to take the time that they need in order to do it well.  
24 And for those who are ready to go for them to be enabled to  
25 go forward and do that now.

1                   Some Nations may not choose to go down this  
2 path at all. They may prefer the current system in terms  
3 of services that are provided by the province or other  
4 agencies. There are lots of different models and we really  
5 don't want to dictate what those models are or when they  
6 need to be taken over by.

7                   So, I think for some it will be very quick  
8 and for others it will take time to develop. The BC First  
9 Nations Health Agency is an example. They probably took  
10 probably eight or ten years I would say to really kind of  
11 go from being the idea of taking those health services over  
12 to being fully operational, fully, you know, feeling like  
13 they were operating at 100 percent. That does take time in  
14 order to do well. And it's important that we're there to  
15 support in the interim as well without dictating what that  
16 timeline looks like.

17                   Q. Okay. That's fair. In paragraph 64 you  
18 say that:

19                   "Canada would like to move away from  
20 using the cumbersome litigation process  
21 involving affidavits and cross-  
22 examinations and rather continue the  
23 collaborative process to share  
24 information with partners."

25                   Presumably to the end of getting to a



1 resolution, a long-term reform of the system.

2 **A.** Absolutely.

3 **Q.** So, do you have in mind, and again I'm  
4 asking a very general question. So, I don't expect you to  
5 be absolutely specific by any means, but do you have in  
6 mind any kind of a process by which if the collaboration  
7 fails to succeed particularly in view of what you just said  
8 to me which was that it's really going to be driven by  
9 First Nations.

10 So, if they don't happen to agree and you  
11 don't get the agreement, you don't get successful  
12 collaboration, do you have in mind any kind of a process or  
13 a system that would take up that lack of collaboration and  
14 resolution of the issue?

15 **A.** I think, I mean, you'll see even in the  
16 draft legislation allusions to dispute resolution  
17 processes, that sort thing. And I think that the processes  
18 we have in place now lead us to a place where we will be  
19 able to have those tough conversations about what happens  
20 when we don't agree.

21 I think the appeals process that we've  
22 introduced is one example of that. But over the long term  
23 I think there's certainly discussions to be had ahead of  
24 time in terms of what that dispute resolution process looks  
25 like that works for all partners.

1                   **Q.** Okay. Thank you.

2                   **A.** Thank you.

3                   **THE CHAIR:** Okay. So, I saw you nod  
4 earlier. You're not going to ask any questions on behalf  
5 of the Commission?

6                   **MR. SMITH:** No questions from the  
7 Commission, thank you.

8                   **THE CHAIR:** Okay. Thank you. Ms. Wente.

9                   **MS. WENTE:** Can I ask for about 5 to 10  
10 minutes just to organize my 400 Post-it notes before?

11                   **THE CHAIR:** Of course.

12                   **MS. WENTE:** And then maybe it will be a  
13 slightly more orderly examination.

14                   **THE CHAIR:** Sure.

15                   **MS. WENTE:** Thank you.

16                   **THE CHAIR:** Let's come back at 2:00. And  
17 let us know if you need more time. Thank you.

18 (BREAK)

19 **--- CROSS-EXAMINATION BY MS. WENTE:**

20                   **Q.** Good afternoon, Ms. Wilkinson. I'd like  
21 to start by asking some questions out of some things that  
22 came up from some answers you gave this morning and just  
23 now when Member Lustig had posed you a question. So,  
24 Member Lustig had posed you questions about sort of the  
25 nature of long-term reform and when that might happen. And

1 that's, obviously, also something that I am looking to  
2 explore.

3                   And so, I was wondering -- you had said and  
4 I don't, you know, I don't have your exact words here but  
5 you had said basically that long-term reform in your view  
6 was about First Nations sort of assuming jurisdiction and  
7 that that was sort of the project of long-term reform in  
8 your mind. Is that correct?

9                   **A.** So, I think ultimately that is the goal.  
10 Absolutely. I think, you know, between now and then we  
11 have steps to take. That's not something that's going to  
12 happen overnight. Certainly, getting to a new funding  
13 methodology, those types of things are important steps  
14 along the way.

15                   But I interpreted the question to be in  
16 terms of ultimately where we're aiming to be as a vision.  
17 That's the long-term goal. Certainly, in the interim  
18 there's lots of work we need to do. And not all Nations  
19 are at the same stage or desire of readiness to take on  
20 jurisdiction.

21                   And so, that is a process that will be  
22 ongoing for some time. And certainly, getting to that  
23 place involves not only pieces like Bill C-92 but making  
24 sure that we're working collaboratively with partners on  
25 data and reporting and all those other pieces that lead to

1 that ultimate goal.

2 Q. Okay. Thanks, that's helpful. Okay.

3 So, I just want to talk about some of those pieces as you  
4 call them, about sort of the pieces that come into play in  
5 terms of doing long-term reform. And sort of what work  
6 you've been doing outside of the things we've been talking  
7 a lot about today. So, one of the things that we've been  
8 waiting for is the Ontario Special Study.

9 A. Yes.

10 Q. And so, that is, you know, I take it  
11 that's one of the pieces that you're talking about in terms  
12 of what happens next in terms of the funding formula. So,  
13 you'd agree you'd mentioned before this Special Study took  
14 a little bit longer than anticipated or is taking longer  
15 than anticipated?

16 A. Yes.

17 Q. And it's my understanding now that  
18 there's sort of a draft at least out there for  
19 consideration and discussion amongst Canada, Ontario, and  
20 the Ontario First Nations? Is that right?

21 A. Yes. Yes. And I believe the goal is to  
22 finalize that between now and July.

23 Q. And so, I don't attend all the Special  
24 Study meetings either so here I am asking you. Finalizing  
25 that does that entail you going back to your department and

1 talking about what the recommendations of the draft Special  
2 Study are to see if Canada will adopt those  
3 recommendations?

4           **A.** I think that's part of it. I think part  
5 of it as well is supporting the work of the Ontario  
6 Technical Table because they have been critically involved  
7 in that study. And also, of course, looking at the 65  
8 agreement in Ontario and how that can be reformed over, you  
9 know, the next while in conjunction with that work on the  
10 Special Study and with the Ontario Technical Table to keep  
11 moving those pieces forward as well.

12           **Q.** Sure. So, the Special Study -- let's  
13 just go back here because there's a lot, you know, the  
14 Panel doesn't really know too much about it because there's  
15 no report yet given to them. So, the Technical Table is  
16 the group in Ontario that's composed of well technical  
17 people if you will from Canada, Ontario, and  
18 representatives from Ontario First Nations? That's right?

19           **A.** Yes.

20           **Q.** And they have all been working together  
21 to both direct this Special Study and -- yeah, to direct  
22 the Special Study. Is that correct?

23           **A.** Yes.

24           **Q.** Okay. So, there's -- and I take it --  
25 my understanding is there's a draft Special Study and you

1 just said you will be working to support the Technical  
2 Table. Can you tell me how then the work of the Technical  
3 Table is distinct from sort of -- Canada's reps on the  
4 Technical Table are distinct from sort of your department  
5 in terms of what happens with the Special Study next?  
6 Because you seem to draw a distinction and I'm just not  
7 sure ---

8                   **A.** I'm not sure I would draw it in that  
9 way.

10                   **Q.** Okay.

11                   **A.** I think many of these tables have the  
12 same people sitting at them and it's important that we  
13 build on that work.

14                   **Q.** Right. But, ultimately -- let's say  
15 this.

16                   **A.** Sorry, I'm not sure I'm understanding  
17 your question entirely.

18                   **Q.** So, ultimately, let's say the Special  
19 Study comes out in a final form.

20                   **A.** Um-hmm.

21                   **Q.** You'll have to take it back to your  
22 department or, you know, ISC whoever it is to determine  
23 whether or not ISC is going to say, "Yes, we will implement  
24 these recommendations from the Special Study."

25                   **A.** And it will also depend if that's within

1 our current range of authorities to implement. So, there  
2 may be pieces in there that would require a new policy  
3 cover for example which is a process that we would need to  
4 undertake as a Cabinet process as an example. Additional  
5 funding is a piece that would need to be part of a  
6 budgetary financial discussion.

7 **Q.** Okay. So, when there's a finalized  
8 report, I take it then, my understanding is you'll take it  
9 back and there may be parts of the Special Study  
10 recommendations that you can say "Canada is ready to move  
11 at these right away", and there may be other parts we have  
12 to go back and get new Treasury Board approval.

13 **A.** Right.

14 **Q.** And new funding authorities?

15 **A.** Yes.

16 **Q.** That's correct? And can you tell me  
17 about how long that takes? That process of policy and  
18 funding authority to adopt sort of new directions?

19 **A.** So, it -- the short answer is that it  
20 depends. In the current frame we have an election in  
21 October. And so, a government will be formed immediately  
22 after that. That government will form a Cabinet. We will  
23 have a minister and then we will brief that minister in  
24 terms of priorities moving forward. And then the process  
25 will take over from there. The government will need to

1 prepare a budget for, you know, the upcoming cycle. And  
2 so, we will feed into those processes as there is appetite  
3 to do so.

4 Q. Okay. And so, it's definitely not  
5 happening this summer. I think we all knew that that was  
6 going happen. So, it's going to be some time within the  
7 next year. And do you anticipate that there might be  
8 follow-up work from the Special Study as well given what  
9 you've seen so far?

10 A. I think if we can take IFSD as an  
11 example IFSD came back saying that there was further work  
12 needed. So, it would not surprise me if we saw the same  
13 from the Ontario Special Study. But I -- given that we  
14 don't have a kind of close to final version of that I'm not  
15 sure that I can predict on that side.

16 Q. Okay.

17 A. But we're certainly, I mean, it's an  
18 active table. We've done a lot of work in terms of trying  
19 to ensure that the work continues and supporting the folks  
20 around that table.

21 Q. Sure. And have you internally been  
22 doing work to sort of -- which I guess will form the  
23 foundation of whether or not you accept the Special Study  
24 recommendations? So, for instance, I guess an example is  
25 one of the things that the Special Study is looking at is



1 say gaps in services or funding gaps that are created by  
2 1965.

3 A. Right.

4 Q. How are you going to assess that?

5 Whether or not the Special Study is something you want to  
6 adopt or that you believe is correct?

7 A. Well, I think we'll review it  
8 internally, of course. But I think the critical piece will  
9 be working with partners to see what is kind of short,  
10 medium, and long-term coming out of that study. So, I  
11 would assume that there will be pieces coming out of it  
12 that will need to form part of a discussion on options for  
13 a new funding methodology, for example. That's not  
14 something that we can implement in July as an example. But  
15 if there are pieces that are within our current  
16 accountabilities then that's certainly something that we  
17 would look at together with partners.

18 Q. Yeah. I'm not quite sure that's exactly  
19 what I was trying to ask there.

20 A. Okay. Sorry.

21 Q. So, maybe I should you a new question.

22 A. Absolutely. Yes.

23 Q. So, my question is do you have sort of I  
24 guess internally within Canada your own view on say certain  
25 subject matters that you will then check against the

1 Special Study to say, "Yeah, the Special Study confirms  
2 what we think the problem is", if you will. Or are you  
3 just waiting for the Special Study to basically diagnose  
4 the problem? I guess those are ---

5           **A.** I think given the amount of work that's  
6 gone into the Special Study I don't want to pre-judge what  
7 the outcomes of it will be. I think we'll certainly want  
8 to look at what it finds compared to what IFSD has found as  
9 an example compared to what we're seeing in terms of claims  
10 that come in, those types of things.

11           I think we need to look at that together.  
12 We can't look at any of those pieces I don't think in  
13 isolation. But certainly, I mean we've had lots of  
14 discussions. And the study has taken some time but I'm  
15 sure that it will be good work at the end and that we'll be  
16 able to work with partners on where we go from there.

17           **Q.** I'm still not sure I asked the question  
18 in a way that I got the information I wanted. But I'll  
19 think about it and maybe ask it again if I think of a  
20 better way to ask it.

21           **A.** Okay.

22           **Q.** I guess my question -- okay. Do you  
23 have your own internal assessment of sort of what is  
24 required for the Band Representative Program go forward?

25           **A.** So, I think we've had good feedback in

1 terms of the success of funding Band Reps. So, I'm not --  
2 sorry, I'm not quite sure if I'm following your line of  
3 questioning.

4 **Q.** I'm just wondering about the process  
5 when you receive the Special Study.

6 **A.** Um-hmm.

7 **Q.** I guess how you determine whether or not  
8 you are going to adopt recommendations from the Special  
9 Study. How do you make that decision?

10 **A.** Well, I think -- well, there's a number  
11 of steps that we can take. I mean, I think internally  
12 there's -- we have a strong team in the Ontario region.  
13 So, obviously we would start with them. Depending again on  
14 what the findings are we may need to engage with central  
15 agencies or with our colleagues in either the regional  
16 operations sector or the chief financial officer sector  
17 making sure that we have the full picture of information,  
18 and then making decisions from there.

19 **Q.** Okay.

20 **A.** Is that more what you were thinking?

21 **Q.** I think so.

22 **A.** Okay.

23 **Q.** All right. And if there's -- I guess --  
24 okay. The very simplest way I can ask this question is  
25 what is Plan B? So, what if you don't like what the

1 Special Study's recommendations are? Not you personally,  
2 Ms. Wilkinson, your employer.

3           **A.** Sorry, just give me a moment. I'm not  
4 quite sure -- I want to make sure I'm understanding your  
5 question well. So, again, I don't want to pre-judge what  
6 the findings will be. If there are areas where we don't  
7 have the authority to go necessarily then we would need to  
8 look at whether there is an appetite within the federal  
9 system to move forward on some of those pieces. And if not  
10 to continue the discussions in terms of what an alternative  
11 path looks like.

12           **Q.** Continue the discussions with the First  
13 Nations in Ontario?

14           **A.** With partners.

15           **Q.** Is that what you're saying?

16           **A.** Yes.

17           **Q.** Okay.

18           **A.** I mean, we are partners for the long-  
19 term. And so, you know, we won't always agree on all ways  
20 to get to the ultimate goal but I think the parties  
21 involved in the Special Study do share common goals in  
22 terms of reducing the number of kids in care, increasing  
23 the ability for Nations and Band Reps and agencies to be  
24 able to fulfill their duties and to provide service. So, I  
25 think based on that, you know, when there are those shared

1 goals in place then we would find a way to continue to have  
2 those discussions and to move forward.

3 Q. All right. So, until then, until you've  
4 got the long-term reform whatever it is whether it's the  
5 Special Study or, you know, further work out of the Special  
6 Study or a whole new study, you know, whatever it is that  
7 happens.

8 A. Right.

9 Q. Until then the plan is between now and  
10 then is to go with the current funding sources. So, that  
11 is -- I just want to confirm with you, that's what the  
12 government of Ontario provides agencies under the Ontario  
13 funding formula, plus whatever's available under the  
14 Tribunal's orders. So, that's the agency actuals, actuals  
15 for building repairs, intake investigation, those things  
16 which are available to agencies, correct?

17 A. Correct.

18 Q. The Band Representative funding at  
19 actuals.

20 A. Yes.

21 Q. And then the prevention funding I guess  
22 that's provided from Budget 2016. Is that correct?

23 A. Yes.

24 Q. And then the Community Well-being  
25 Jurisdiction Initiatives (inaudible).

1                   A. Right. And all of those things I would  
2 say yes within the terms and conditions of the program.

3                   Q. Sure, of course.

4                   A. Yeah.

5                   Q. So, it could be some time it seems like  
6 before the First Nations in Ontario and the agencies in  
7 Ontario are going with that sort of combination of funding  
8 before we end up with a new formula? Would you agree?

9                   A. I think, I mean I would say generally  
10 speaking there are certainly a number of steps that need to  
11 be accomplished before we get to a new funding methodology  
12 overall. And I think in Ontario the picture is perhaps  
13 more complicated or complex I guess I should say. But  
14 there's certainly I think a lot of appetite and a lot of  
15 good working relationships that are moving these pieces  
16 forward.

17                   I don't think that -- you know, the Special  
18 Study has had its hiccups but people have found a way to  
19 move into a new frame. There are four in place. There are  
20 Technical Tables, there are discussions that happen on a  
21 constant basis in terms of making sure that we're  
22 continuing to adjust. As I mentioned earlier in terms of,  
23 you know, making some of those adjustments where we can to  
24 make things easier and to open the doors where we can.

25                   Q. So, there's the Special Study, there's

1 the IFSD, then there's NAN's Remoteness study.

2 A. Yes.

3 Q. And then there will also have to be you  
4 said some sort of synthesis of those three things. Is that  
5 right?

6 A. I mean I think -- I don't know that  
7 there needs to be -- I don't want to pre-judge what that  
8 looks like. But I do think we need to take into account  
9 the findings of all of those pieces as well as the new work  
10 that AFN will be contracting.

11 As well as what we find as we move further  
12 into what it means to be paying on actuals, what outcomes  
13 come out of the investments that are going out as we speak.  
14 Tracking those in the new data system will, we hope, help  
15 us to be able to better identify some of those trends and  
16 to be able to pick up on where kind of some of those more  
17 meaningful investments are helping.

18 Q. Right. So then, there's also -- I'm  
19 just trying to keep account I suppose of all of the things  
20 that will have to kind of come together. So, then there's  
21 also you mentioned the new data system?

22 A. Right.

23 Q. And the data you collect. It's  
24 obviously not the system itself that's the (inaudible).

25 A. Right. Yes. And I think broadly the

1 data and reporting systems. So, I referenced data and  
2 reporting in terms of the six-point plan moving forward.  
3 That's a complex area. It's an area I think that all  
4 governments are facing frankly, the importance of data.  
5 But also, how that data is managed. And not just -- I  
6 mean, privacy is certainly an important piece of that but,  
7 you know, no one jurisdiction even defines some of the  
8 terms used in data collection in the same way.

9                   So, we are seeing some progress. I know  
10 that the three territories are trying to work together to  
11 build a system together that starts to break down some of  
12 those barriers. It's not an issue that any one government  
13 or any one partner is going to solve alone. It's going to  
14 take Indigenous partners, provinces, territories and the  
15 federal system working together to crack.

16                   **Q.** Right. Because the data piece is  
17 complicated. And I know in Ontario they have their own  
18 data system which most of the First Nations agencies  
19 haven't signed onto.

20                   **A.** Yes.

21                   **Q.** And it doesn't have the same kinds of  
22 inputs as the federal data system. Is that right?

23                   **A.** I don't know specifically the inputs but  
24 I do know that broadly there's certainly not a neat  
25 alignment from one system to the other of how data is



1 collected. And that's something that we need to work  
2 together to fix.

3 Q. And then also I take it that another  
4 piece that will have come into place before we can move  
5 into a sort of new and improved funding regime will be the  
6 renegotiation of the 1965 Agreement which you'd mentioned  
7 earlier.

8 A. Um-hmm.

9 Q. You haven't been actively re-negotiating  
10 the 1965 Agreement with the Government of Ontario? That's  
11 right?

12 A. I think it's -- as you put it it's on  
13 the list and there are certainly folks who are working  
14 toward that goal. But I would say it's not -- certainly  
15 not as far advanced as the Special Study, for example.

16 Q. Have you taken specific steps to re-  
17 negotiate the 65 Agreement as yet?

18 A. I don't have the details on that. But  
19 certainly, we could continue to have some conversations on  
20 that.

21 Q. Who's responsible for the 1965 Agreement  
22 reform? Is it the Ontario regional office?

23 A. They lead.

24 Q. They lead.

25 A. Yes.

1                   Q. Okay. Is there anything else that I'm  
2 missing? So, I have IFSD, IFSD 2, Ontario Special Study,  
3 maybe Ontario Special Study 2 or something, the Remoteness  
4 Quotient, then data collection system and the inputs of the  
5 data collection system and the outputs of it, I suppose.  
6 The re-negotiation of the 1965 Agreement. Can you think of  
7 any other pieces that will need to come into play before we  
8 have a -- through a comprehensive long-term funding and  
9 policy reform?

10                   A. I think those are the building blocks  
11 absolutely. If we go back to the notion of the house and  
12 the foundation those are the building blocks absolutely. I  
13 don't want to say that there are no other pieces that we  
14 will uncover as we go but those are certainly the ---

15                   Q. Well, no, I didn't want to tie you to  
16 say these were going to be the only things. I just wanted  
17 understand the ---

18                   A. Those are absolutely building blocks,  
19 yes.

20                   Q. Okay. I wanted to make sure that I  
21 hadn't missed any building blocks. It wasn't to attempt to  
22 tie you down. Certainly, the more blocks the better as far  
23 as I'm concerned. Oh, and one other thing that I'd said is  
24 that the First Nations obviously will need to get their own  
25 approvals and mandates ---

1                   **A.** Yes, absolutely.

2                   **Q.** --- from the chiefs and you will have to  
3 get your approvals and mandates internally as well. Okay.

4                   **A.** We all have our approval processes.

5                   **Q.** Right. And as we know those are not  
6 necessarily particularly a speedy approval processes.

7 Would you agree?

8                   **A.** I would say they're not always entirely  
9 predictable in terms of timing.

10                   **Q.** That's a good assessment. I agree with  
11 that. All right. So, I think that's mostly coming to the  
12 end of my questions. But I did have a few other questions  
13 just about Bill C-92 and some things that you had said  
14 about the budget and how that will work, the First Nations  
15 Child and Family Services budget. So, first of all my  
16 memory must be failing me. So, when you reimburse Ontario  
17 for the services that it's providing to First Nations  
18 children on reserve in Ontario does that come from the same  
19 First Nations Child and Family Services budget or is there  
20 a different ---

21                   **A.** It's all within the program.

22                   **Q.** Within the programs?

23                   **A.** Yes.

24                   **Q.** And then you had said that as First  
25 Nations take jurisdiction under Bill C-92 and come to

1 coordination agreements that that funding for those kinds  
2 of activities or services that they provide will also come  
3 from the program budget. Is that correct?

4 **A.** I think on the federal side currently  
5 there are resources within the program. We would need to  
6 look at what funding is going in currently. So, provinces  
7 and territories dollars that are expended from the federal  
8 program that -- the federal program is the source of  
9 funding for the provision of services. So, that is the  
10 current source of that funding.

11 **Q.** And is that also intended to be the  
12 source of the funding for services that would be provided  
13 to Métis and Inuit children under Bill C-92?

14 **A.** So, there isn't funding provided for in  
15 the Bill currently for services, right?

16 **Q.** Oh, no, I'm aware of that. I mean is  
17 the program funding, is that where Métis and Inuit groups  
18 are going to be getting their funding from if they come to  
19 coordination agreements through Minister (inaudible) that  
20 they develop under C-92?

21 **A.** So, currently the funding for Inuit and  
22 Métis come from provincial and territorial governments.  
23 And so, that's why we would need all parties around the  
24 table for those coordination agreements.

25 **Q.** I see. Okay. And I know you thought

1 that I was going to ask you a lot of questions about Band  
2 Representative timelines but I'm not because we've already  
3 done all of our submissions on them. So, I consider that's  
4 not a thing I'm just going to ask you questions about. One  
5 of the things that Mr. Taylor had asked you some questions  
6 about was about capital needs for First Nations and you  
7 guys had a lot of discussion about what capital needs  
8 assessments are.

9 **A.** Um-hmm.

10 **Q.** And I just wanted to make clear that  
11 there's no money sort of within the current sort of suite  
12 of funding pots that provides sort of capital funding for  
13 First Nations who are providing prevention services  
14 themselves directly?

15 **A.** There's no specific major capital budget  
16 line item within the program.

17 **Q.** And there's no capital item within  
18 that's sort of separate out in other capital funding as far  
19 as you know within their budgets? So, let's say they're  
20 ---

21 **A.** Sorry, can you say it again?

22 **Q.** --- providing prevention funding.

23 **A.** Yes.

24 **Q.** In Ontario, right?

25 **A.** Yes.

1 Q. So, they're providing prevention.

2 Sorry. And there's no ability to access prevention at  
3 actuals in order to do building repairs or capital  
4 improvements to provide that prevention services in  
5 Ontario. Is that right?

6 A. Only if it were directly linked to  
7 prevention.

8 Q. Okay. The First Nations are able to  
9 access it if it's ---

10 A. Sorry, agencies.

11 Q. Yeah.

12 A. Yes.

13 Q. But not the First Nations themselves?

14 A. Right.

15 Q. Even though in Ontario they're the ones  
16 providing or they are in addition to agencies providing  
17 prevention services. Is that your understanding?

18 A. Right. So, they can access the  
19 Community Wellness and Jurisdiction Initiative money. And  
20 that pot of funding does have the ability for capital as  
21 well. So, they could access it through there, or through  
22 the allocations that they receive directly.

23 Q. Okay. Thanks. Those are all my  
24 questions.

25 A. Thank you.

1                   **THE CHAIR:** Thank you. So, we're now -- I'm  
2 not forgetting anybody? Re-examination?

3                   **MR. FRATER:** No re-examination. I'm just  
4 wondering what's going to happen with NAN (inaudible - mic  
5 not open).

6                   **THE CHAIR:** Yes. So far what we've heard is  
7 that they were seeking instructions. So, that's the latest  
8 news that I have. Ms. Dubois, did you receive another  
9 email from NAN?

10                  **MR. FRATER:** I was wondering we could send  
11 them the recording today (inaudible - mic not open)

12                  **THE CHAIR:** Sure. It's difficult to know  
13 since we haven't heard from them on what types of  
14 instructions they will be providing. So, there are  
15 different ways that we can address this. It's usually --  
16 we try to avoid re-calling witnesses. But given that it  
17 wasn't an option to ask questions over the phone or in  
18 writing for now. You could move on to re-examination on  
19 what was heard today. And maybe if they still have  
20 questions, we could re-call the witness subject to your  
21 submissions. And just for NAN, and then responses from the  
22 others. And if you have other suggestions, we're open to  
23 hear them.

24                  **MR. FRATER:** No, I don't have any other  
25 suggestions. I don't have any re-examination for the

1 witness.

2 **THE CHAIR:** Oh, you don't. Okay.

3 **MR. FRATER:** Subject to hearing what NAN  
4 might do.

5 **THE CHAIR:** Yes, sure. Well, for now, I  
6 think it's safer just to adjourn and find out what NAN's  
7 instructions will be and then move from there. Otherwise I  
8 can't decide on their behalf. If they still insist in  
9 asking questions directly, we'll then try to see what are  
10 the parties' views and try to accommodate that. I know it  
11 may not be what you want to hear. But thank you very much  
12 for your evidence for today.

13 **THE WITNESS:** Thank you.

14 **THE CHAIR:** I will try to see if it's  
15 possible not to have to re-call you but it's important also  
16 if a party wants to ask questions then we'll try to  
17 accommodate that subject to any objections.

18 **THE WITNESS:** Absolutely.

19 **THE CHAIR:** So, for this portion of this  
20 week we'll adjourn the hearing. Thank you very much.

21 **THE WITNESS:** Thank you.

22 **THE CHAIR:** Yes?

23 **MR. TAYLOR:** Chair, I was just hoping that  
24 we could address the point regarding those two requests for  
25 information I had made where confidentiality was raised as



1 a concern. So, I had understood my friend to say that, you  
2 know, essentially if confidentiality was no concern, they  
3 could provide the information. So, I'd just like a date if  
4 we could have one by when we'll have a response on the  
5 confidentiality concerns so if we do need to make  
6 submissions, I know that. Would two weeks be reasonable,  
7 Mr. Frater?

8 **MR. FRATER:** Yes, it sounds reasonable to me  
9 but I need an opportunity to talk to my client about it.

10 **MR. TAYLOR:** I mean that puts me in the  
11 position of asking, you know, by what date you can give me  
12 a date that I could have an answer.

13 **MR. FRATER:** We're back here tomorrow. I'll  
14 try and have a discussion tonight.

15 **MR. TAYLOR:** Okay. That would be helpful.  
16 Thank you. And if it's acceptable to the Panel following  
17 that might I return to the point tomorrow?

18 **THE CHAIR:** Of course.

19 **MR. TAYLOR:** Thank you.

20 **THE CHAIR:** Yes, Mr. Wuttke?

21 **MR. WUTTKE:** I do have a question on  
22 clarification for the witness. Since she may be re-called,  
23 is she still undertaking not to discuss her testimony?

24 **THE CHAIR:** I'll hear from Canada but will  
25 that tie her work or -- we want to try to make sure that

1 she's able to move forward with our files. I don't know.

2 **MR. FRATER:** Well, I'd like to discuss the  
3 confidentiality point with her at a minimum. And,  
4 hopefully, by tomorrow we have some guidance from NAN about  
5 what they would like to do. And maybe we can resolve it  
6 then? As long as there's an understanding that if I talk  
7 to the witness about confidentiality I'm not breaching any  
8 possible cross-examination prescription.

9 **THE CHAIR:** That's acceptable. Anything  
10 else? Okay. Thank you very much everyone. Have a good  
11 day. We'll start again at 9:30. Is there any issue for  
12 9:30 tomorrow, with a different witness. Thank you.

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15 **(HEARING ADJOURNED TO WEDNESDAY, MAY 15, 2019 AT 9:30 A.M.)**

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**CERTIFICATE OF COURT TRANSCRIBER**

I, Wendy Russell, Court Transcriber, hereby certify that I have transcribed the foregoing and that it is a true and accurate transcript of the proceedings in this matter, **CANADIAN HUMAN RIGHTS TRIBUNAL** between **FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and ASSEMBLY OF FIRST NATIONS** (Complainants) **CANADIAN HUMAN RIGHTS COMMISSION** (Commission) and **ATTORNEY GENERAL OF CANADA** (Respondent) and **CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and NISHNAWBE ASKI NATION** (Interested Parties) taken by way of electronic recording on Tuesday, May 14, 2019.

  
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Certified by Philomena Drake

Court Transcriber (Reg. No. 2006-36)

Dartmouth, Nova Scotia

Sunday, May 27, 2019