

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

HEARD BEFORE: Ms. Sophie Marchildon, Panel Chairperson

Mr. Edward P. Lustig, Panel Member

PLACE HEARD: Ottawa, Ontario

DATE HEARD: Tuesday, May 7, 2019

APPEARANCES: Mr. David Taylor

Ms. Marion Sandilands

Mr. Marc St. Dennis

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

Recorded by:

Canadian Human Rights Tribunal

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Ottawa, Ontario

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I N D E X O F P R O C E E D I N G S P A G E N O .

DR. VALERIE GIDEON

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1 **THE COMMISSIONER:** Good morning. We'll just
2 do the appearances, please. I was told that NAN and Chiefs
3 of Ontario are not attending. Okay. Thank you.

4 **MS. DUBOIS:** So, today is May 7th, 2019 in
5 the matter of First Nations Child and Family Caring Society
6 of Canada and the Assembly of First Nations and the
7 Attorney General of Canada, CHRT file number T-1340/7008.
8 And I will ask for appearances, please, starting with the
9 Caring Society.

10 **MR. TAYLOR:** David Taylor and Marion
11 Sandilands for the Caring Society. And we're joined from
12 the Caring Society this morning by Marc St. Dennis, who is
13 the education and public engagement coordinator for the
14 Caring Society.

15 **MR. MILNE:** Thomas Milne for the Assembly of
16 First Nations.

17 **MR. WUTTKE:** And Stuart Wuttke for the
18 Assembly of First Nations.

19 **MR. SMITH:** Good morning. For the Canadian
20 Human Rights Commission, it's Brian Smith.

21 **MS. WALSH:** And Jessica Walsh.

22 **MR. FRATER:** Robert Frater, Q.C., for the
23 Attorney General of Canada.

24 **MR. TARLTON:** Jonathan Tarlton for the
25 Attorney General of Canada also.

1 **THE COMMISSIONER:** Okay. So, first of all,
2 the Panel acknowledges that this hearing is held on the
3 traditional and unseated territory of the Algonquin
4 peoples. And today we will hear from Canada's witness Dr.
5 Gideon. Dr. Gideon is the Senior Assistant Deputy Minister
6 of the First Nations and Inuit Health Branch at the
7 Department of Indigenous Services Canada. And she swore an
8 affidavit that was filed with the Tribunal. And today she
9 will be cross-examined by counsel for the Caring Society,
10 and perhaps other counsel. And the Panel members may have
11 some questions.

12 So, Mr. Frater, given that we've heard from
13 Dr. Gideon in the past, we don't need to go through her
14 credentials unless you have a specific area that you would
15 like to cover. And without further ado, if you want to
16 call your -- well, she's already there, so if you -- thank
17 you for coming, Dr. Gideon, again.

18 **DR. VALERIE GIDEON,** (Affirmed)

19 **MS. DUBOIS:** Please state your full name for
20 the record.

21 **THE WITNESS:** Valerie Gideon.

22 **MS. DUBOIS:** Thank you very much. Please be
23 seated.

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

25 **Q.** I just have a couple of brief questions.

1 Dr. Gideon, you swore an affidavit on April 15th of this
2 year?

3 **A.** I did.

4 **Q.** Do you have that affidavit in front of
5 you now?

6 **A.** I do.

7 **Q.** And is there -- you have that in a
8 binder before you, I presume?

9 **A.** That's correct.

10 **Q.** Is there anything else in the binder
11 other than the affidavit?

12 **A.** So, I did make some notes for myself
13 with respect to just the numbers and percentages in case
14 I'm asked some more detailed questions, which I'm nervous
15 that I would not remember the precise figures since there
16 are many. And I also have the Caring Society's affidavit
17 in terms of supporting information, information from our
18 website, and counsel's free to look at that if they wish to
19 do so.

20 **Q.** Okay, thank you. Are there any
21 additions or clarifications to that affidavit?

22 **A.** No.

23 **MR. FRATER:** Thank you. Those are all the
24 questions I have.

25 **THE COMMISSIONER:** Thank you very much.

1 **MR. TAYLOR:** Thank you, Madame Chair

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

3 **Q.** Dr. Gideon, good morning.

4 **A.** Good morning.

5 **Q.** So, just to start with a little bit of
6 housekeeping. You've confirmed to Mr. Frater you've got
7 your April 15th affidavit in front of you?

8 **A.** I do.

9 **Q.** And you should also have a small volume
10 that I just handed you titled "FNCFS See exhibits to May 7,
11 2019 cross-examination of Valerie Gideon."

12 **A.** Yes.

13 **Q.** It's got five tabs. And I've
14 distributed that as well to other counsel and the Panel
15 should have copies. So, if we could just start a little
16 bit on your background. And I believe -- well, if I've
17 asked these questions before I apologize for being
18 repetitive. But just briefly, how long have you been
19 working for the Federal Government?

20 **A.** I joined Health Canada in November of
21 2007 on interchange with the Assembly of First Nations.
22 And I bridged in approximately six months after that time.
23 So, sometime in 2008. I also did do a two-year term
24 earlier on in my career.

25 **Q.** So, in terms of continuous service, and

1 there may have been various leaves in there.

2 A. So, November 2007.

3 Q. November 2007, okay. Thanks. Thank you
4 very much. And I understand that you have a Ph.D.?

5 A. I do.

6 Q. And in what subject is that?

7 A. So, it was under the McGill Department
8 of Communications, but it was on telehealth, telemedicine
9 at that time.

10 Q. Thank you very much. Now if we could
11 just look at paragraph 4 of your affidavit. Actually, if
12 we could start at paragraph 3 which I think is on the same
13 page.

14 A. I'm sorry, paragraph?

15 Q. 3. From the same page. So, in
16 paragraph 3 you say:

17 "This affidavit is aimed to provide the
18 most up-to-date information and
19 evidence as my May 24 and June 21, 2018
20 affidavits and October 30, 31, 2018
21 cross-examination testimony on Canada's
22 activities on Jordan's Principle and
23 those ordered on mental health."

24 So, you'd agree that's your goal in this
25 affidavit, is giving the most up-to-date information?

1 **A.** Correct.

2 **Q.** And at paragraph 4 you note that -- this
3 is about halfway through:

4 "That the information in the affidavit
5 should help to demonstrate the strong
6 collaboration exists with the parties,
7 and that through monthly discussions of
8 the Jordan's Principle operating
9 committee, and various other forums,
10 close collaboration is maintained."

11 And then you state that:

12 "ISC is committed to continuing this
13 work and does not require continued
14 supervision by the Tribunal in order to
15 remain firm in this ongoing
16 commitment."

17 And so, you're speaking there to a
18 commitment to collaborating and working with the parties?

19 **A.** Correct.

20 **Q.** Would you agree that the Human Rights
21 Tribunal orders are about more than a process of
22 discussions?

23 **A.** Yes.

24 **Q.** And you'd agree that that they are about
25 results for children?

1 **A.** Absolutely.

2 **Q.** Now at paragraph 5 of your affidavit you
3 speak to some of the financial commitments that the
4 government has made with respect to Jordan's Principle.
5 So, you say in paragraph 5:

6 "That Canada committed up to 679.9
7 million from fiscal year 2016/17 to
8 2018/19."

9 Do you see that?

10 **A.** Yes.

11 **Q.** Now I'd suggest to you this statement is
12 a little bit incomplete. Would you agree with me that no
13 new funds were provided from January 26, 2016 to July 5,
14 2016?

15 **A.** I'm sorry?

16 **Q.** So, from January 26, 2016 which was the
17 Human Rights Tribunal decision date.

18 **A.** Yes.

19 **Q.** To July 5, 2016 which was the date that
20 the child first initiative was announced, there were no new
21 funds provided in that period. Is that right?

22 **A.** So, I was on maternity leave during that
23 period of time. But I do know that the July 2016 timeframe
24 is when the government announced the child first
25 initiative, and budget commitment of 382.5 million over

1 three years at that time.

2 Q. And as far as you're aware, prior to
3 that 382.5 million there weren't additional funds
4 allocated?

5 A. Committed by the Federal Government.

6 Q. Thank you. And then in terms of that
7 approach announced on July 5, that as it was framed or
8 structured from July 5, 2016 to May 26, 2017, that approach
9 was found discriminatory by the Tribunal. Is that right?

10 A. So, the Tribunal ordered some -- issued
11 some non-compliance orders on May 2nd, I believe, of -- or
12 May 2017, and then amended November 2nd, 2017.

13 Q. Now your affidavit also says at
14 paragraph 5 that 1.2 billion dollars has been announced for
15 fiscal years 2019/20 to 2021/22. Do you know if those
16 funds have been approved by parliament yet?

17 A. So, the budget implementation bill is
18 under way and we are working on the Treasury Board's
19 submission to access those funds, which will be completed
20 in June 2019, and will make it in time for supplementary
21 estimates.

22 Q. And in terms of requests that are coming
23 in, I guess, since April 1st, 2019, how are those being
24 funded?

25 A. We are committing them against our

1 budget, based on the budget 2019 announcement and decision
2 there.

3 Q. But in terms of the funds that have to
4 flow out to recipients, you know, today or last month,
5 where the funds haven't been voted yet and Treasury Board
6 hasn't provided the funding, how is the department funding
7 those commitments?

8 A. The department gets a supply of funds
9 through the main estimates process and is able to cash
10 manage until the Treasury Board authority is obtained,
11 until that time.

12 Q. So, at this time it's cash management
13 that's meeting those requests?

14 A. Yeah. But if necessary, the department
15 -- there is also a process for departments to actually
16 access emergency funding while a Treasury Board process is
17 underway, if that is required. We don't require that that
18 at that time. We get enough supply at the beginning of the
19 fiscal year, in terms of our overall budget, to be able to
20 manage for that couple of months of transition.

21 Q. Now in terms of the 1.2 billion, that
22 wasn't all allocated for '19/'20? That was spread out over
23 the three years. Is that right?

24 A. That's correct. But if we require
25 additional funding, we do have a process through the

1 Department of Finance that we've already discussed, about
2 being able to access additional funds if that is required.
3 Since Jordan's Principle is rapidly evolving and is based
4 on need, it is still difficult for us to forecast exactly
5 how much funding we will require. And that has been made
6 quite clear to the Department of Finance and they've been
7 very supportive.

8 Q. Now in terms of the -- but just in terms
9 of the present allocation of funding, it's broken out into
10 three separate years of funding. There's year one, year
11 two, and year three?

12 A. That's correct.

13 Q. And parliament will have to vote funds
14 again in year two and year three for those to be funded?

15 A. So, once they actually make their
16 funding commitment over the three years, the funds are
17 secured and are accessible. We don't have to go through
18 another vote process.

19 Q. So, the budget implementation bill in
20 2021 won't have to re-appropriate then for year two? It
21 will be done through this year's?

22 A. So, it will be part of the funding that
23 we receive April 1st. That is part of our main estimates in
24 supply.

25 Q. I see. And can parliament change the

1 main estimate in a future fiscal year?

2 **A.** So, absolutely I would say that there
3 are always opportunities for the government to revisit
4 budget decisions. But that is actually quite a complicated
5 process. I mean the Chief Finance Officer will be here in
6 two weeks, and he will be able to take you through more
7 detail than I can with respect to the entire process. But
8 it's not something that I've seen in my career outside of a
9 2012 deficit reduction plan, which was widely announced and
10 part of a much broader public service reform.

11 **Q.** And so, in that deficit reduction action
12 plan or draft, as I think it was more popularly referred to
13 in public service circles at the time, popular may not be
14 the term for it with public servants at least. That was an
15 initiative essentially where commitments that had been made
16 going forward were adjusted or reduced following, I
17 believe, it was the budget 2012 that the Harper government
18 brought in.

19 **A.** Yes. I think it was budget 2012 but it
20 could have been a subsequent decision. I can't recall
21 specifically the mechanics of that, David. But absolutely,
22 they were -- I'm sorry, Mr. Taylor, there were absolutely
23 some adjustments made to existing permanent funding of
24 federal departments.

25 **Q.** Now you mentioned that there would be a

1 process if additional funds are required involving the
2 Department of Finance. So, could you just walk me through
3 that or at least as you understand it.

4 **A.** So, we will be providing the Department
5 of Finance with monthly reporting with respect to our
6 spending commitments. So, that we can monitor accurately
7 what has come in in terms of both individual and group-
8 based requests and the financial magnitude. And if we see
9 that we require an off cycle budget decision, just like we
10 did last year -- so, last year, last fall I did report on
11 the fact that we went forward and asked for an off cycle
12 budget decision to increase the funds that would be
13 accessible to us for that fiscal year. Because the 382.5
14 million that had initially been announced in 2016 was
15 clearly insufficient for us to be able to meet our funding
16 requirements in '18/'19.

17 And so, we prepared a Treasury Board
18 submission. We actually had a funding decision from -- the
19 Prime Minister prepared a Treasury Board submission and
20 were able to receive the funds in the next phase of
21 supplementary estimates through the parliamentary
22 appropriations process.

23 **Q.** So, after ISC or, I guess, your team
24 flagging that there's a need for more funds, and ISC would
25 then bring that forward to Treasury Board, and Treasury

1 Board would have to make an approval, and then the funds
2 would have to be voted by parliament?

3 A. Well, it's just through a supplementary
4 estimates process which happens regularly over the year.

5 Q. But parliament is the ultimate authority
6 in terms of those funds being appropriated or not for
7 Jordan's Principle?

8 A. That's correct.

9 Q. Now at paragraph 26 of your affidavit --
10 and this is just a little more on the topic of
11 communications and training. So, you note that there were
12 two webinars held in March 2019 for -- it says:

13 "Interested ISC in crown indigenous
14 relations in Northern Affairs, CIRNAC
15 national and regional staff."

16 And so, do I take it from it being held for
17 -- or should I take from it being held for interested ISC
18 and CIRNAC employees that that was voluntary training?

19 A. Yes. Those were voluntary training
20 absolutely.

21 Q. And do you have a sense of the number of
22 participants in those sessions?

23 A. I do not but if the panel is interested,
24 I'm sure that we could see if we can find that information.
25 We don't usually take attendance. Like, so webinars

1 sometimes they -- I mean you can see the number of people
2 that were connected. But some of them will project them in
3 a boardroom, or a meeting room where they can have multiple
4 attendees. So, we wouldn't be able to necessarily get a
5 precise figure for you.

6 Q. So, one connection could be one person
7 in their cubicle, or it could be a number of people in a
8 boardroom?

9 A. Absolutely.

10 Q. Now in terms of those webinars, Exhibit
11 I, I believe, was the PowerPoint that was presented at
12 those sessions. Is that right?

13 A. Um-hmm. Yes.

14 Q. Now if we could just take a look at
15 slide 8. So, slide 8 you have a bullet at the top, or the
16 presentation has a bullet at the top saying, "Timeframes."
17 And it says:

18 "Timeframes for respond to request upon
19 submission of necessary information."

20 And then it says, "Assessment." So, 12
21 hours for urgent cases and individual child requests. 48
22 hours for non-urgent requests from an individual child, or
23 urgent cases for requests for a group of children, and
24 seven calendar days for non-urgent group requests. And I
25 was just wondering why this timeframe's bullet doesn't

1 include the language from the 2017, November amended order
2 about requests that have -- that raise reasonable
3 foreseeability of irremediable harm being determined
4 immediately, or immediate action being taken to put crisis
5 supports in place?

6 **A.** So, meaning before or outside of the
7 categorization of urgent cases?

8 **Q.** Yes. Because there's -- at least my
9 understanding has always been of that order that there was
10 urgent cases that didn't raise this possibility of
11 irremediable, reasonably foreseeable harm, which are 12
12 hours or 48, depending if it's individual or group. But
13 there is that other group of cases the order speaks to
14 which is if there's a reasonable foreseeable risk of
15 irremediable harm that action has to be taken immediately.
16 So, I'm just wondering why that was included in the
17 timeframes point?

18 **A.** So, urgent case actually do include
19 cases of children that actually are facing possible harm or
20 safety issues. It's part of the definition that is used in
21 the standard operating procedures. We do encourage
22 families, or requestors that if the child is in an
23 immediate health risk or need that they should call 9-1-1,
24 which is the fastest response mechanism that they will have
25 available to us. But absolutely, the immediately crisis

1 response services can absolutely be made available as well,
2 if that's a mechanism that would offer an effective
3 response for the child's needs.

4 Q. But you acknowledge that ---

5 A. There's not a timeframe associated with
6 that particularly.

7 Q. But in terms of a response obligation,
8 like, a timely response, so a timely response for a non --
9 for those urgent cases that fall outside of that, that's 12
10 hours for non-urgent, individual cases is 48. And for
11 group cases that aren't urgent it's seven calendar days.
12 But there is an additional timely response obligation
13 that's not mentioned in this bullet. And that's the one
14 I've just described to you. Am I right?

15 A. If a child requires immediate crisis
16 response, please contact 9-1-1 or encourage the requestor
17 to contact 9-1-1. So, you're suggesting that that should
18 have been added to the deck?

19 Q. Yeah, or at least ---

20 A. It's a fair point.

21 Q. At least an acknowledgement that there
22 is an obligation on the focal point when faced with that.
23 I mean we discussed in previous appearances the Wapekeka
24 situation, which did give rise to those and wasn't dealt
25 with immediately in terms of the -- I mean that's now led

1 to the choose life orders which have had a large impact up
2 in the Nishnawbe Aski Nation territory. But just in terms
3 of that being an additional point, you'd agree that that
4 belongs in that list of timeframes?

5 **A.** We can actually put that language from
6 our standard operating procedures in our future
7 communication materials if that's a suggestion of the
8 Caring Society.

9 **Q.** And I'm sure there will be follow-up
10 from Dr. Blackstock on more specific suggestions. Now in
11 terms of Exhibit I, my understanding is that this
12 presentation -- it's dated February on the first page. It
13 says February 2019. But from your affidavit, I understood
14 that the presentation was delivered in March?

15 **A.** So, it would have been produced and
16 shared likely in advance. But I'd have to verify that as I
17 did not deliver this particular webinar.

18 **Q.** Oh, I see. Okay. Now I noted that the
19 presentation didn't include any information regarding the
20 definition of First Nations child. And so, I mean you've
21 just said you didn't deliver the webinar but are you ---

22 **A.** I did not.

23 **Q.** Are you aware if during the webinar,
24 2019 CHRT 7 would have been addressed regarding non-status
25 children in urgent situations were recognized by their

1 nations?

2 **A.** I am not myself aware if it arose as a
3 question or was part of what was also verbally discussed
4 through the presenters.

5 **Q.** I guess more generally about 2019 CHRT
6 7, how did you cover that with your staff after it came out
7 on February 21st?

8 **A.** So, there was a communication that was
9 provided from the Jordan's Principle national team to all
10 the focal points to inform all staff with respect to that
11 order. I also have a weekly call with all of the First
12 Nations and Inuit Health branch staff, and I did raise it
13 at my weekly subsequent to the order.

14 We've also, of course, prepared briefing
15 materials for senior management within the department, the
16 Minister's office, other federal departments that are
17 implicated and so forth.

18 **Q.** And was ---

19 **A.** We have -- I'm sorry, if you don't mind.
20 I just wanted to add a precision point. At the Jordan's
21 Principle operations committee on April 29th, I believe,
22 where Dr. Blackstock was present, as well as
23 representatives from all the parties, the Chiefs of
24 Ontario, NAN, and also the Assembly of First Nations. Dr.
25 Blackstock did ask us if we could outline a process around

1 when an order is actually issued, what is the actual step-
2 by-step process that we take.

3 So, during the operations committee meeting,
4 I did verbally brief the committee members around what
5 those steps would be. But I agreed too that we would
6 develop a process document and share that with the Jordan's
7 Principle operations committee so that it's clear what are
8 the key steps that are taken.

9 Q. And in terms of -- I don't know if
10 you're aware of this, but in terms of the Caring Society's
11 key steps, you're aware the Caring Society prepares
12 bilingual briefing notes about the decisions and posts them
13 online?

14 A. Yes.

15 Q. And that it does these efforts not just
16 for its internal employees but also for members of the
17 public. And is that similar steps that you're
18 contemplating in this plan, or this response?

19 A. So, we do have website, a revised
20 website language that we have shared because we do have a
21 responsibility to consult with the parties when we are
22 changing our public communication materials. So, we have
23 shared those with the Jordan's Principle operations
24 committee. And we're just awaiting the green light from
25 the parties to be able to post that information on the

1 website.

2 Dr. Blackstock did, however, make an
3 intervention at the last Jordan's Principle operations
4 committee suggesting that when it is revisions with respect
5 to a legal order of the Tribunal that we should not have to
6 wait, or we should not wait with respect to actually
7 publishing information on the website.

8 So, the other parties seemed to agree with
9 that view. We have the record of decision from that
10 meeting that will be shared out to ensure that everybody is
11 comfortable. But I would agree with Dr. Blackstock on that
12 point that I think that we need to expedite the process of
13 public communication when it is the issuance of a legal
14 order.

15 Q. And that's so that requestor's families,
16 community organizations know?

17 A. Are aware. Absolutely.

18 Q. Now paragraph 31 of your affidavit,
19 which is on page 9. No, it starts on page 7, actually.
20 So, at the end of the page there on page 7 you note:

21 "For instance, a monthly bulletin is
22 maintained by the FNIHB Manitoba
23 regional office that is aimed to inform
24 First Nations about regional Jordan's
25 Principle activities, Tribunal rulings,

1 and share best practices and stories
2 that are submitted by children and
3 families."

4 And that's attached as Exhibit L. Now I'm
5 right to think that given this is a Manitoba region
6 document that you aren't involved in producing this monthly
7 bulletin?

8 **A.** No.

9 **Q.** Now given the goal, given one of the
10 goals of the bulletin is to inform First Nations about the
11 CHRT orders, would you agree that it would have been a good
12 idea for this bulletin to mention 2019 CHRT 7?

13 **A.** Let me just -- if you don't mind, I'm
14 just going to review it for a second.

15 **Q.** Take your time.

16 **A.** This is very colourful. So, they do
17 refer to the May 2017 CHRT orders. And they could have
18 certainly added that information right in that first
19 bubble.

20 **Q.** Now paragraph 28 of your affidavit which
21 is also on page 7, you note discussions that are being
22 arranged with the provinces. And about halfway through the
23 paragraph:

24 "Several provinces have submitted
25 response to date and bilateral

1 discussions are being arranged as a
2 starting point."

3 And I was wondering if you know why these
4 discussions are just bilateral rather than including First
5 Nations as well as a starting point?

6 **A.** So, we are only at the moment -- I've
7 written to the Assistant Deputy Ministers, mainly Assistant
8 Deputy Ministers across all the ministries of the provinces
9 and territories to share with them information about the
10 breakdown of requests that we've so far received and
11 approved through Jordan's Principle in their particular
12 province or territory. And I've briefed them with respect
13 to the new order of the Canadian Human Rights Tribunal from
14 last February.

15 I've talked to them about the federal budget
16 commitment of 1.2 billion over three years, and really
17 seeking to answer any questions that they would have. The
18 goal of -- and I've briefed the Assembly of First Nations
19 that I was doing this. We are sharing the information also
20 with the Assembly of First Nations. I had mentioned this
21 at the Jordan's Principle action table, I think it was last
22 week or the week before, that the goal is really just to
23 provide them with information and answer any questions that
24 they have.

25 Of course, we are trying to encourage closer

1 collaboration in some particular provinces and territories
2 where there may not be today an existing tripartite forum,
3 or even a bilateral forum between First Nations and the
4 province or territory, to be able to discuss the
5 implementation of Jordan's Principle. But it really is
6 just a question of answering any questions that they have.

7 Q. So, it's an information sharing forum?

8 A. It's just an information sharing piece.

9 Q. But if it does move forward to a more
10 decision-making type arrangement, or meetings with the
11 goals of developing new systems, you'd agree that First
12 Nations ought to be involved in those discussions?

13 A. Absolutely. Absolutely.

14 Q. Now paragraph 28 also notes that several
15 provinces have responded to your communications. So, why
16 didn't you include those responses in your affidavit?

17 A. I could have included responses in my
18 affidavit. I certainly can ask the provinces if I can
19 share their letters with the parties, as well as with the
20 Jordan's Principle action table.

21 MR. TAYLOR: Mr. Frater, I'm wondering if we
22 can have an engagement to give us the responses that have
23 come in so far from the provinces?

24 MR. FRATER: Well, as the witness stated we
25 may not be getting the information from the provinces

1 (inaudible - mic not open)

2 **MR. TAYLOR:** I'm not sure that the
3 provinces' permission in terms of disclosure under the
4 Human Rights Tribunal's Rules of Procedure is necessarily
5 preconditioned. Certainly, we're subject to the implied
6 undertaking that we're not going to be using these for
7 purposes outside of the litigation. Certainly, for
8 something like the Jordan's Principle action table, or
9 Jordan's Principle operations committee, which are more --
10 while they do exist under the scope of the constitution
11 protocol, they're more groups that have an activity or
12 exercise outside of this process.

13 But what I'm asking for is to see relevant
14 information that the witness has referred to and has
15 confirmed exists. And I don't see how provincial consent
16 is required on that front.

17 **MR. FRATER:** Well, all I can say is that we
18 will produce it if we can.

19 **MR. TAYLOR:** How long will it take you to
20 confirm, Mr. Frater, if you can produce it?

21 **MR. FRATER:** I'll consult with the witness
22 today and we'll let you know as soon as we can.

23 **MR. TAYLOR:** Okay. We may need to raise
24 that with the Panel then if we don't have either (a) a
25 timely response, or if the response is the provinces don't

1 agree with it being shared, because at least my view of the
2 disclosure obligations it's not a consent-based process
3 from the provinces.

4 --- BY THE WITNESS:

5 A. Can I speak to the content just
6 generally of those letters?

7 Q. Certainly, if you could.

8 A. I mean, you know, they're obviously not
9 exactly the same, but I could just say that what you'll see
10 -- I don't see that any of the provinces would really have
11 an issue. They're very positive in response and giving us
12 a contact person to work with. Part of the goal was also
13 to seek their collaboration and a more detailed review of
14 the Jordan's Principle requests information that we have to
15 really identify what are those requests that would have
16 been part of an insured service model in the provinces and
17 territories.

18 The Assembly of First Nations has agreed to
19 work with us on a contract with the institute on
20 governance, who are prepared to be able to delve down more
21 deeply in terms of the analysis of the requests. We have a
22 rudimentary analysis today that we have done by province
23 and territory. I mentioned that we've shared it with each
24 of the provinces and territories. And also, I have
25 committed to the Jordan's Principle action table to share

1 that as well with them.

2 But really is to seek their collaboration
3 around making sure that we've interpreted the data properly
4 with respect to what would be something -- particularly,
5 for First Nations that are living off reserve that would be
6 part of what would be coverage for non-First Nation
7 children. So, their letters are very positive in terms of
8 wanting to work with us and just speak generally to the
9 responses.

10 In fact, even in a province like Alberta
11 that has just recently had an election, the province came
12 subsequent to that election and was very, very positive
13 about continuing the tripartite work that has been underway
14 there.

15 Q. And that's the Memorandum of
16 Understanding you're referring to in terms of the
17 tripartite work?

18 A. Yes, but also just generally they also
19 have had -- I mean for years now lots of discussions with
20 leadership from each of the treaty areas around the
21 implementation of Jordan's Principle. Even with those
22 communities that have not signed on to the MOU.

23 Q. Now just in terms of some of those
24 communications, Exhibit J is an example of one of your
25 letters, or two of your letters, I should say, in Manitoba.

1 So, the first letter in Exhibit J is to Jill Perron, who's
2 the Assistant Deputy Minister of Children and Families in
3 Manitoba. And then the third page of the exhibit is a
4 letter to the Manitoba Youth Centre. So, those are both
5 letters that appear under your signature. Is that correct?

6 **A.** Yes.

7 **Q.** Now in the first letter, the one to Ms.
8 Perron, in the third paragraph, second sentence you say:

9 "Through this engagement we have heard
10 from First Nations the importance of
11 continuing to work with the provincial
12 territorial colleagues to support First
13 Nations children in receiving the
14 health, social, and educational
15 services they need, when they need them
16 no matter where they live."

17 And I'm just wondering why the letter
18 references specifically health, social, and educational
19 services as opposed to all publically funded services?

20 **A.** It's language that we've used throughout
21 a lot of our documentation and our standard operating
22 procedures.

23 **Q.** But in terms of the orders and the
24 principles from the Tribunal, they were not limited to
25 (inaudible) services, but this was including, but not

1 limited, to, I believe was the language. So, this is
2 narrower than what the -- this is narrower than all public
3 services.

4 **A.** I think it does though speak to the main
5 elements of the requests or the themes of requests that we
6 have been receiving in our categorization of those requests
7 that link to the data that they would see also attached in
8 the analysis.

9 So, mental health, respite services, allied
10 health services, educational support, I mean those have
11 been the types of requests that we've seen come through
12 Jordan's Principle.

13 **Q.** But the obligation isn't limited to
14 those three types of services. Is that correct?

15 **A.** So, would you -- am I allowed to ask a
16 clarification question? Is that all right? Like, what
17 would be an area that you would see outside of that, those
18 themes?

19 **Q.** Well, in terms of the thought -- I mean
20 juvenile justice is an area Dr. Blackstock, I think, has
21 raised with you in the past.

22 **A.** Which I've written to the Manitoba Youth
23 Centre but that, we would include that as social services.

24 **Q.** I suppose that's maybe my issue is the
25 idea is that education, health, and social depends on how

1 the individual is reading that. And certainly, in your
2 Exhibit I, which is slide 7, if you can just take a look at
3 that. So, bullet No. 2 refers to:

4 "No gaps in government services can
5 address, for example, but is not
6 limited to gaps in services such as
7 mental health, special education,
8 dental, physical therapy, speech
9 therapy, medical equipment, and
10 physiotherapy."

11 And so, certainly each of these depending on
12 how one is reading, how social and education could fall in
13 or out depending on how one reads, for instance, physical
14 therapy, it's in the eye of the reader. And so, I guess my
15 suggestion to you -- and I don't know if you agree with it,
16 would be something like bullet No. 2 here, is more
17 comprehensive of what the panelist/speaker, or the Tribunal
18 is speaking to in terms of all government services, as
19 opposed to just health, social and education?

20 **A.** So, we've not heard that concern that I
21 sort of can recall through our existing fora with the
22 parties. But I'm happy to work with folks around language,
23 even to say, "And other publically funded services." I
24 mean that would be a simple way of doing it versus adding a
25 lot of other categories that may then still exclude an

1 area.

2 So, those are definitely the predominant
3 areas and we've not -- it's not like a service will come in
4 and we'll say, "Well, it doesn't fit health, or social, or
5 education, therefore it's not illegible." Like, that is
6 not how we are reviewing requests and that's clear in our
7 standard operating procedures.

8 **Q.** And I should just speak to the standard
9 operating procedures. I was going to suggest to you -- and
10 it's a long document so I don't think we need to walk
11 through it. But the comment from the Caring Society has
12 come at a few different points in the standard operating
13 procedures, that it should be referring to publically
14 funded or government services.

15 **A.** Government services.

16 **Q.** Would you agree with that?

17 **A.** Yes.

18 **Q.** Now in terms of -- just to go back to
19 paragraph 28 again. You noted that there was a meeting
20 that was going to happen on April 23rd and 24th of ministers.
21 It was described as being for provincial ministers
22 responsible for social services.

23 **A.** Yes. I didn't attend that meeting.

24 **Q.** You didn't, okay.

25 **A.** I just -- full disclosure.

1 Q. No, and certainly if you didn't attend
2 then that's important to know. But do you know if Jordan's
3 Principle ended up being discussed at the meeting?

4 A. Yes, it was discussed.

5 Q. And do you know any of the outcomes or
6 follow-ups from that discussion?

7 A. There wasn't anything specific except
8 that I do think that the National Chief, in particular,
9 raised the importance of collaboration with provinces and
10 territories as well, in terms of First Nations children in
11 a broad sense, right? Also linking it to the Child and
12 Family Services reform and Bill C-92, and other pieces.
13 So, definitely that was part of the conversation.

14 There isn't a lot of, I would say, free,
15 open conversations at these types of meetings. It tends to
16 be relatively structured. But that is part of the
17 conversation that I heard, but there wasn't any specific
18 follow-up, certainly from us, the team in terms of
19 providing any further information to those that attended
20 the meeting.

21 Q. So, there will be further progress with
22 the provinces. There are more meetings to come then
23 following this (inaudible)?

24 A. Right. So, I'm opening the door. I mean
25 I think Sonny Perron and Paula Isaak years ago had written

1 to the provinces and territories. The goal here is really
2 to be able to brief them on the number of requests we've
3 received, the type of requests we've received, you know,
4 what may be of interest to them in terms of some of the --
5 even implementation challenges in some contexts. I think
6 they have a very keen interest.

7 I mean that's a blanket statement but I --
8 from the correspondence that we've received to date and the
9 calls I've had so far, they seem to have a really strong
10 interest in understanding more, what needs we -- are being
11 addressed through Jordan's Principle, and working with
12 First Nations to try and ensure that there are sustainable
13 service delivery models in those jurisdictions. Because
14 one of the unintended challenges is, you know,
15 competitiveness in some cases around service provider
16 agencies.

17 Around speech therapy, as an example, or
18 allied health services, there are limited number of
19 practitioners. And so, if Jordan's Principle is attracting
20 a lot of -- which is a wonderful thing, attracting a lot of
21 service providers in one pocket, it can create a deficit in
22 another pocket of the province. So, working together to
23 ensure that there's going to be forward looking supply of
24 those service providers is one of those examples where we
25 really do need to collaborate.

1 Q. Now in terms of delivery models, you
2 know, the MOU for Alberta speaks to at least how things may
3 get set up there in terms of how that will work. Have you
4 received assurances from other provinces that the
5 Tribunal's definition of Jordan's Principle will be used as
6 opposed to some other definition pulled together by
7 (inaudible)?

8 A. I've not asked that question in all
9 fairness to the provinces and territories. So, I mean I've
10 not proactively received that assurance. But it's not
11 something that I've requested, as you can see from the
12 example of the letter that I've included in my affidavit
13 around Manitoba.

14 Q. But you'd agree from at least the
15 federal perspective the Tribunal's orders should be the
16 baseline when working with the provinces?

17 A. From the federal government's legal
18 obligations? It has to be the baseline.

19 Q. Now back at paragraph 4 or 5, I believe
20 it was, you noted that Canada had spent over 600 million
21 from 2016 to 2019 on Jordan's Principle?

22 A. Yes. I can -- that's an approximate
23 figure. It's a little bit less than that. If you give me
24 two minutes. That's the information that I have from a
25 couple of weeks ago is 581.8 million.

1 Q. And that would be on the service access
2 resolution?

3 A. Service access resolution is 466
4 million. Again, that's a couple of weeks ago. We're still
5 closing off a year end for 2018 and '19. So, there's still
6 commitments in the system. So, I can't give you a precise
7 figure today. But that is the service access resolution
8 fund.

9 Q. So, if you could just help me then,
10 because I had understood from paragraph 5 which said that
11 Canada had committed up to 679.9 million over three years.
12 So, not that whole 679.9 million ended up getting spent.
13 Is that right?

14 A. Not yet, no. So, we have -- I guess the
15 latest estimate would have been 98.1 million that is still
16 -- that was not committed. That we did not require to meet
17 commitments in '18/'19.

18 Q. And that was 98.1 million?

19 A. That's the latest figure but again, that
20 can shift because we are still -- we still have not closed
21 the fiscal year for '18/'19.

22 Q. And in terms of -- we'll talk about
23 payment timelines in a little bit here -- but in terms of
24 payments that haven't gone out because of the delay time,
25 would those go back then and be committed against '18/'19s

1 funds? So, for instance, if a service request ---

2 A. No, if they're in the system, they're in
3 the system. They'll be paid out of '18/'19.

4 Q. Right. But if a service request was
5 made in March 2019 hasn't been paid yet because the delay
6 is, you know, six to eight weeks, if that payment gets made
7 in May it comes out of the 98.1 million. Is that ---

8 A. If we hadn't made the commitment in the
9 system, it will come out of '19/'20.

10 Q. Okay. But if the commitment had been
11 made in terms of the services approved in March ---

12 A. In Section 32.

13 Q. Right. And you mean Section 32
14 Financial Administration?

15 A. That's right. So, the funding
16 commitment.

17 Q. Now in terms of that 466 million then
18 that's related to the service access resolution fund, do
19 you know if any of those funds have been recovered from
20 provinces, where the province ought to have been
21 (inaudible)?

22 A. No, we have not recovered funding from
23 provinces or territories around Jordan's Principle.

24 Q. Now paragraph 36 of your affidavit, I'm
25 almost done with the communications and training piece

1 here. So, at paragraph 36 you mention the hundred thousand
2 dollars (\$100,000) that was provided to the Caring Society
3 and the AFN. And that was a hundred thousand each your
4 affidavit says:

5 "...to develop training and public
6 education materials related to Jordan's
7 Principle."

8 And at paragraph 37 you note the creation by
9 the Caring Society of a scholarship.

10 **A.** Um-hmm.

11 **Q.** And are you aware the Caring Society set
12 the entirety of the hundred thousand dollars (\$100,000)
13 aside for the scholarship?

14 **A.** Am I aware if?

15 **Q.** Are you aware whether -- was it some
16 part of the hundred thousand that was set aside or was it
17 the entirety? If you don't know that's fine.

18 **A.** We made the payment to the Caring
19 Society. And after that it is the Caring Society's sort of
20 decision. I mean I'm aware of the scholarship also because
21 I've participated -- Dr. Blackstock graciously invited
22 myself to be one of the committee members for the
23 scholarship selection process.

24 **Q.** And are you aware of why they opted to
25 create a scholarship with these funds?

1 **A.** It was to honour also the memories of
2 the northern Ontario young women, I believe, from Wapakeka,
3 if I remember. And also, to continue to encourage youth
4 that had been in care to pursue their educational
5 opportunities. I hope that that's a fair representation.

6 **Q.** That sounds about accurate to me.

7 **A.** Okay.

8 **Q.** Not that my view of whether it's
9 accurate or not means too much. I'm just asking the
10 questions. So, I just have a couple of questions for you
11 about capital. Now has there been authority for capital
12 expenditures beyond home renovations and repairs as part of
13 the new funds in budget 2019?

14 **A.** So, we do not have authority to build a
15 Jordan's Principle building. But we do have authority to
16 address said minor or some degree of major capital requests
17 that are associated with a specific need of a child, or a
18 group of children living in a home, for instance.

19 So, we have been able to procure for
20 families, vans, or renovations, or home modifications, or
21 adapted vehicles, or these types of structural changes to
22 affect a child's direct living environment, or
23 transportation vehicles and so forth.

24 **Q.** And in terms of -- you mentioned both
25 minor and major capital. Is there a threshold for either?

1 **A.** Five thousand.

2 **Q.** Five thousand for minor or five thousand
3 for both?

4 **A.** Five thousand and lower is minor. Five
5 thousand over is major, but you might want to ask my chief
6 finance officer to make sure I have that right.

7 **Q.** And in terms of major capital, so if
8 there is a major capital approval given, is there a
9 threshold for the amount that can be approved? You said
10 you can't build a building.

11 **A.** So like, office space, or a service
12 delivery facility per se.

13 **Q.** Would renovations to an existing
14 facility count into that or is there ---

15 **A.** We can do it if it's associated with a
16 child's immediate -- or living environment, right? So,
17 we've purchased bedroom furniture, or we can renovate a
18 bedroom if there is a health or safety issue in the
19 bedroom.

20 If a community is seeking funding to expand
21 their health centre to add office spaces for their Jordan's
22 Principle coordinators, or workers, that is not something
23 that I have an authority to do under the health facilities
24 capital contribution program.

25 **Q.** So, facility transformation could be

1 possible, but facility expansion or new construction not
2 possible?

3 **A.** Again, it's associated with a child
4 versus associated with a program. If that makes it -- I'm
5 trying to explain it simply but like, Jordan's Principle is
6 not a program. It is a response that the government has to
7 specific children and their needs. So, the limitation for
8 us is if someone wanted to build a hospital in a community
9 around Jordan's Principle. We would not have the ability
10 to use Jordan's Principle funding at the moment through the
11 service access resolution fund to be able to build that
12 hospital.

13 **Q.** And does the line regarding the
14 connection to the child does that then also mean that if a
15 community, for instance, if there was, you know, behaviour
16 therapy or some kind of occupational therapy that was going
17 to be happening in the school in the community, but there
18 needed to be renovations to, you know, allow the
19 individuals delivering those services to have a place to
20 work would that then make that an ineligible capital ---

21 **A.** That would be ineligible, yes.

22 **Q.** But if it were a school, or if it was a
23 matter of children getting to school and not having
24 somewhere to stay, and there had to be renovations to make
25 a dormitory or something like that, because it's associated

1 with children at that point that would be all right?

2 **A.** I'd have to look at it but I mean if
3 it's not about an ongoing program need, and it really is
4 rooted in specific individuals, or specific individual
5 group of children again, that's -- I know that it's a bit
6 of a difficult distinction, but it's one that we're having
7 to make at the moment.

8 **Q.** So ISC is really looking for a link to
9 that specific child or group of children and their specific
10 needs?

11 **A.** And those needs, yes.

12 **Q.** Now in terms of the, you know, five
13 thousand and under being minor and over five thousand being
14 major, I mean I think, you know, some people in this room
15 may have had some experience with home renovations which,
16 you know, typically -- at least most ones I've seen ended
17 up being over five thousand.

18 **A.** Oh, absolutely. Like, I mean these are
19 relatively significant amounts of funding that are being
20 provided to families.

21 **Q.** So, is there a cap in terms of on that
22 major side so when (inaudible)?

23 **A.** There's not a cap. There's not a cap.
24 We do have an obligation to -- I mean this is just from a
25 public service stewardship prospective, to look at

1 reasonably of expenses. But usually people will submit
2 their quotes to us, not necessarily as part of the approval
3 or determination process, but we will look at that. But
4 again, I mean most families will submit what they truly
5 need, right, and what they -- what is reasonable in terms
6 of labour and in terms of materials.

7 Q. Could we just take a look at Exhibit B
8 to your affidavit?

9 A. Okay. I've got it.

10 Q. So, this -- my understanding at least,
11 based on the title, that this is Jordan's Principle
12 expenditures by funding/functional areas as at February 28,
13 2019. And at least the way I'm reading the table, it's a
14 little bit offset, so it's kind of hard to tell. But KL20
15 capital investments, that matches up with the last line in
16 the chart here that says fourteen twenty-eight in year one.
17 ninety-eight hundred in year two, and then thirty-eight
18 thousand and change in year three?

19 A. Sorry, mine's not lining up either. I'm
20 trying to find the numbers that you're quoting.

21 Q. It should just be the last ---

22 A. Three ninety-three thousand, is that
23 what you're reading?

24 Q. Yeah total, exactly, grand total. Is
25 that just because it's a little bit offset? It looks like

1 it's for dental but when you count -- it's the twentieth
2 line of funding figures which matches up with the twentieth
3 line for capital investments.

4 **A.** So, we have -- so, I did ask for
5 clarification on asset minor/major capital funding because
6 sometimes how the regions will categorize a request, it can
7 still be associated with a service for a child, or a need
8 of a child, but it includes a capital expenditure. So, it
9 wouldn't necessarily capture everything.

10 So, the numbers that I have with respect to
11 individual requests and this is as of -- this is for
12 2018/2019, but it's as of February 28th, 2019. We've
13 received 200, or we've approved 266 requests totalling 2.4
14 million. And in terms of group requests, we've received 26
15 requests totalling 2.1 million. But I do want to specify
16 that this does not include the choose life initiative.

17 The choose life initiative has also had
18 quite a bit of funding for vehicles, for instance, or
19 modifications for on the land cultural camps, for instance.
20 So, if there is an interest from the parties, we can drill
21 down on the choose life initiatives as well.

22 **Q.** And just if you could help me then. So,
23 that was 266 individual requests. And that would have been
24 -- that had a capital component?

25 **A.** Expenditure, yes.

1 Q. Had a capital expenditure?

2 A. Yeah.

3 Q. And then the capital expenditure
4 associated with those individual requests would have been
5 2.4 million?

6 A. Right.

7 Q. And then remind me of the number of
8 group requests?

9 A. 26, but this is not including choose
10 life, so I just ---

11 Q. Excluding choose life. And that was 2.1
12 million?

13 A. That's right. That's what I have so
14 far, but I do think that there's -- I do think this is an
15 area the Jordan's Principle operations committee would be
16 interested in looking at more in-depth.

17 Q. That's all I had for capital. Now just
18 in terms if we could look at the ---

19 **THE COMMISSIONER:** Excuse me, Mr. Taylor. I
20 would like to ask a question.

21 **MR. TAYLOR:** By all means.

22 **THE COMMISSIONER:** Sorry, about that. So,
23 if we're in a remote area and we have a small health
24 centre, and we have an influx of Jordan's Principles cases
25 and there's not enough room for, you know, for staff to

1 administer or, you know, offer services, would that be
2 considered under a group request, for example, under
3 Jordan's Principle? Expansion, because you talk about no
4 funds for expansions to buildings. So, I'm just wondering
5 if that is a need and the specific area needs expansions,
6 how would this be covered? Otherwise, there would be a gap
7 for the staff to offer some of the services.

8 So, I know that we'll hear from Mr. Thoppil
9 next week, but given that in your affidavit you said that
10 we are trying to -- because ISC is now, one would say --
11 I'm using my own terms, but an umbrella where everybody is
12 now working under the same, maybe the same roof. You're
13 more collaborating so, how would this type of request be
14 addressed?

15 **THE WITNESS:** So, what some of the regions
16 have done is brought in trailers, or sort of portable type
17 of spaces in order to deliver -- like, if it's a clinic, or
18 a specific counselling space that's required. But
19 otherwise, we would have to address that as part of our
20 health facilities capital contribution program, which is
21 the authorities that we have to actually build health
22 centres, or nursing stations, or those types of facilities.
23 And we would do it through the needs assessment and
24 functional assessments that we do when we actually design a
25 facility. Realistically however, that program is taxed.

1 There is a lot of demand for expansion of
2 space, not just associated with Jordan's Principle, but
3 just as a result of population growth, or as a result of
4 the age of those facilities. So, we do not have sufficient
5 funding to meet all of the needs with respect to the health
6 facilities capital contribution program.

7 **THE COMMISSIONER:** Okay. And another
8 question that's more on the individual child. If a child
9 requires more than just renovations to his or her room, for
10 example, wheelchairs accessible, the bathroom, you know,
11 being able to circulate within the house, the ramp, it's
12 much more than just renovations to one room. Would that be
13 covered?

14 **THE WITNESS:** Yes, and we have covered that.
15 We've even covered kitchen renovations. We've covered even
16 outdoor fencing, landscaping associated with accessibility
17 to a walkway. So, we've extended for sure beyond the
18 bedroom. I was just raising that as an example but
19 absolutely. We've also funded adapted furniture, and also
20 housing renovations to enable safety. So, replacing
21 aspects of a house to ensure that if there are exposed
22 wires, or broken windows, or broken door handles, those
23 types of things are things that we are paying for under the
24 service access resolution fund of Jordan's Principle.

25 **THE COMMISSIONER:** Okay. Thank you.

1 --- BY MR. TAYLOR:

2 Q. So, these are my words, so let me know
3 if you agree. But the purpose of a group, the group
4 request channel essentially of having a group of children
5 brought forward typically by a community organization as to
6 -- rather than dealing with it as a series of 20 or 40
7 individual requests, to essentially create a service
8 pathway for a group of children where there's a gap. Is
9 that right or is that accurate enough?

10 A. Yes, I think so.

11 Q. So, in terms of what the service access
12 resolution fund can do, it can pay for professionals who
13 will be delivering that service pathway or helping to
14 create that. It can provide for individual, you know,
15 capital expenditures that might be required for the
16 children participating in that service pathway.

17 But if they're capital expenditures that are
18 associated with essentially the professionals who are
19 delivering that, or just the underlying infrastructure of
20 it, that's something that has to go to this other Health
21 Canada -- right, I don't even -- I'm not sure if it's
22 housed in Health Canada or where it is, but this other
23 capital envelope that you'd spoken to.

24 A. So, it used to be housed in Health
25 Canada, but since we're transferred to Indigenous Services

1 Canada now, it's a health facilities capital contribution
2 program. So, that's the program that manages treatment
3 centres, also addiction treatment centres, nursing
4 stations, health centres to hospitals, aboriginal head
5 start on reserve facilities. Those are sort of the key
6 areas of scope.

7 Q. And if there's not sufficient capacity
8 in that health facilities capital fund then the service
9 access resolution fund isn't a backstop when the capital
10 expenditure has to do with the underlying infrastructure as
11 opposed to the individual (inaudible)?

12 A. That's correct. Not for a community-
13 based facility. That's correct.

14 Q. And does ISC foresee that causing any
15 issues in terms of having new programs or new service
16 pathways springing up, but not having the infrastructure to
17 be able to deliver them?

18 A. So, in the presentation -- the work that
19 the Jordan's Principle action table has done over the last
20 couple of years, and their presentation that was reviewed
21 here during my October 2018 cross-examination, which was
22 presented at the Jordan's Principle summit, it is clearly a
23 need that has been identified by First Nations across the
24 country.

25 In terms of having improved access to

1 facilities, not just in health, obviously, in education or
2 social, to be able to ramp up in terms of the capacity to
3 provide services to children in the community under
4 Jordan's Principle. Some communities do have the
5 flexibility of being able to identify space that exists or
6 repurpose an existing few rooms. But other communities,
7 rightly pointed out, do not have that same flexibility.

8 Q. So, without that flexibility within the
9 community, at least at this point it's an unmet need?

10 A. It could be, absolutely.

11 Q. Now I have some questions -- if we could
12 turn to the little book that I left with you before we
13 started, and just looking at Tab 1.

14 So, this is a March 2019 email chain.
15 You're, I believe, copied throughout on it, but if you need
16 some time to take a look just let me know. And if we look
17 on page 2, going as email chains do, it's the oldest emails
18 first and you're going to the top.

19 So, it's Dr. Blackstock on March 7 writing
20 to Ms. Gillis. Asking whether she can follow up on the
21 request for data scatter plots made at the last JPOC
22 teleconference. She notes she hadn't received them, and
23 that:

24 "It's important to see the distribution
25 to better assess which measure of

1 central tendency is the most
2 appropriate for use."

3 And then it looks like on March 15th, which
4 is on the first page of the tab, Ms. Gillis responds
5 attaching the scatter plots for individual requests. And
6 notes the team anticipates having the group request plots
7 completed mid week, next week. And so, just at the back
8 here there are two pages of charts. One deals with
9 individual urgent requests. And then the other one deals
10 with non-urgent requests. Do you recognize these scatter
11 plots?

12 **A.** I do.

13 **Q.** And these would be one of the various --
14 in paragraph 51 you talk about the various data reports
15 that are shared with JPOC. Would this be one of those?

16 **A.** I don't believe that we shared it with
17 JPOC specifically. We shared it with the Caring Society
18 and, also with AFN, because we held a specific meeting on
19 data for those that would be interested. And so, Stephanie
20 Wellman from AFN, and Dr. Blackstock participated in that
21 meeting, but I don't believe that we've sent it around to
22 all of JPOC members. We certainly could. I just don't
23 want to misrepresent that it was sent. I don't believe
24 that it was.

25 **Q.** But it's the kind of data report that at

1 least (inaudible)?

2 **A.** That would be, absolutely, if people are
3 interested, for sure.

4 **Q.** And Tab 2, this is a March 31st email and
5 it's got more emails behind it. But that March 31st email
6 attaches -- there's a single chart. This one's all the way
7 at the back. Do you recognize that as the group request
8 scatter plot?

9 **A.** Yes. That was sent subsequently, yeah.

10 **Q.** Now is there a reason that these scatter
11 plots weren't included in your affidavit?

12 **A.** No reason.

13 **Q.** In your various educational travels or
14 professional training, have you taken any courses on
15 statistics?

16 **A.** When I was doing my honours bachelor's
17 degree a million years ago, so I do not remember.

18 **Q.** Okay. Well, you're further ahead than
19 me because I managed to escape without taking one. But
20 from your honours bachelor's degree course do you recall
21 anything about when it's appropriate to use a mean as a
22 representative measure for data?

23 **A.** I'm not -- no, I do not remember all of
24 this, the statistics directives, that was presented to me
25 during that time.

1 Q. But would you agree with the knowledge
2 that you have that an average can mask outliers within a
3 data set?

4 A. Of course.

5 Q. And so, it's important to have data
6 about the outliers as well in order to consider whether an
7 average is representative?

8 A. Absolutely.

9 Q. Has ISC considered working with
10 Statistics Canada in terms of analyzing the data that's
11 being generated from that?

12 A. I've considered it. I've just not --
13 I've just not had the time to really follow through with
14 working with them specifically. But I also -- we have been
15 working with the First Nations information governance
16 centre which, as you know, is the First Nations institution
17 that is OCAP compliant. And I would sort of defer to their
18 advice as well in engaging with Statistics Canada on
19 analysis of the data. Like, for myself to just go directly
20 to Statistics Canada and ask for their assistance would not
21 really be aligned with that approach.

22 But at the data meeting that we had with the
23 First Nations information government centre, AFN, Caring
24 Society, and our staff, I believe on April 17th, we talked a
25 lot about making much better use of the data. We've been

1 so focused on more administrative data in terms of number
2 of requests, the number of dollars spent, you know,
3 compliance with respect to the 12 to 48 hour, that we
4 haven't really truly mined the information.

5 So, an example is Dr. Blackstock has asked
6 for us to transfer the data that we currently have into a
7 statistical, analytical program. We have committed to
8 that. We've also committed to sharing that with Dr.
9 Blackstock and whoever else from the parties would like to
10 have access, so that they can do more data manipulation and
11 actually look at some of the trending that is of interest.

12 We also identified a list of indicators that
13 we would like to track. Some are administrative, to get
14 more precision, but also some that are more linked to
15 outcomes. And also, as mentioned in my affidavit, the
16 First Nations information governance centre is also -- I
17 tabled a feasibility study for us to do a longitudinal
18 survey of First Nations children and youth associated with
19 adverse childhood experiences, inter-generational trauma,
20 and even access to services in community, including
21 Jordan's Principle. So, that will be extremely interesting
22 information as well.

23 Q. So, just with respect to all this, I
24 guess, data approach and maybe the scatter plots can be one
25 example of that, would you agree that the idea of, you

1 know, pushing on this in terms of the scatter plots, in
2 particular, that's an idea that came from the Caring
3 Society?

4 **A.** The Caring Society did request the
5 scatter plots, yes, correct.

6 **Q.** And why do you think -- why wasn't ISC
7 itself from the internal side saying, "We need to be
8 looking at stuff like scatter plots. We need to be seeing
9 how far outside the range some of these cases are falling."

10 **A.** So, I mean we have been focusing a lot
11 on development of our case management system so that we can
12 expedite the processing times that we have. So, while
13 we're tracking the average in terms of compliance rates on
14 a monthly basis, we know that a big barrier to us being
15 able to make improvements is having an integrated case
16 management system. So, that has been our focus.

17 We've had people designated to travel to
18 each of the regions to map out their business processes.
19 To look at a consistent, efficient approach that would
20 implement it nationally and to build that system. So,
21 that's where the staff's focus has been. They also have
22 been focused on ensuring that we can provide data on number
23 of requests, type of requests, to support the advancement
24 with the Treasury Board submission.

25 They've also been focused on this analysis

1 of breaking up what are some of the requests around what
2 could be provincially or territorially insured services.
3 Because that's what the focus has also been with -- in
4 working with the Jordan's Principle action table and the
5 Assembly of First Nations. So, they are working on a
6 multitude of different fronts.

7 And so, they have not specifically, or we
8 had not specifically identified -- at least, I had not.
9 Maybe members of the team, I'm not part of their
10 conversations every day, had identified it, but I mean I
11 think that they are trying to identify a lot of priorities
12 all at the same time at the moment.

13 **Q.** And so, at least for the moment, though,
14 given the priorities that are on ISC's plate, feedback from
15 things like the FNGIC, AFN, Caring Society, that's of
16 assistance to ISC moving forward?

17 **A.** Absolutely. Absolutely. We also tabled
18 a monitoring framework at the CCCW, the consultation
19 committee on child welfare on April 2nd, to give us feedback
20 on what types of indicators are of interest to the parties.
21 And that meeting on April 17th was an opportunity for the
22 Caring Society to give us that feedback as well.

23 I mean I think now that we've had -- in
24 '17/'18 we did not have -- although we had over 70,000
25 requests, we didn't have the richness of the information

1 that we have now in '18/'19, because in '17/'18 a lot of
2 the requests were in Ontario and Manitoba. And they didn't
3 necessarily reflect the broader scope or potential of
4 Jordan's Principle across the country.

5 So, now that we've got '18/'19 under our
6 belt, we really do have a lot of rich data and information
7 that can be analyzed that will help us. Not just to make
8 the operational improvements, but also to be able to better
9 understand the unmet needs that Jordan's Principle is
10 addressing, which is extremely important information for
11 ISC, for First Nations, but also for the provinces and
12 territories.

13 So, I mean I think if we had tried to do
14 scatter plots in '17/'18, you wouldn't have had a huge
15 amount of information there. I do think that '18/'19 gives
16 you that information and this is the time to actually
17 generate that type of analysis.

18 Q. And certainly, it's here but I guess my
19 question more so is -- I think you would agree, but at
20 least at this point ISC can't do this without other
21 entities being involved in its reform process?

22 A. We wouldn't want to.

23 Q. Now in terms of the scatter plots here,
24 the last two pages of Tab 1 -- so, we have at least -- I'm
25 looking at the right-hand scatter plot on the second page

1 of charts. So, there's a large number here of dots that
2 are falling into, you know, over -- well, certainly over
3 four days and into 54, 104, up to 204 it looks like, just
4 past 204 is the highest one. So, would you agree that this
5 scatter plot here confirms there are a large number of
6 cases that are falling outside the 48-hour time period?

7 **A.** So, Mr. Taylor, are you looking at the
8 individual ---

9 **Q.** Individual non-urgent requested
10 evaluated and determined over four days from April 2018 to
11 January 2019. And, I take it, this chart here is the 17
12 percent. Because the third bullet says:

13 "The number of non-urgent requests
14 evaluated and determined within 96
15 hours is 83 percent."

16 So, that would leave 17 percent that aren't
17 determined in four days or less. Which given the number,
18 given the number of cases approved in '18/'19, which is --
19 I think it's upwards of -- I'll have to look at -- Exhibit
20 A in your affidavit says that it was April 1st -- no, so for
21 fiscal year '18/'19 the individually managed ISC requests
22 was 13,152. So, we'd be dealing with 17 percent of 13,152
23 is still a large number of cases. Is it not?

24 **A.** So, we have -- we do believe that
25 eligibility has been -- is a key reason behind those

1 particular cases. So, prior to being able to extend the
2 eligibility to ordinarily resident on reserve, and also, we
3 established the Inuit child first initiative during that
4 time, we had a number of cases that were actually pending
5 confirmation of eligibility. We did not deny them.

6 So, they remained on our books as cases that
7 were pending for a period of time. But I have asked our
8 data team at Jordan's Principle to look at that more
9 deeply, and even to do a sampling of those cases and bring
10 that back to the Jordan's Principle operations committee,
11 to ensure that that is not an assumption that is incorrect.

12 Q. And I don't have Mr. Perron's affidavit
13 for May or from end of 2017, or yours from May last year,
14 but it seemed to me that the eligibility cases,
15 particularly with regard to status, that we were talking
16 about less than 200 cases in those issues. Wasn't that
17 right?

18 A. I can't recall the number.

19 Q. But was it less than 500?

20 A. It would be less than 500, yes.

21 Q. Now, so you've said that you're asking
22 for more detail in terms of what's driving these
23 (inaudible)?

24 A. Absolutely. Just to see what is
25 actually happening. There may also be cases there where

1 they have been escalated to headquarters. And the ADM of
2 regional operations, who's in charge of reviewing cases
3 that may be recommended for denial, has asked for further
4 information before making a decision. And in those cases,
5 there may also be -- that may take several days and I'm not
6 sure that the clock is always stopped in those types of
7 situations.

8 So, again, I've asked for some more
9 information around those specific cases, because I do
10 believe -- I agree with Dr. Blackstock that it is important
11 for us to see what was at the source of those delays.

12 Q. Now I just have a question about -- and
13 it may be somewhat related to this, it may not be -- but in
14 terms of an urgent case when it's denied, if there's an
15 appeal of that case -- so, how does the appeal process deal
16 with urgency when there's been a denial?

17 A. We'll be notified by one of the appeals'
18 reviewers that we need to hear a case on an urgent basis.
19 And so, we will schedule -- we've not had that situation
20 happen, but we've had a time sensitive request.

21 And so, in those cases we have heard it at
22 our next meeting. We do meet on a regular basis because
23 we've had a growing number of appeals.

24 Q. And that's linked to a growing number of
25 denials then?

1 A. Yes. Well, a growing number of
2 requests.

3 Q. Now in terms of -- paragraph 48 of your
4 affidavit, you note that approximately 82 percent of urgent
5 requests were determined within 12 hours, and approximately
6 75 percent of non-urgent individual requests were
7 determined within 12 hours. So, you'd agree that's just
8 determination. That doesn't actually refer to the amount
9 of time it took for funding to be provided?

10 A. For the payment to be provided, that's
11 correct. It does not include that time.

12 Q. Now in terms of payment time ---

13 A. The funding -- if I can just make sure
14 that it's clear though. Once you actually determine a
15 case, you do make a funding commitment under Section 32 of
16 the **Financial Administration Act**.

17 Q. Right. But the funding commitment isn't
18 the same thing as the child having the funds available to
19 them in order to access the service or product they need?

20 A. Not in all cases, no.

21 Q. What would the cases be where a Section
22 32 commitment would be sufficient?

23 A. Well, if it's a reimbursement and the
24 child has already accessed the service is an example.

25 Q. I see.

1 A. We do get a number of reimbursement
2 requests just to be fair.

3 Q. Reimbursement requests. So, with the
4 exception then of those reimbursement cases, you'd agree
5 that a request being determined doesn't necessarily mean
6 that the child has received the service?

7 A. If it's a service provider though? I
8 mean there could be several circumstances. So, just to be
9 clear about it, if it's a dentist, for instance, calling
10 about a particular procedure and we indicate to the dentist
11 that it's approved, the dentist will provide the service
12 and then bill us directly.

13 Q. So, there could be reimbursements.
14 There could be requests coming from the service provider.
15 And the service provider moves forward knowing (inaudible)?

16 A. All they would need is an approval and
17 they would proceed and provide the service. They wouldn't
18 wait for us to have deposited their cheque because they
19 can't bill us until they actually deliver the service.

20 Q. But in terms of the idea of the
21 determination rate so focusing on, you know, 80 percent, 82
22 percent of cases being determined within 12 hours where
23 they're urgent, and 75 percent of cases being determined
24 within 48 hours where they're not urgent, just speaking for
25 individuals, that's not the full story in terms of the

1 children actually receiving the services. There are -- it
2 really only tells us about the reimbursements and the
3 direct provision. If it's a question of funds need to be
4 provided so someone can go out and purchase something, or
5 so that a contract can be established with someone, there's
6 still more steps to come after the service determination.

7 **A.** Sometimes. *

8 **Q.** Sometimes. I mean, in your experience
9 is it half the time? Do you have access to that
10 information?

11 **A.** I don't. But I'm just saying if a
12 dentist -- if the child was in the clinic's office and the
13 dentist called us and we actually approved it the dentist
14 would be able to provide the service. So, there's not
15 always ---

16 **Q.** Right. So, there is ---

17 **A.** --- a number of twenty steps. It does
18 depend on a situation.

19 **Q.** There are circumstances in which it
20 would work but there are also circumstances not covered by
21 the 82 or 75 in which there's more time to come after ---

22 **A.** Before the actual physical funding is
23 provided, yes.

24 **Q.** Now, at Paragraph 42 of your affidavit
25 you speak about human resources, additional human and

1 financial resources. So, I'll just read to you here that
2 you note:

3 "To support the growth in the number of
4 requests and identify efficiencies in
5 December 2018 I approved additional
6 human and financial resources in each
7 region. Depending on the needs,
8 regions reorganized staff to improve
9 response and payment turnaround times.
10 A dedicated financial accounting team
11 now exists to help process payments
12 quicker."

13 So, I think that that's related to an issue
14 we discussed last time you were here in response to
15 questions from Member Lustig during Ms. Wente's examination
16 of you. You'd noted that there was a backlog at least in
17 terms of -- that was being impacted by staffing resources
18 and that there were going to be steps taken to address
19 that.

20 **A.** So, that was partial cause of the
21 backlog. Not all of it but some of it, yes.

22 **Q.** Yeah. I think you had identified that
23 as being I think you'd said 60 percent? Member Lustig
24 asked you:

25 "A large part of it or an average part or a small part?"

1 Then your answer was:

2 "I would say it's probably 60 percent
3 of the problem. I mean, that's just my
4 rough estimate. It's not all of the
5 issues."

6 **A.** So, I'm being consistent.

7 **Q.** Now, just in terms of payment processing
8 timelines is ISC tracking that or are they keeping data on
9 how long it's taking to get payments out or through the
10 centres?

11 **A.** So, we have struggled to get the
12 information from the payment folks, but we do have reports
13 that have come in recently with respect to payment
14 processing times. And our intention is to build more of an
15 automated process, so that we can actually have that
16 information more on a regular basis and provide it like on
17 a monthly basis to the Jordan's Principle Operations
18 Committee since I know it's a big interest. Not just to
19 the parties though, it's also an interest to the regional
20 Jordan's Principle teams that are working on the issues.

21 **Q.** And is there a reason you didn't provide
22 any of those reports or really any information at all about
23 how ISC is doing on the payment processing timeliness?

24 **A.** In my affidavit, you mean? So, I just
25 didn't have access to that information at that time.

1 Q. I see. Do you have access to it now?

2 A. I have some reports that have just been
3 shared this week.

4 Q. I'm sure we'll see those through JPOC at
5 some point.

6 A. If you are interested in seeing them,
7 you will.

8 Q. I can say Dr. Blackstock will be. Now,
9 in terms of the issue that we've talking here about a
10 service getting to the child. Do you agree that a service
11 gap is only closed once the child actually receives the
12 service or product in question?

13 A. The need is met once the service is
14 provided to the child.

15 Q. Now, if we can just go back to the small
16 book again, Tab 3. This is Exhibit E in the affidavit of
17 Andrea Ojay which was done May 1, 2019. And so, at the
18 bottom of the first page is an email from Vanessa Fallin on
19 March 27, 2019 to a number of recipients. And Vanessa
20 Fallin she's someone who works in the Ontario region of
21 your department?

22 A. Correct.

23 Q. And on the second page Ms. Fallin says:
24 "I understand you submitted receipts to ISC on March 15th
25 and are awaiting payment and have asked the Caring Society

1 to follow up on your behalf. We're working on our backlog
2 and we are about 6-8 weeks from the date of receipt to date
3 of payment."

4 So, certainly in Ontario region it appears
5 Ms. Fallin's saying that payment delay is 6-8 weeks at that
6 point, in March 2019. And that would be something Ms.
7 Fallin would know?

8 A. Ms. Fallin would estimate but it's
9 actually not quite there. It's closer to an average of 28
10 days.

11 Q. 28 days. And in terms of -- this is
12 about three months after those additional resources were
13 provided in December 2018. So, why have things not come
14 down more than to 28 days?

15 A. It takes quite a long time also to
16 identify people, to train them, to give them access to the
17 system, for them to clear security. But we do have two
18 additional individuals that have started in the Ontario
19 region to help boost payment. You have to find office
20 space, purchase equipment. I mean, there are some
21 logistical pieces that I think most organizations
22 experience when you're actually increasing staff
23 complement.

24 Q. So, in terms of your estimation when can
25 we expect to see quicker payments in Ontario?

1 A. So, Julien Castonguay who's also
2 identified in several of the correspondences -- and Ms.
3 Ojay had actually asked him for what measures Ontario
4 region was taking, did brief the Jordan's Principle
5 Operations Committee on April 29th with all the measures
6 taken.

7 It's not just been new staff. They've also
8 brought people in on casual or agency I think it is. They
9 started in March 2019 a bit of a pilot to see if the
10 individuals that are working on intake would also be able
11 to batch the invoices to process them to actually send them
12 to the hub. Because the principle time that we're trying
13 to like squeeze in terms of being more efficient is
14 actually the batching of the invoicing and the payment
15 information to send to the accounting hub.

16 The accounting hub is actually being very
17 efficient with respect to their triaging. Everything is
18 high priority with Jordan's Principle, they are doing very,
19 very quick quality review. So, it really is for the
20 regional teams within ISC First Nations Inuit Health Branch
21 to actually ensure that all the documentation is provided
22 to them in an efficient manner.

23 And so, Julien Castonguay did identify a
24 number of measures that they are taking to improve the
25 processing time on their end which will contribute to

1 faster payments.

2 Q. So, that was a lot of information on
3 process, but my question was, in your estimation how long
4 is it going to take for the payment times to get better?

5 A. I can't give you a precise response.

6 Q. Can you give me an imprecise response?

7 A. Well, I would say tomorrow would be
8 lovely. I mean, I think that they have made some
9 improvements. But, you know, part of the difficulty of
10 responding to that question is the incredible increase in
11 volume, right, that is happening. Like they're had a
12 three-fold increase in terms of the number of requests that
13 they've received, and the payments required.

14 Between 17-18 and 18-19 we've had a 274
15 percent increase in individual-based payment transactions
16 that are required. So, there can be peaks. So, even if
17 his plan is in place that on June the 1st they will be
18 compressed to six days, if all of a sudden, they receive
19 200 additional requests which is feasible that particular
20 week that will impact their ability to actually generate
21 that process improvement.

22 So, you know, Jordan's Principle is highly
23 variable. It's not a rules-based initiative. It's not
24 automated categories where only this gets funded and you've
25 registered, and this is how you go. You know, it is very

1 much based on each child. One request can have six, seven
2 different payment transactions associated with it. 70
3 percent of the transactions are under a thousand dollars.
4 Like there is a lot of variability which is part of the
5 challenge that we have around being able to make that type
6 of a prediction.

7 **Q.** So, it sounds like the answer is you
8 don't know?

9 **A.** That was my first answer.

10 **MR. TAYLOR:** Madam Chair, I've been going
11 for about an hour and twenty minutes. I think I'm about
12 halfway done, maybe a little bit more. If it's convenient
13 to the Panel this is a fine time for me for a break.

14 **THE CHAIR:** Yes. So, we'll take 15 minutes.
15 So, be back at 11:05.

16 --- Upon recessing at 10:50 a.m.

17 --- Upon resuming at 11:05 a.m.

18 **THE CHAIR:** Mr. Taylor.

19 **MR. TAYLOR:** Thank you.

20 --- **BY MR. TAYLOR:**

21 **Q.** Dr. Gideon, I have a few questions for
22 you about the Jordan's Principle Call Centre.

23 **A.** Okay.

24 **Q.** So, you'd addressed the call centre at
25 Paragraph 38 of your affidavit. And you note that the

1 national call centre opened at FNIHB's headquarters on
2 February 1, 2018 and that the aim of the call centre is to
3 support immediate intake of requests and/or respond to any
4 questions that arise from the general public. Can you
5 confirm that the call centre was an idea that the Caring
6 Society pushed for?

7 **A.** Yes.

8 **Q.** And are you aware of the outages at the
9 Centre being brought to ISC's attention by the Caring
10 Society?

11 **A.** Yes, I believe so. I'm not sure if it
12 was December or January.

13 **Q.** Right. But in terms of periods of time
14 in which individuals had ---

15 **A.** I'm aware of one instance that I can
16 recollect at the moment.

17 **Q.** Okay.

18 **A.** There were also instances where we
19 alerted the Caring Society where we had an outage due to
20 the phone line for a few hours most recently as well.

21 **Q.** Right. And with regard to the common
22 secretariat you speak about your proposal for that at
23 Paragraph 59.

24 **A.** Yes.

25 **Q.** That's also an idea that was raised by

1 Dr. Blackstock through the CCCW?

2 **A.** Dr. Blackstock raised the concern that
3 she was receiving multiple meeting invitations and
4 materials from different sections of Indigenous Services
5 Canada through both the Child and Family Services area and
6 our area. I believe that I thought that I had volunteered
7 that we should establish, you know, a specific Focal Point
8 from an administrative perspective to do the liaison
9 between our initiatives. But it could have been Dr.
10 Blackstock's idea as well. I don't want to dispute her on
11 that point.

12 **Q.** Well, she's not here to give a ---

13 **A.** Maybe we came up with the idea
14 synergistically together.

15 **Q.** Now, Paragraph 62 of your affidavit you
16 note that you keep in close contact with the parties.
17 You're often corresponding with one or multiple parties on
18 a weekly and sometimes daily basis.

19 **A.** Yes.

20 **Q.** And I'm just wondering what kind of
21 contact is that? Is that you contacting them or is it them
22 contacting you?

23 **A.** It's both. I mean, I think that -- and
24 it's not strictly with the Caring Society. So, I do have
25 frequent correspondence as well with Jonathan Thompson of

1 the Assembly of First Nations. And in some cases,
2 Stephanie Wellman as well.

3 Q. And in terms of Chiefs of Ontario and
4 NAN?

5 A. Less frequently. I think we do have
6 some -- a couple of times a year -- discussions around
7 Choose Life through the working group or more bilaterally
8 with NAN. And the Chiefs of Ontario it would not be about
9 Jordan's Principle specifically, it's about other matters.

10 Q. Right. And how about the Commission?

11 A. I don't -- well, except through the
12 Consultation Committee on Child Welfare process or
13 whichever. But I hope that I'm not forgetting anything,
14 Brian, and you'll be upset with me. But I don't believe
15 so.

16 Q. Well, no one should be upset, it's not a
17 memory exercise. Now, just before I turned to the Standard
18 Operating Procedures just at the beginning of the break,
19 Mr. Frater, raised with me that I may have misread the
20 chart in Exhibit B. This is the Jordan's Principle
21 expenditures by funding and functional areas.

22 So, just trying to save him some legwork in
23 any possible re-exam I think I'll just clarify how ---

24 A. Okay.

25 Q. --- this chart perhaps should be read.

1 And he pointed out to me that at the top of the second page
2 above the HCC Professional Development KL18 there's
3 essentially a floating series of figures there. A hundred
4 and fifteen thousand nine hundred eighty-nine, two hundred
5 and seventy-three thousand two sixty-four, and then three
6 hundred eighty-nine thousand two fifty-three. And it seems
7 to me that perhaps those should be associated with capital
8 investments. I don't know if you have any comment on how
9 this table might work.

10 **A.** I don't. I think it would be -- I think
11 the figures that I quoted around capital infrastructure are
12 more precise during my testimony.

13 **Q.** Yes, and I took note of those.

14 **A.** Right.

15 **Q.** I think I have two point four million
16 and two point one million. So ---

17 **A.** Um-hmm.

18 **Q.** But in any event, I wanted to just cover
19 that off because lest the record be misled about ---

20 **A.** Okay.

21 **Q.** --- us having definitely determined how
22 to read this chart. We can say it's at least at best
23 unclear. Now, in terms of the Standard Operating
24 Procedures -- so, just let me know if I'm correct in
25 understanding that a new version of the SOPs was circulated

1 prior to the April 29th JPOC meeting?

2 **A.** That's correct.

3 **Q.** Now, I understand parties are in the
4 process of providing feedback on the new SOPs?

5 **A.** That's correct. And the Assembly of
6 First Nations has asked us if they could distribute it to
7 the Jordan's Principle Action Team members which includes
8 First Nations regions from across the country. And we have
9 absolutely supported that. So, there will be comments
10 coming also from First Nations regional representatives.

11 **Q.** So, the next version of the SOPs at this
12 point are still a work-in-progress?

13 **A.** That's correct.

14 **Q.** Now, what happens to the document next
15 after all those comments come in? How are those approved?

16 **A.** Well, we would like to bring it to the
17 Consultation Committee on Child Welfare for approval
18 understanding that it's an evergreening document and we'll
19 continue to refine it as we identify the need for that
20 including operational issues to address.

21 **Q.** And what happens if at the Consultation
22 Committee if the AFN or the Caring Society take a position
23 a particular change is required to meet the orders and ISC
24 doesn't agree? What happens next in your view?

25 **A.** My goodness. I mean, I think we would

1 try to achieve consensus to the maximum extent possible.
2 Otherwise what we've done is we've reflected the parties'
3 views in the actual document itself. So, an example is the
4 definition of First Nations child we have a statement that
5 indicates that this is still being -- we'll be in receipt
6 of a decision by the Canadian Human Rights Tribunal.
7 Right?

8 Q. Right.

9 A. So, there may be a way in which we can
10 negotiate together language that would reflect the views of
11 the parties and the view of Indigenous Services Canada so
12 that it's clear.

13 Q. Right. But at least in that instance in
14 particular -- and that is in the SOPs I believe as the
15 definition of First Nations child. At the end of the day
16 it's the CHRT that's the arbiter of that whether there's
17 ---

18 A. And we've acknowledged.

19 Q. --- whether it would be A or B.

20 A. We've acknowledged that that has not
21 been addressed or resolved.

22 Q. Right. But without the Tribunal there's
23 not a dispute resolution mechanism if there's something
24 that ISC and the parties can't agree to with the SOPs?

25 A. Well, I'd have to go back to our terms

1 of reference or the Consultation Committee agreement that
2 was signed to see -- I thought that we did identify a
3 dispute resolution process in that document, but I don't
4 have it in front of me. So, it's from February 2018 so it
5 does date back some time. But I did think that we had
6 worked through a process there.

7 Q. Right. Right. But at least ---

8 A. You might recall better than myself.
9 But if not, maybe it is something that we should be tabling
10 with the Consultation Committee on Child Welfare.

11 Q. Right. But in terms of -- if there
12 isn't anything in the Consultation Committee's I believe
13 their terms of reference as opposed to the consultation
14 protocol there are a few documents floating around.

15 A. Right.

16 Q. But if there isn't a dispute resolution
17 mechanism in that it's the Tribunal or I guess it would be
18 whether ISC ---

19 A. Well, the parties could also meet with
20 senior management of the department or with the minister to
21 try to address those concerns as well.

22 Q. Right. But it would have to be an
23 agreement with ISC as opposed to -- there wouldn't be an
24 outside manner of settling that dispute if there was one?

25 A. I can't speak to those other

1 possibilities from a legal perspective.

2 Q. No, and I'm certainly not trying to get
3 you to do that. So ---

4 A. There are political options there,
5 options of engaging through the parliamentary process. I
6 mean, there are other options.

7 Q. Right. But certainly, the one that
8 worked -- or at least we'll see what the result will be --
9 but the method that happened with First Nations child was
10 there was a diversity of views among the parties that was
11 raised a number of times to the Consultation Committee.
12 Some interim progress was made in July 2018 in terms of
13 children living on reserve and then there were submissions
14 to the Tribunal in March 2018. That's the path that that
15 particular dispute followed.

16 A. We also did seek some policy authorities
17 in June 2018 to partially respond to some of the issues
18 raised. And with Inuit for instance based on Dr.
19 Blackstock's intervention an intervention of the President
20 of Inuit Tapiriit Kanatami we actually were able to find a
21 mechanism to invest in an Inuit specific Child First
22 Initiative.

23 So, there's other examples where we have
24 been able to find other mechanisms amongst ourselves to be
25 able to address issues going forward.

1 Q. But at least in that case it did require
2 going to the Tribunal for that off reserve piece for non-
3 status children?

4 A. Correct.

5 Q. Now, just looking at Exhibit R. This I
6 understand is the Crosswalk document. And if we can ---

7 A. It's difficult to read and ---

8 Q. If all the parties in the Tribunal can
9 bear with me on this. It is a hard document to read at
10 least as it's been reproduced in paper. But I just --
11 without delving into the specifics of the document just yet
12 is it fair to say that the vast majority of the comments in
13 this Crosswalk come from the Caring Society?

14 A. I haven't done a count, but I would say
15 yes. We did receive though quite a few comments -- the
16 Crosswalk was provided specifically based on the Caring
17 Society's request to be able to understand how their
18 comments were reflected in the document. We did receive a
19 number of internal comments from our regional offices. My
20 comments, for instance, are not reflected in the Crosswalk.

21 So, it really was specifically designed to
22 be able to be transparent with respect to the comments
23 received from principally the Caring Society on the
24 document which is why the majority of the comments
25 reflected are the Caring Society's. But there were others.

1 Q. Now, some of the -- there's a number of
2 columns. I'm just looking at the first page here. There's
3 "Data," "Comment," "Source of comment," "Comment on which
4 document," "Comment id," "Category," "Comment and concern,"
5 "Inserted wording underlined," "ISC response," "ISC notes,"
6 "Change made to the SOP," "Relevant SOP section," and then
7 "New wording in the SOP."

8 And so, just looking at that third last
9 column "Change made to the SOP" I noted in looking at the
10 Crosswalk that there are some that say -- let me just see
11 here. Yes. So, some of them say a follow-up item or that
12 the change will be made in the next version. And then
13 others say change made in April 2019 version. And so,
14 that's -- the way I'm reading this is that -- is there
15 going to be another version after the April 2019?

16 A. Right.

17 Q. And do you have sense of when that would
18 be?

19 A. Well, I mean, if the Tribunal for
20 instance issues an order on the definition of First Nation
21 child, we would need to make a change to the Standard
22 Operating Procedures.

23 Q. Right. So, there's a certain number of
24 these changes -- I mean, obviously the ones that say no
25 change required ISC has decided that the Standard Operating

1 Procedures don't need to change to respond to the comment.
2 Some of the changes will be reflected in the forthcoming
3 version that's circulated now. And then some of the
4 changes will be made either at the next opportunity or
5 specifically to deal with those changes.

6 **A.** Sometimes when we have identified where
7 we do need to have a conversation at JPOC or the
8 Consultation Committee on Child Welfare just to get more
9 clarity on what the change could look like because some of
10 them are more comments versus edits to the document.

11 **Q.** Right.

12 **A.** Right? That raise particular examples
13 of situations the Caring Society's encountered. And so, we
14 just need to work through how to address it in the SOPs.

15 **Q.** Now, when the Focal Points were told --
16 I think the November SOPs are at Exhibit Q. When they were
17 told to use those November SOPs, were they told at that
18 time that there are outstanding concerns?

19 **A.** Yes.

20 **Q.** And in terms of what they did in the
21 meantime -- so, I think this Crosswalk came out in
22 February? You may know better than I.

23 **A.** We had a previous Crosswalk though.

24 **Q.** Oh, okay.

25 **A.** But I believe that that is the most

1 updated one. So, we've tabled Crosswalks before. So, the
2 Caring Society has updated its concerns documents a few
3 times. And so, every time the Caring Society has updated
4 its concerns document we've updated the Crosswalk.

5 Q. I see. I see. Now, are Focal Points
6 provided with the Crosswalk?

7 A. Oh, I can't answer that. I'm not sure.

8 Q. Okay. Now, I kind of -- I tried to flag
9 a line for you earlier before we started. And at least Mr.
10 Frater is able to flag the page. For others who are
11 following along in their books it would be the fifth last
12 page from the end. Like actual physical page of paper.

13 I'll just read it out because it's quite hard to find ---

14 A. Yes, please. Thank you.

15 Q. --- specific lines. So, this line it's
16 an August 20, 2018 comment from the First Nations Child and
17 Family Caring Society. So, I have it counted for those
18 using the paper version as being page 16. And the page
19 starts with an October 18, 2018 comment. But I'll just --
20 like I said I'll read it out.

21 So, it's from the Caring Society. The next
22 column says, "Concerns with Canada's compliance with CHRT
23 orders on Jordan's Principle version August 20, 2018." So,
24 I think that's the concerns document as the source. The
25 first ---

1 A. I think that was the first concerns
2 document that was submitted by the Caring Society.

3 Q. And then the category is noted as
4 "Substantive equality." And then it says, "NS/SE/BIC/CAS."
5 And that's in the column titled "Category." So, I guess
6 that's an ISC categorization of the kind of comment it is?

7 A. I suppose so. I sorry, I can't myself
8 read it or find it my list.

9 Q. I'm just going across. The bit that I'd
10 like is actually the last comment.

11 A. Okay.

12 Q. So, I just in fairness to you want to
13 give you the whole row.

14 A. Okay.

15 Q. Before getting to it. So then, the
16 comment is:

17 "Focal Points should be given clearer
18 guidance on when it is unnecessary to
19 collect information on substantive
20 equality and to apply the substantive
21 equality analysis."

22 And then there's a note that says,
23 "Completed." And then it says, "Update SOP to reflect
24 comment." And then it says, "Change already made." And
25 then it says, "The part of the SOP is 3.2.3 processing

1 individual service requests, gathering supporting
2 documentation."

3 And then here's the bit that I really wanted
4 to read to you. So, this is in the "Change made" column.
5 So, the -- and I believe that's the change that was -- or
6 the new wording in the SOP column.

7 So, the new wording is a heading that says,
8 "Supporting documentation for substantive equality,
9 culturally appropriate services in safeguarding the child's
10 best interest." And it says:

11 "Service needs will continue to be
12 assessed first against normative
13 standards in addition to support the
14 evaluation of a product/service/support
15 beyond the normative standard of care a
16 supporting documentation/testimony is
17 required that articulates the child's
18 distinct needs as a First Nations child
19 as compared to any non-First Nations
20 child who is not otherwise receiving
21 the same publicly-funded service thus
22 providing evidence that the request:
23 (1) ensures a substantive equality in
24 the provision of services to the child
25 and/or

1 (2) ensures the provision of culturally
2 appropriate services to the child
3 and/or
4 (3) safeguards the best interests of
5 the child.”

6 And then it says:

7 “Examples of supporting documentation
8 may include a verbal tatement/testimony
9 from a family member/community member
10 or a letter of support not mandatory
11 provided from a family member and/or a
12 health/social/educational professional
13 directly involved in the child’s life
14 that does not benefit from the approval
15 of a request. Statement/documentation
16 may describe details of the child’s
17 history/familial/social context that
18 demonstrate why the request should be
19 provided to ensure a substantive
20 equality, culturally appropriate
21 service provision or to safeguard the
22 child’s best interest.”

23 Then:

24 “In assessing whether a request for a
25 service or product beyond the normative

1 standard of care should be provided,
2 Focal Points will take into account the
3 specific needs of the child using the
4 guide for assessing requests vis-à-vis
5 substantive equality directly with the
6 requester during the intake period if
7 possible."

8 And then:

9 "ONLY minimal information should be
10 directly requested so as not to create
11 a burden on the child, family or
12 community. As well, gathering evidence
13 to support substantive equality should
14 not result in lengthy delays in
15 responding to requests especially when
16 available information indicates the
17 request can be deemed as ensuring
18 culturally appropriate services were
19 necessary to safeguard the best
20 interests of the child."

21 And then, last paragraph:

22 "Canada must apply the information it
23 already has about socio-economic
24 conditions in First Nations community
25 the multi-generational impacts of

1 residential schools, Sixties Scoop, and
2 the discrimination outlined in the CHRT
3 orders to its substantive equality
4 assessments and its evaluations for
5 descriptions of the socio-economic
6 conditions of each First Nation. See
7 the Synergy in Action platform."

8 So, I take it that that's essentially the
9 new direction for Focal Points in terms of how to deal with
10 the substantive equality piece when requests go beyond the
11 normative standard? Is that right?

12 **A.** Trying to achieve a balance based on
13 also the Caring Society's request to ensure that we're not
14 placing an undue burden on the requester when they are
15 submitting a request.

16 So, to try to gather as much information at
17 the intake level as possible in one conversation but also
18 not overburden them. So, it's a bit of that balance. And
19 because each request is unique it really is based on
20 information that will support that particular request.

21 **Q.** Yes. But I mean, this excerpt talks
22 about things like -- I think, and some of those we
23 addressed in your last cross-examination the idea of Focal
24 Points helping by collecting as opposed to waiting for the
25 information to come to them, using existing ISC

1 information. That's the Synergy in Action.

2 A. Like community profiles and so forth?

3 Q. Yes.

4 A. Yes, that's correct.

5 Q. And so, I guess my question about this
6 would be that in the absence of an update to the SOP -- so,
7 for instance in November 2018 to April 2019 or whenever
8 these -- I guess we're now in May.

9 So, it'll be May or whenever the comments
10 are completed. When new changes like this are made or new
11 operating procedures like this come out, you know, in the
12 absence of the SOPs recirculating how do Focal Points know
13 to be doing this?

14 A. Well, I mean, they were all given access
15 to the Synergy in Action platform and trained specifically
16 for that purpose. So, that was pretty self-evident.

17 They also do have calls every two weeks with
18 the Jordan's Principle national team to enable them to
19 receive information about -- and also bring forward
20 questions or any issues that they've encountered with
21 respect to requests that they wouldn't have anticipated,
22 seeking guidance and so forth.

23 Q. But just in terms of that training, I
24 mean, we'd spoken to -- I believe it was last time and some
25 of the questions from Member Lustig around those areas with

1 Ms. Wente -- but there can be high turnover in the Focal
2 Point ranks. And so, what's -- if there's training
3 provided is that, you know, training at a certain number of
4 times a year?

5 **A.** Yes.

6 **Q.** Or is it part of the suite of onboarding
7 for a new Focal Point?

8 **A.** So, two things. So, one is that we are
9 doing -- so, our last face-to-face training with the Focal
10 Points was in November. We shared the report from that
11 meeting with all the parties through the Jordan's Principle
12 Operations Committee.

13 And then also building an onboarding -- we
14 have an onboarding program within the First Nations Inuit
15 Health Branch but actually having an onboarding program
16 that is specific to Jordan's Principle staff and building
17 that in.

18 **Q.** So, is that something that exists, the
19 onboarding? Or is it to come?

20 **A.** It's something that we are -- in the
21 process of development. But for sure when people come in
22 -- regions I'm sure have their checklist of read all the
23 CHRT orders. It's a requirement that they have. Read
24 through the Standard Operating Procedures. They would be
25 orienting them towards all of the record keeping, privacy

1 requirements, all of the technological platforms that they
2 need to utilize.

3 So, there is a variety of mechanisms that
4 they would take them through in terms of the onboarding
5 process.

6 **Q.** Now, in terms of the in-person training
7 that happened in November is there another one of those
8 sessions in the works?

9 **A.** Yes, there is another one of those
10 sessions in the works, but I don't have the dates in front
11 of me.

12 **Q.** Now, in terms of the comments that you
13 received from the Caring Society does ISC see those as
14 public feedback or as received in keeping with the duty to
15 consult under the Tribunal's orders?

16 **A.** Oh, I would say it would be both. It's
17 a bit ---

18 **Q.** Now, when ---

19 **A.** Sorry, just to clarify my response.

20 It's a bit -- sort of the AFN's question, "Can we
21 distribute the Standard Operating Procedures to the
22 Jordan's Principle Action Table?"

23 So, even though First Nations regional
24 representatives are not specifically a party at this table
25 we see them as an extension to the AFN's participation in

1 those meetings. And it's a natural inclination that First
2 Nations regional representatives would be included in these
3 processes, right?

4 Q. Now, in terms of your authority is it
5 your decision exclusively who gets consulted or is that
6 something that has to go up ---

7 A. It wouldn't be my decision exclusively
8 who's consulted.

9 Q. Does it have to go up though? So, just
10 in terms of within ---

11 A. Within Indigenous Services Canada it
12 would not have to go up but in terms of -- it would be each
13 of the parties that would advise the other parties that
14 they would like to get that perspective.

15 Q. So, you could be informed by others but
16 in terms of at Indigenous Services Canada you're the
17 decision-maker in terms of who gets consulted on the SOPs?

18 A. Sure. I mean, or you could see it as
19 being the Consultation Committee on Child Welfare as the
20 decision-maker as well.

21 Q. No, I'm asking more just about
22 Indigenous Services as, you know, the federal government
23 ---

24 A. I don't need to consult with the
25 deputies or the minister, no.

1 Q. Now, in terms of when there are major
2 changes made to the SOPs or new pieces integrated, for
3 instance the bests interests document that was approved on
4 April 2nd ---

5 A. Yes.

6 Q. --- is there any re-review done of
7 denials from the past in terms of would those have been
8 treated differently under the SOPs as they are today?

9 A. The Best Interest of the Child document
10 is a guidance document to help clarify the meaning of best
11 interest of the child. But it's not new information in the
12 sense that we have always been required since May 2017 to
13 make decisions on the basis oi best interest of the child.

14 Q. But I guess my question though was is
15 there a re-review of denials done as the SOPs change in
16 terms of it being better articulated or more specifically
17 articulated? I think the answer I heard was that you don't
18 go back and look at past denials.

19 A. We would if the Tribunal issued an order
20 that would have new requirements or requirements that we
21 would not have taken into consideration in light of
22 previous orders and how they would have been applied. But
23 we've not -- not if it's a change to a Standard Operating
24 Procedure that really just clarifies the application of
25 that decision from the order.

1 Q. But if a requester came forward and
2 said, you know, "I understand there's been a change on best
3 interests and that these are the questions asked I feel my
4 case didn't have those questions asked." Could the
5 requester essentially have a re-review, or would that have
6 to go to ---

7 A. Absolutely. If they want to send in new
8 information, they can have a re-review.

9 Q. Now, I understand the new Standard
10 Operating Procedures make a service recommendation from a
11 qualified professional mandatory in order for a service
12 request to be considered complete. Is that right?

13 A. I think it fits a -- I'm trying to think
14 if all requirements -- like if someone sent in a request
15 for more of a cultural initiative such as an On the Land
16 Camp, as an example, if a community identified that as a
17 need and had a group of children that they identified as at
18 risk -- like, for instance, under Choose Life as an example
19 -- we would not require a psychologist to have assessed
20 every single one of those children. We will require a note
21 from the health director, an education director or someone
22 in the community that can attest to the fact that this
23 group of children are vulnerable and would really benefit
24 from having a cultural On the Land based initiative.

25 So, I just want to be careful by just sort

1 of conveying a professional. We actually do say in our
2 version of the Standard Operating Procedures that is with
3 the parties right now for review that, you know, we
4 acknowledge that communities do not always have ready
5 access to a health or social or educational professional in
6 all cases. And that a community-based worker with
7 knowledge of the children -- we will accept a
8 recommendation from those individuals as well.

9 Q. But there has to be some kind of a -- I
10 don't know if third party is the right term but some type
11 of recommendation from outside just the requester saying,
12 "I require x service or x product or x support"
13 substantiating or justifying that request?

14 A. If an orthodontist or -- well, if a
15 dentist for instance would confirm that the child needed
16 treatment or if a doctor at Sick Kids would confirm that
17 the child would need treatment, we would accept that. They
18 can also be the requester. Right? Like -- so for sure if
19 it's a family member or -- but if it's somebody already
20 that is requesting the services that have the professional
21 expertise, we wouldn't necessarily ask for another
22 assessment. It would depend what the actual service is.

23 Q. Now, what about where the service need
24 is an assessment. So, if you have a, you know, a First
25 Nations parent who calls for their child who has, at least

1 apparent to them, needs but doesn't have a service
2 assessment in place yet, how does a Focal Point respond to
3 that? Is that just considered an incomplete request or is
4 this ---

5 **A.** No, we pay for assessments.

6 **Q.** Okay. So, when the service request is
7 for an assessment that itself doesn't require a
8 recommendation? That that can just be set up?

9 **A.** No, we will pay for an assessment. And
10 there are times where we will actually approve a service
11 pending an assessment. So, that also has happened.

12 For instance, if a child is starting school
13 in September and you're two to three weeks away and the
14 child needs specialized equipment of some kind but the
15 professional assessment may be outdated or maybe they've
16 not had an opportunity to be professionally assessed we can
17 approve a request that is pending that assessment.

18 **Q.** So, I'd like to move on to retroactive
19 cases and ask you a few questions about that. You speak
20 about retroactive cases at Paragraphs 11-13 of your
21 affidavit.

22 So, just looking at Paragraph 12 the numbers
23 that you note there are 274 cases re-reviewed of which 105
24 were found open approved by an existing ISC program, 35
25 were approved under Jordan's Principle. And just with the

1 105 that were approved under an existing ISC program
2 because that was in the past that would have either been,
3 you know, FNIHB when it was at Health Canada or the old
4 INAC or ANC depending on the year in terms of the social
5 programs though, right?

6 **A.** Correct.

7 **Q.** Now, looking at Exhibit E which is a
8 chart of the re-review of the previously denied cases.

9 **A.** Yes.

10 **Q.** So, the third column is "Incomplete
11 information." And it says, "Note 2: No other regional
12 office had received these type of requests," which I
13 understand would mean that you would have had just Alberta
14 and Manitoba that had incomplete information requests.

15 So, those 21 requests, were they given the
16 opportunity to complete the information?

17 **A.** I'd like to -- I'd have to look at every
18 single one of them just to ensure that I can confirm that.
19 In some cases, they may not have had contact information to
20 follow up at all.

21 **Q.** Right. But if there was contact
22 information did ISC follow up with those families?

23 **A.** That was the direction that was provided
24 to them.

25 **Q.** Now, with respect to the Trout family or

1 the Beadle family has ISC taken any steps to make aments
2 with them?

3 A. I'm sorry?

4 Q. The Trout or the Beadle family.

5 A. The Trout family -- and the Beadle
6 family is the family in Nova Scotia?

7 Q. Correct.

8 A. Yes.

9 Q. And what's been done with those
10 families?

11 A. So, in terms of the Trout family there
12 were a number of supports that were provided through
13 medical transportation and other NIHB services. But most
14 recently we've also asked the director in Manitoba region
15 to follow up with the family. I believe a family member
16 was actually in town to see if they required further
17 supports.

18 For the Beadle family -- so, this is -- I
19 myself actually contacted the mum back in September to see
20 what other supports -- well, first of all to apologize.
21 But also, to see what other supports might be required at
22 that time. She mentioned a handrail in the home. She is
23 receiving respite and other services in the family but had
24 mentioned the need for that. I did instruct the regional
25 office to follow up with that.

1 They did have significant challenges with
2 respect to contacting the mum. But most recently have made
3 contact with her to confirm because we do need her
4 authorization to be able to come into the home to actually
5 install a handrail. But they had also followed up --
6 because they couldn't reach her, they did also follow up
7 with the community health director for the community health
8 director to also advise us of any supports that the
9 community would require in terms of additional funding or
10 to address the needs of that family.

11 **Q.** Now, in terms of addressing the needs of
12 other families like the Trout's or like the Beadle's has
13 ISC taken steps to publicize the right of individuals to
14 come forward and seek retroactive assistance where they
15 would have had ---

16 **A.** We have publicized that if anyone had
17 been denied or lacking a service back to 2007 under
18 Jordan's Principle that they can come forward. And we've
19 also publicized on our website for instance under Jordan's
20 Principle that we will accept reimbursement of costs since
21 July 2016 I believe it says on the website.

22 So, we have made those steps. But we've not
23 sort of used the language that you used in your question to
24 me specifically.

25 **Q.** Right. And is ISC willing to take more

1 specific steps in terms of families that may have been
2 missed in the past?

3 **A.** So, we're currently just looking at
4 options with the Department of Justice on that front.

5 **Q.** Okay. And do you have a projected
6 timeframe for when those options will crystalize?

7 **A.** I do not at the moment. But we have put
8 a placeholder is this next version -- this version now
9 that's out in the public domain in the Standard Operating
10 Procedures. I believe its section 4.2 to be able to
11 provide further detail.

12 **Q.** I was going to say 4.2 is the number
13 sticking in my head as well. But I guess with respect to
14 4.2 or what the existing approach is in terms of the limits
15 of what ISC can approve.

16 So, am I right in understanding that ISC
17 doesn't provide funding through Jordan's Principle
18 implementation for individuals who are over the age of 18
19 or 19 depending on the province unless it's retroactive
20 reimbursement for past expenses when they were a minor?

21 **A.** That's correct.

22 **Q.** And so, this is the case even where the
23 child's product or service needs result from or have been
24 exacerbated by a lack of products or services in the time
25 they were a minor due to Canada's discriminatory approach?

1 **A.** So, we do not do it through Jordan's
2 Principle, but we have assisted youth that have been beyond
3 the age of majority to access existing programs that we
4 have within our department or even other agencies.

5 **Q.** So, for an individual who's now an adult
6 they would have to have access to an existing program
7 elsewhere in the department to have that need met?

8 **A.** Yeah. Or another jurisdiction. We will
9 also do that outreach.

10 **Q.** Right. Now going back to the smaller
11 book here. So, that's Tab 4. So, just as an example of
12 that there's -- AO is the second bullet in your email on
13 April 1st to Dr. Blackstock. And there's a little
14 narrative of AO's case chronology on I'd say it's the third
15 page of the tab.

16 And just briefly can you confirm AO is
17 someone who at least was in contact with service navigators
18 before his 18th birthday but the request -- at least ISC
19 only can confirm that it received the request after he
20 turned 18? Is that right?

21 **A.** If you don't mind I just -- I'm trying
22 to ---

23 **Q.** Take your time.

24 **A.** --- recall that specific case.

25 **Q.** Yeah, take your time.

1 But what we have done is followed up to link this
2 particular individual with existing services. So, this
3 individual is entitled to receive mental health counselling
4 and other services such as medical transportation through
5 the Non-Insured Health Benefits program.

6 And so, we have a Choose Life coordinator,
7 the service coordinator of Jordan's Principle on our staff
8 also following up with this particular youth. This case
9 was actually brought to appeal. And in the actual appeal
10 committee review we actually directed the staff to ensure
11 that this particular youth would access services due to the
12 trauma that this particular youth has experienced in their
13 lives.

14 Q. But the services this youth could access
15 those would have to be existing services for adults under
16 ISC's, I guess, umbrella of programs? Or Ontario's?

17 A. Mental health, medical transportation,
18 addictions treatment. So, there is quite a suite of
19 services that the youth can access.

20 Q. But in terms of this individual if they
21 were in a position where there weren't equivalent services
22 provided for adults there wouldn't be anything the Service
23 Access Resolution Fund could do?

24 A. That's right. It would not be done
25 through Jordan's Principle.

1 Q. And just looking at the chronology, case
2 chronology that's on page 3. Can you just confirm you
3 recognize that case chronology?

4 A. Page -- oh, page 3 under Tab 4?

5 Q. Correct. Sorry.

6 A. Sorry. I was going to ---

7 Q. I didn't mean to misdirect you there.

8 A. Yes.

9 Q. Now, Tab 5. And I guess just for the
10 record before I move on, I should clarify my reference to
11 AO that was my mistake. I had thought those were the
12 initials for the child who'd attended the camp. There are
13 no initials provided there but my questions at least were
14 directed towards the case HCON2414, which is the chronology
15 there on page 3. So, apologies for any confusion.

16 So, under Tab 5, this is an email chain also
17 from last month.

18 A. Um-hmm.

19 Q. April 2015. And this is about AF. And
20 so, in the emails back on page 3 here. This is Dr.
21 Blackstock raising this with you, case of a youth in care
22 who's seeking assistance for post-secondary funding?

23 A. Yes.

24 Q. And this would be another one of those
25 instances in which because AF had reached the age of

1 majority there's nothing that ISC can do unless it has an
2 existing program?

3 **A.** Yeah. And in this case, we didn't
4 receive a specific request through Jordan's Principle. It
5 was just the individual reached out to Cindy and she was
6 bringing it forward directly.

7 **Q.** Yes. But had there been a specific
8 request by AF the result would have been a denial?

9 **A.** Unless they -- and again I did ask, and
10 I believe the BC regional office but also through Cindy if
11 there were any past expenses of this particular youth that
12 we could reimburse. And I think my email speaks to that.

13 **Q.** Yes, it does.

14 **A.** Um-hmm.

15 **Q.** And I should say you raised that on page
16 3.

17 **A.** I think I say:

18 "The BC regional office has been in
19 touch with Alexis about go forward
20 funding options but I am wondering if
21 you know of any past expenses that we
22 could assist with in terms of denial of
23 access to services or a reimbursement
24 of expenses out of pocket prior to
25 achieving age of majority."

1 and rely on attestation to back up the
2 request."

3 Now, you note in your email that you don't
4 have the authority yourself to secure the approach, but
5 you'll bring it forward. What's your view on the approach
6 there? Is it a good approach?

7 **A.** Well, what I think it does is it helps
8 to lay out what would be some distinctions between the
9 Caring Society or at least Dr. Blackstock's understanding
10 of compensation versus addressing the needs of a child for
11 a specific service. So, I found that it was a helpful
12 layout or description of that distinction that the Caring
13 Society is making.

14 **Q.** So, this could be four factors that
15 would go to a specific service being provided that would do
16 something that would be restorative or would be something
17 to assist the young adult in light of the past?

18 **A.** That's my understanding of Dr.
19 Blackstock's suggestion.

20 **Q.** Now, you note that you don't have the
21 authority yourself to secure the approach. Where does the
22 authority lie to do something like that?

23 **A.** It would have to be a Cabinet authority.

24 **Q.** A Cabinet authority. So, it would have
25 to go -- I guess the approval chain would be the deputy and

1 then off to Treasury Board and then to Cabinet? Or how
2 does that ---

3 **A.** You're skipping the minister and the
4 minister wouldn't like to be skipped.

5 **Q.** So, the minister ---

6 **A.** I'm just ---

7 **Q.** No disrespect.

8 **A.** The deputy, the minister. We'd have to
9 get support from central agencies, other federal
10 departments like the Department of Justice for instance.
11 There are a lot of steps absolutely in the process.

12 **Q.** Okay. So, it would be actors external
13 to ISC and all the way up to and including Cabinet then
14 would have to decide on this?

15 **A.** That's correct.

16 **Q.** Now, just a quick question about JPOC.
17 So, when you go to JPOC who comes with you from ISC?

18 **A.** Who comes with me from Indigenous
19 Services Canada? Oh, well we just actually updated our
20 terms of reference recently. And now I have to recall
21 who's actually, specifically, members on the list. But
22 obviously the executive director of Jordan's Principle.

23 We would have a representative from the
24 other sector of Indigenous Services Canada around Child and
25 Family Services and then we have a secretariat team of

1 folks who take minutes and records.

2 But we've been trying to in the new terms of
3 reference just reduce the number of what are federal
4 representatives at that table in order to get a better
5 balance and also reflect the full -- that the Chiefs of
6 Ontario, NAN are also part of JPOC. And also, now I am co-
7 chairing with the Assembly of First Nations versus just me
8 chairing the meetings.

9 Q. And just a few questions about the
10 appeals process.

11 A. Um-hmm.

12 Q. So, at Paragraph 45 of your affidavit.
13 And you can put the small book aside, I won't be coming
14 back to that.

15 A. Oh, okay.

16 Q. So, Paragraph 45.

17 A. Yes.

18 Q. So, you said there's been progress in
19 implementing an improved appeals process for Jordan's
20 Principle to address the parties' request for involvement
21 of independent First Nations experts in health, social and
22 education. So, can you describe briefly what the new
23 appeals process would look like?

24 A. So, we will have contracted First
25 Nations experts in a variety of fields. We've identified

1 up to 12 for now. Depending on how the volume shifts we
2 might need more or less. They would be selected through a
3 competitive process. We will establish a secretariat, a
4 small secretariat, but a secretariat that would then be
5 able to coordinate with those experts to be able to review
6 cases and then submit recommendations for decision.

7 A new appeals process also offers more
8 options for the requester to participate directly in terms
9 of the appeals and offering some support services for that
10 requester as needed. It clearly lays out reporting
11 requirements also for reporting back on the number of
12 appeals, the outcomes that would be generated from that.
13 I'm not sure if you want me to go through more detail. But
14 I mean, I think the parties do have a copy and we can table
15 with the Panel a copy of the new appeals process that's
16 been ---

17 **Q.** Well, that's a pretty high-level
18 summary.

19 **A.** Okay.

20 **Q.** Actually, not that high level but it's a
21 fair summary, I think. But I guess then my second question
22 would be if you could speak to just the current appeal
23 process?

24 **A.** I'm sorry? The current ---

25 **Q.** The current. Yes, the current.

1 **A.** --- appeals process. So, it is myself
2 and the assistant deputy minister of Child and Family
3 Services Reform. We do have appeals reviewers that are
4 part of the Jordan's Principle team that manage appeals,
5 that actually present cases for our review. We have a
6 decision form that we sign subsequent to that.

7 The decision is communicated by the national
8 office to the regional office and they will communicate
9 that decision to the requester, but it will be followed up
10 by a formal letter. For letters where we uphold the
11 denial, I do sign them myself to ensure that they properly
12 reflect the decision made by myself and the ADM of Child
13 and Family Services Reform. We are meeting on a weekly
14 basis for the most part or at least every two weeks. We've
15 had over 100 appeals so far.

16 **Q.** And in terms of the new process coming
17 into place that's April 1, 2020 that you're targeting?

18 **A.** That is our target.

19 **Q.** And in terms of that coming into place
20 is that something that you have authority on your own to
21 implement or is there approvals required above your level
22 to implement that appeal process?

23 **A.** Well, I have received support from the
24 deputy minister for that, but it doesn't require Cabinet
25 approval.

1 Q. Now, in Paragraph 45 you refer to the
2 processes being at the parties' request. And I'm just
3 wondering if you recall in the May 2017 decision that the
4 Panel noted at Paragraph 103 that:

5 "Canada should turn its mind to the
6 establishment of an independent appeals
7 process with decision makers who are
8 Indigenous health professional and
9 social workers."

10 A. That's correct. That's correct.

11 Q. And would you see this process as being
12 in keeping with that encouragement to turn its mind to such
13 a process?

14 A. That is certainly our intention.

15 Q. I just have a few questions about the
16 First Nations Child and Family Services program. So, I
17 understand -- just let me know if I'm right about this. Do
18 you sit on appeals in that program?

19 A. I do.

20 Q. And other than yourself who are the
21 other reviewers in that context?

22 A. Lynda Clairmont who is the Senior
23 Assistant Deputy Minister of Regional Operations at
24 Indigenous Services Canada.

25 Q. And what's Ms. Clairmont's background?

1 **A.** I can't speak to her -- I mean, I know
2 the various jobs that's she had in the federal government,
3 but I don't know her education background.

4 **Q.** Do you know if she has any social work
5 experience?

6 **A.** I can't speak to that, no.

7 **Q.** Do you recall the idea of a Consultation
8 Committee observer on appeals being raised at the last CCCW
9 meeting?

10 **A.** Yes, I do recall that.

11 **Q.** And has there been a First Nations Child
12 and Family Services program appeal since April 2?

13 **A.** Yes, I believe so. We've only had two.

14 **Q.** Two. So, were they both prior to the
15 last meeting or was there one after?

16 **A.** I think there is one after, Mr. Taylor.
17 I hope that I'm not incorrect. I think that the timing was
18 that there was one after.

19 **Q.** Do you know if there's been ---

20 **A.** But in terms of the appeals committee
21 decision it would have been received prior to April 2nd
22 likely. But again, we'd have to confirm that.

23 **Q.** Do you know if there's been a decision
24 made within ISC about the idea of having a CCCW observer at
25 those?

1 **A.** Not yet. Not to my knowledge. I know
2 that we have had some discussions between the ADM
3 responsible for Child and Family Services Reform and myself
4 and we want to discuss it with the deputy minister. Not
5 just that point but other aspects of the logistics of the
6 appeals committee.

7 **Q.** And do you know when a decision will be
8 on the observer?

9 **A.** I do not.

10 **Q.** Do you sit on any departmental
11 management committees?

12 **A.** Yes.

13 **Q.** I take it you may sit on more than one
14 from your answer?

15 **A.** Yes.

16 **Q.** Do you recall generally when IFSD's
17 report came out?

18 **A.** I recall the presentations that were
19 made at the Consultation Committee on Child Welfare.

20 **Q.** And has IFSD's report been discussed in
21 these management committees?

22 **A.** Not in a management committee that I've
23 participated on.

24 **Q.** Okay. Are you aware that through
25 Council the Caring Society has formally been requesting a

1 position from Canada regarding its next steps in developing
2 a long-term approach to the FNCFS program since March 15,
3 2019?

4 **A.** I am through my participation on the
5 Consultation Committee on Child Welfare.

6 **Q.** And do you recall the topic being raised
7 at CCCW before March 15? What the next steps would be on a
8 new funding approach?

9 **A.** Yes.

10 **Q.** Do you know when ISC is going to be
11 telling the parties what the next steps are going to be?

12 **A.** I do not.

13 **Q.** So, just in terms of where we're at I
14 suppose in this long-term reform on Jordan's Principle.
15 Would you agree that this is a process that's ongoing?

16 **A.** Yes.

17 **Q.** And would you agree that once long-term
18 reform is achieved ideally the Caring Society would not be
19 in almost daily contact with ISC regarding concerns being
20 raised from individuals?

21 **A.** We've talked with -- actually at the
22 last Jordan's Principle Operations Committee Dr. Blackstock
23 raised the idea of having an ombudsperson function or a
24 quality assurance mechanism. I had, initially, written up
25 a proposal around a client support function that could

1 exercise that role. It was brought forward to the Jordan's
2 Principle Operations Committee meeting in February. There
3 wasn't really -- there were a lot of questions about it at
4 that time and I wasn't present. I was on holiday during
5 that particular meeting. So, it was sort of deferred for
6 further discussion.

7 So, I think from the intervention of Dr.
8 Blackstock on the April 29th JPOC meeting we will see if we
9 can find a way to sort of combine that function. I have to
10 say, I mean, I'm responsible for running other complex
11 large-scale very operational initiatives like the Non-
12 Insured Health Benefits program which has existed for
13 decades as an example. And the Indian Residential School
14 Health Support program which is another example of
15 something that's existed for over a decade. There are
16 always operational issues, there are always client service
17 issues that can arise.

18 And so, from my experience in running these
19 types of complex initiatives there's always going to be a
20 requirement for having a client service sort of mechanism
21 to bring forward issues where individuals are having
22 difficulty accessing services or complaints want to be
23 filed. And so, I think we will never get past the point of
24 a need for that. And I think that that -- I mean, that
25 will exist for 20-30 years, you know.

1 The Non-Insured Health Benefits program
2 right now has two what I would say are quality assurance
3 review processes underway. We have the operational review
4 which is an internal review with our regional offices
5 that's been going on for three years to improve
6 efficiencies and improve access to services. And we have
7 the joint review with Non-Insured Health Benefits mandated
8 by Chiefs and Assembly -- with the Assembly of First
9 Nations. That's been going on since 2014. You know, I
10 think there are highly complex operations that are billions
11 of dollars in scope. And so, you know, it's a constant
12 learning exercise that will be required.

13 **Q.** But in terms of that learning exercise
14 as part of long-term reform you'd agree that that's
15 something where ISC should have the in-house ombudsperson
16 capacity or something inside as opposed to an NGO from the
17 outside kind of raising these and pushing?

18 **A.** I don't know. I think we've talked
19 about maybe a First Nations organization hosting that
20 function. I actually -- the whole mandate of Indigenous
21 Services Canada is devolution. So, I'm not supportive of
22 embedding functions necessarily inside the department when
23 those functions can be exercised by First Nations in a
24 self-determined model.

25 **Q.** Fair enough. But with regard to the

1 structure it takes something beyond the Caring Society's at
2 this point, you know, own initiative. Voluntary actions
3 would be required as part of the reform?

4 **A.** We need something that is structured and
5 funded.

6 **Q.** And in terms of structuring and funding
7 are those things that you can do at your level?

8 **A.** Yes.

9 **Q.** And funding is something you could
10 approve within your budget for something like that?

11 **A.** I could approve it within our budget.

12 **Q.** In terms of training and the appeals
13 process those are also items we've spoken with the appeals
14 process already. But the training activities I believe
15 there's the committee you and Dr. Blackstock are co-
16 chairing. Are there approvals you require at higher than
17 your level to bring that training into existence?

18 **A.** Yes, because it has human resource
19 implications. The designation of mandatory training is
20 within the deputy minister's purview, but we have been
21 keeping the deputy minister informed as well as the
22 director general of human resources. I have been awaiting
23 support from the expert committee review that Dr.
24 Blackstock and myself co-chair before bringing it forward
25 through our channels.

1 And I've been very transparent with the
2 advisory group on that front. I think during our last call
3 which was just a few weeks ago I think April 17 -- no, it
4 couldn't have been April 17 -- very recently. We received
5 support to bring forward the draft mandatory training
6 policy to the CCCW and also for myself to actually bring it
7 forward through our approvals channels.

8 **Q.** Now, am I right in understanding that
9 the deputy minister that's (inaudible) appointment i.e. the
10 deputy minister serves so long as the governor in council
11 chooses that they will serve.

12 **A.** Those are technical details around
13 deputy ministers' appointments that I'm not -- I don't have
14 the expertise to answer those questions. But they are
15 appointed by the clerk.

16 **Q.** I see. And are you a GIC appointment?

17 **A.** I am not.

18 **Q.** You're not. So, you're hired into your
19 role by the deputy minister?

20 **A.** Or through competition. But yes,
21 through the deputy minister. Yes.

22 **Q.** I see. Now, just a few questions on the
23 MOU with Alberta. So, Paragraph 29 you introduce the MOU
24 and that's at Exhibit K. And I just have a question on
25 page 3 of 7 of Exhibit K. This is the scope and purpose.

1 **A.** Okay.

2 **Q.** So, it says:

3 "The MOU is intended to create a
4 framework for alignment and
5 collaboration between the parties to
6 address the needs of First Nations
7 children in Alberta."

8 And so, First Nations children in Alberta
9 how broad is that statement? Is that just children who are
10 registered or eligible to be registered, children living on
11 reserve? What's the interpretation of that?

12 **A.** Sorry, I'm just still trying to ---

13 **Q.** If you've not got it take your time to
14 look at it before you answer. That's fine.

15 **A.** I can't find it but -- oh, here we go.
16 Sorry about that. Can you just remind me the paragraph
17 number?

18 **Q.** Oh, it's 1(1). So, it's page 3 of 7 and
19 then it says, "Section 1: Scope and Purpose." And then
20 (1) says:

21 "This MOU is intended to create a
22 framework for alignment and
23 collaboration between the parties to
24 address the needs of First Nations
25 children in Alberta."

1 **A.** Yeah. I mean, I would say that it would
2 be based on -- because it's specific to Jordan's Principle
3 it would be based on First Nations children living on and
4 off reserve that are status or eligible for registration.
5 But again, I don't want to speak on behalf of all of the
6 parties. I'm not sure if during their drafting of the MOU
7 they actually debated that point.

8 **Q.** Fair enough.

9 **A.** I mean, it's language that is utilized
10 throughout a lot of our partnership initiatives without it
11 being specifically defined.

12 **Q.** And so, just to confirm, you weren't
13 involved in drafting this document specifically?

14 **A.** I reviewed versions of it, but I was not
15 involved in the drafting, no.

16 **Q.** You weren't in the room. Now, Part 3 on
17 page 5 says "Deliverables." So, there's five points noted
18 here identifying existing structure that relate to Jordan's
19 Principle implementation, identifying and overseeing a
20 coordinated approach to communication, or seeing
21 implementation of commitments set out in Part 2, sharing
22 Beck's practices and then kind of a basket, "Any other
23 responsibilities as determined and agreed." So, the MOU,
24 this is work that's ongoing still with Alberta?

25 **A.** Absolutely.

1 Q. And you noted the new government had
2 already been in contact or you had been in contact with
3 them?

4 A. Yes. So, their response to my letter
5 came after the provincial election.

6 Q. I see. I see. And beyond that response
7 do you know how the new government is reacting to the MOU?

8 A. I have not asked that question to our
9 regional executive.

10 Q. And would you agree that an election
11 resulting in a change of government may have an impact on a
12 government's policy approach?

13 A. In general, yes.

14 Q. Those are my questions, Dr. Gideon.
15 Thank you very much.

16 A. Okay.

17 **THE CHAIR:** Thank you. So, in terms of
18 scheduling for today who will be -- will the AFN be asking
19 questions, and do you have an idea of how long?

20 **MR. WUTTKE:** I can advise that the Assembly
21 of First Nations will not be asking any questions.

22 **THE CHAIR:** No? Okay.

23 **MR. WUTTKE:** No.

24 **THE CHAIR:** And what about the Commission?

25 **MR. SMITH:** The same is true for the

1 Commission. No questions from the Commission.

2 **THE CHAIR:** No questions? Okay. So, would
3 you appreciate a break, a lunch break before the re-
4 examination?

5 **MR. FRATER:** Sorry, I only have one brief
6 area. I don't know whether the Panel wishes to ask
7 questions before I do that or ---

8 **THE CHAIR:** I don't have any more. You had
9 one?

10 **MEMBER LUSTIG:** I just had one question.

11 --- **EXAMINATION BY MEMBER LUSTIG:**

12 **Q.** Thank you for your evidence. As usual
13 it's excellent. I'm just going to take you back in a very
14 general way to your statement in Paragraph 4 of the
15 affidavit. The last sentence where you say:

16 "That ISC is committed to continuing
17 this work and does not require
18 continued supervision by the Tribunal
19 in order to remain firm in this ongoing
20 commitment."

21 So, tell me if I'm right or wrong here, are
22 you advocating against the Tribunal continuing to be
23 involved in this? Is that the point of what you're saying
24 or you're just making a statement that you just don't think
25 that it's required?

1 A. I think what I'm saying is that -- and
2 again just speaking to the experience that I was just
3 highlighting before. I mean, I've spent my whole career in
4 these areas. We need to continue to collaborate and
5 consult with the parties, with First Nations in order to
6 continue to be successful. It's embedded in the mandate of
7 the department that I work. It's actually part of the
8 departmental enabling legislation that is before
9 Parliament's consideration now.

10 I just see that the operational issues and
11 challenges that we continue to face admittedly so will not
12 resolve themselves in a year or two years necessarily.
13 That this is a massive change for the benefit of First
14 Nations children, but it requires a lot of work.

15 And even if we can get to a stage where we
16 close our compliance to 12-48 hours to 95 percent, is that
17 5 percent going to address the parties' requirements or
18 needs? We have to continue to strive forward.

19 So, that's sort of the point that I am
20 making. Is that the obligations that we have under
21 Jordan's Principle to continue to meet the orders and to
22 continue to consult with the parties are beyond the
23 Tribunal maintaining its jurisdiction. It's embedded in
24 our department. It's a Cabinet mandate. It's an ongoing
25 obligation that we have.

1 Q. But what if that commitment isn't
2 maintained? Then what?

3 A. So, I'm not a lawyer so I can't speak to
4 if there's a sunseting of a legal order. But the advice
5 that I have received is that this is an ongoing legal
6 obligation of Canada.

7 Q. Okay. Thank you.

8 **THE CHAIR:** Okay. Mr. Frater.

9 **--- RE-EXAMINATION BY MR. FRATER:**

10 Q. Yes, just one area. Mr. Taylor asked
11 you quite a few questions about determination rates and
12 funding requests. Can you just give us a little more
13 detail on the relationship between what you're calling
14 determination rates as opposed to the actual funding of
15 requests?

16 A. Absolutely. So, I guess a simple way of
17 presenting it is 75 percent of individual non-urgent
18 requests are addressed within the 12-48 hours. And 74
19 percent of payments are issued within that 0-15-day
20 timeframe.

21 Q. Okay. And do you have control over the
22 actual provision of the money?

23 A. So, I have control. I, myself. The
24 department can work on the time that it spends to -- once
25 it receives documentation, batch it together, provide it to

1 the accounting hub and for the accounting hub to do the
2 quality review and to actually issue it through what is
3 called P2P which is the Public Works system to actually
4 deposit the money into the bank.

5 But where there are a lot of other
6 parameters where we do not have control is the volume of
7 requests that are received in a day, in an hour, in a week,
8 in a month. You know, the time it takes for individuals to
9 provide an invoice.

10 So, an example is in the Caring Society's
11 affidavit there's an example of an email exchange there
12 where the requester who is a parent of a child believes
13 that it's taken the department over two months to actually
14 -- or three months to actually issue a payment. That's not
15 actually correct when you actually go through the detail of
16 the transactions. The invoice from the vendor or the
17 service provider was only received, you know, September
18 1st. The payment was issued September 17th.

19 So, there are also those factors that
20 requesters don't always see with respect to the
21 interactions between the service provider and our
22 department in terms of payments.

23 Q. Okay. In short, it's complicated?

24 A. It can be complicated, yes.

25 Q. Thanks. Those are all the questions I

1 have.

2 **THE CHAIR:** Thank you. Thank you very much
3 for your evidence. And we'll close the hearing. But
4 before we do, I would like to wish Happy Mother's Day to
5 all the mothers whether they're natural mothers, adoptive
6 mothers, or advocacy mothers. I wish you a Happy Mother's
7 Day. And please for the parties remain for a few minutes
8 so we can have a short discussion. Thank you. So, we'll
9 go off the record.

10

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(HEARING ADJOURNS)

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CERTIFICATE OF COURT TRANSCRIBER

We, Joanne MacLeod and Wendy Russell, Court Transcribers, hereby certify that we 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** and **CANADIAN HUMAN RIGHTS COMMISSIONS** and **ATTORNEY GENERAL OF CANADA** (representing the Minister of Indian and Northern Affairs) and **CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA** taken by way of electronic recording on Tuesday, May 7, 2019.



Certified by Philomena Drake

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Halifax, Nova Scotia

Tuesday, May 28, 2019