

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

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

Complainants

And

CANADIAN HUMAN RIGHTS COMMISSION

Commission

And

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

Respondent

And

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION

Interested Parties

AFFIDAVIT OF CANDICE ST-AUBIN

Affirmed March 14, 2024

Privacy

Department of Justice Canada

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AFFIDAVIT OF CANDICE ST-AUBIN

I, Candice St-Aubin, federal public servant, of the City of Gatineau, in the Province of Quebec, make oath/affirm as follows:

I. Introduction

1. I have been employed with the Government of Canada (Canada) since 2005. My current position is as Senior Assistant Deputy Minister in the Department of Indigenous Services Canada (ISC), First Nations and Inuit Health Branch (FNIHB). In that capacity, I report

directly to the Deputy Minister of ISC on all matters of First Nations and Inuit Health. Prior to joining ISC in 2023, I worked with the Public Health Agency of Canada and was named their Vice President in 2021. I have a background in early childhood development and education and in 2022, I was named Canada's Head of Delegation to the United Nations' Committee on the Rights of the Child. I identify as an Indigenous woman of mixed ancestry (Anishinaabe/Algonquin and European descent).

2. I have personal knowledge of the facts and matters herein deposed by me from my role as Senior Assistant Deputy Minister, save and except where they are stated to be based on information and belief, in which case I believe those facts to be true.
3. I have reviewed the Notice of Motion for Relief of the Complainant First Nations Child and Family Caring Society of Canada (Caring Society), dated December 12, 2023, the Affidavit of Cindy Blackstock, affirmed January 12, 2024 (Blackstock Affidavit) and Affidavit of Brittany Mathews, affirmed January 12, 2024 (Mathews Affidavit). I provide this affidavit in response thereto.
4. I have also reviewed the Affidavit of Valerie Gideon, to be sworn. My affidavit is intended to supplement the evidence provided by Dr. Gideon. I will detail below the operational initiatives being employed by ISC to help address backlogs, ISC's communications with the Caring Society and ISC's long-term vision of Jordan's Principle.

II. Compliance issues are restricted to timelines

5. ISC is fulfilling the purpose and intent of all of the Orders, including the implementation of the wider scope of Jordan's Principle interpretation and eligibility required by the Orders. As demonstrated in the Affidavit of Valerie Gideon, an effective and fair determination system has been established, with an Appeals Committee and Federal Court oversight to address any substantive issues that may arise.
6. In accordance with the Tribunal's previous orders, the parties have successfully led communications campaigns to raise awareness of Jordan's Principle. ISC has seen a resulting increase in the volume of requests received and determined. Canada has worked in consultation with the parties and the Jordan's Principle Operations Committee (JPOC) to develop various communications, including frequency and marketing strategies, to raise

awareness and understanding of Jordan's Principle. Over the past two years, Canada published social media posts to ensure the public is aware of where to find the latest resources related to Jordan's Principle, to ensure awareness of how to make a Jordan's Principle request, and to provide reminders on specific supports available through Jordan's Principle (for example, educational supports prior to the start of the school year). In addition to social media, Canada runs an annual advertising campaign to broaden the reach of Jordan's Principle. Each campaign's results are presented to JPOC for their input on the following year's advertising strategy.

7. As set out in the Tribunal's order in 2017 CHRT 35, ISC must determine requests on the following timelines:
 - a. 12 hours for urgent individual requests;
 - b. 48 hours for all other individual requests;
 - c. 48 hours for urgent group requests; and
 - d. 1 week for all other group requests.
8. Canada agrees with the Caring Society that ISC has been unable to maintain compliance with these timelines for reasons that include the increased volume. As noted in Section III below, Canada has developed and is implementing operational initiatives to address this issue.
9. Given the increased volume of requests and follow up correspondence, ISC is experiencing backlogs in:
 - a. reviewing incoming email correspondence; and
 - b. determining requests which have been entered into the Jordan's Principle Case Management System.
10. Backlogs in email correspondence and requests awaiting determination vary at any given time and across regions. Overall, approximately 55% of backlogged correspondence in

Jordan's Principle general request inboxes are new requests, while approximately 45% are other correspondence related to existing requests. All regions report a steep and continuing increase in volume of requests. Most regions have noted a further increase in volume following implementation of the Back-to-Basics Approach in 2022 outlined in paragraphs 21-22 of the Affidavit of Valerie Gideon, and a growing public awareness of Jordan's Principle.

11. ISC's analysis demonstrates that its timeline compliance rate declined following the implementation of the Back-to-Basics Approach. ISC's timeline compliance rate has been negatively affected by the increase in volume of requests (both urgent and non-urgent) and increase in the rate of urgent requests. For example, between the first quarter of the 2022-23 fiscal year and the third quarter of the 2023-24 fiscal year, the number of determined requests increased from 21,918 to 34,877 and the rate of urgent requests increased from 2% to 26%. During that same timeframe, ISC's compliance rate decreased from 41% to 29%.
12. Notwithstanding declining timeline compliance, ISC determines the majority of requests without unreasonable delay. For the first three quarters of the 2023-24 fiscal year, 62% of all requests were determined in a 15-day timeframe, while 70% of all requests were determined within 30 days.
13. The Tribunal's timelines, imposed in 2017, were not based on objective evidence such as standardized child welfare service timelines or standard claims processing industry timelines. Given the significant evolution and expansion in the number and complexity of requests stemming from the Tribunal's orders in relation to Jordan's Principle, the initial timelines are not realistic.
14. It is unlikely that the current Jordan's Principle's operational model, as per the Tribunal orders, can be managed solely by a continuous increase in human resources (known as federal full time equivalent employees or FTEs). A viable long-term approach needs to consider sustainable and feasible operational modifications, including technology, that best meet the specific needs of First Nations children under the age of majority. Canada's long-term vision in this regard is set out in Section IV below. In the meantime, Canada reiterates its commitment to processing all Jordan's Principle requests as quickly as possible.

A. Caring Society intervened in only 0.167% of approved requests

15. In their affidavit evidence, the Caring Society has highlighted frequent communications from the Caring Society to ISC officials regarding individual requests. ISC has been responsive to all these inquiries and is grateful to the Caring Society for their interventions. Canada recognizes that the Caring Society's interventions have brought administrative and timeline issues to ISC's attention and have assisted families and children.
16. Paragraphs 15 to 17 and Exhibit 9 of the Mathews Affidavit set out the Caring Society's 167 individual case interventions from January 5, 2023 to January 9, 2024. ISC has prepared the attached **Exhibit A**, which is a table reflecting the steps taken by ISC to ensure that the necessary supports and services were provided in response to those Jordan's Principle requests. As demonstrated in that table, the Caring Society's intervention was not necessary in many of these examples, as ISC had already taken steps to address the issues. In most cases, ISC required further information in order to properly address the particular issue.
17. Further, and as reflected in paragraph 6 of the Affidavit of Valerie Gideon, during that same timeframe, Canada approved well over 100,000 Jordan's Principle requests, representing over 1,200,000 products, services and supports. Even if the Caring Society's intervention was required in all 167 cases, this represents a very small number of all Jordan's Principle individual requests: less than 0.167%.
18. ISC's goal is and will continue to be to ensure a seamless administrative process, recognizing that the potential for human error is inherent in any system. ISC's responding chart reflects that most delays were explained by the high volume and resulting backlog of requests, administrative difficulties or inadvertent oversights. ISC does not agree with any assertion that its response to Jordan's Principle requests are discriminatory.
19. In response to paragraph 23 of the Mathews Affidavit and paragraphs 169-171 of the Blackstock Affidavit, I recall attending a meeting with Dr. Blackstock and other ISC officials on December 1, 2023. During that meeting, ISC agreed to provide a response to the Caring Society's concerns about coverage for Jordan's Principle requests over the holiday season. ISC was preparing its response when, on December 12, 2023, the Caring Society filed its non-compliance motion with the Tribunal. Therefore, instead of providing a response directly to the Caring Society, on December 17, 2023 ISC provided its plan for holiday coverage directly to the Tribunal, with a copy to all parties. In addition, on December 19,

2023 ISC reached out by email directly to all parties, including the Caring Society's Dr. Blackstock, again sharing ISC's plan for holiday coverage. A copy of the Department of Justice's December 17, 2023 communication to the Tribunal and parties, including the Caring Society, is attached hereto and marked as **Exhibit B**. A copy of ISC's December 19, 2023 email to all parties, include the Caring Society's Dr. Blackstock, is attached hereto and marked as **Exhibit C**.

B. Products, supports and services funded by Jordan's Principle in Caring Society's individual illustrative cases

20. Privacy [REDACTED]
[REDACTED] reference a number of illustrative cases in support of the Caring Society's motion, including supporting exhibits. Some of the information found in those illustrative cases are either incomplete and/or do not reflect the steps taken by ISC to respond to those specific Jordan's Principle requests.
21. While ISC acknowledges the overall backlog, it is also important to recognize that every Jordan's Principle request differs both in the amount of time and effort required to ensure that the appropriate support can be provided. Each individual request also varies in terms of its complexity.
22. ISC has taken significant steps to ensure that the necessary products, supports and services were provided in response to all of these Jordan's Principle requests, and will continue to do so. Without disclosing the specific details of each individual request, ISC can advise that Jordan's Principle funded products, services and supports have been provided in each of the cases referenced by the Caring Society, as reflected below:
- a. Privacy [REDACTED] \$24,117.97 in Jordan's Principle products, services and supports including Privacy [REDACTED]
[REDACTED]
 - b. Privacy [REDACTED] \$75,633.82 in Jordan's Principle products, services and supports including Privacy [REDACTED]
[REDACTED];
 - c. Privacy [REDACTED] \$28,343.46 in Jordan's Principle products, services and supports including Privacy [REDACTED];

- d. Privacy [REDACTED] \$17,749.65 in Jordan's Principle products, services and supports including Privacy [REDACTED];
- e. Privacy [REDACTED] \$61,112.50 in Jordan's Principle products, services and supports including Privacy [REDACTED];
- f. Privacy [REDACTED] \$38,546.81 in Jordan's Principle products, services and supports including Privacy [REDACTED];
- g. Privacy [REDACTED]
 - i. \$191,540.75 in Jordan's Principle products, services and supports for Privacy [REDACTED] including Privacy [REDACTED]; and
 - ii. \$47,612.49 in Jordan's Principle products, services and supports for Privacy [REDACTED] including Privacy [REDACTED];
- h. Privacy [REDACTED]
 - i. \$39,770.50 in Jordan's Principle products, services and supports for Privacy [REDACTED], including Privacy [REDACTED]; and
 - ii. \$134,830.56 in Jordan's Principle products, services and supports for Privacy [REDACTED] including Privacy [REDACTED];
- i. Privacy [REDACTED] \$15,034.89 in Jordan's Principle products, services and supports including Privacy [REDACTED];
- j. Privacy [REDACTED] \$31,494.55 in Jordan's Principle products, services and supports including Privacy [REDACTED];

- k. Privacy ██████████
\$16,316.67 in Jordan's Principle products, services and supports including Priv ██████████
██████████; and
- l. Privacy ██████████ \$201,673.35 in
Jordan's Principle products, services and supports including Privacy ██████████
██████████.
23. Further, and in relation to the Privacy ██████████ ISC acknowledges the requestor's concerns about
Privacy ██████████. ISC has since issued an
apology letter to the requestor and has committed to providing Privacy ██████████
██████████.
24. ISC also acknowledges that Privacy ██████████
██████████
██████████ are subject to judicial review applications before the Federal Court.
25. Privacy ██████████ involved a request for Privacy ██████████ submitted on August 16, 2023.
ISC denied the request for Privacy ██████████ on September 15, 2023. A copy of ISC's
denial notification and rationale Privacy ██████████. ISC's
denial was upheld by the External Expert Review Committee (Appeals Committee) and ISC
Chief Science Officer (CSO) on December 22, 2023. A copy of the appeal determination
and rationale Privacy ██████████. Notwithstanding the
appeal determination, to date ISC has approved \$123,050.58 in other Jordan's Principle
products, services and supports for Priva including Privacy ██████████.
26. Privacy ██████████ was complex and involved multiple requests. On October 27, 2022, the requestor
applied for Privacy ██████████. ISC approved the Privacy ██████████
██████████ on November 17, 2022, but denied the Privacy ██████████ on November 29,
2022. ISC received Privac ██████████ request to appeal that denial on March 8, 2023, not in December
2022 as stated in paragraph Privacy ██████████. The Appeals Committee and CSO
overturned the Privacy ██████████ denial on April 4, 2023, issuing approval for \$307,034.30
in Privacy ██████████.
27. However, on February 28, 2023, the requestor sought approval for a Privacy ██████████
██████████, and subsequently withdrew the request for Privacy ██████████ in May 2023. ISC denied
the request for a Privacy ██████████ on July 18, 2023. This decision was upheld by the

Appeals Committee and CSO on August 11, 2023, and is now the subject of an application for judicial review in the Federal Court.

28. On August 11, 2023, following the appeal determination regarding an **Privacy** [REDACTED] [REDACTED] rescinded their request to withdraw the **Privacy** [REDACTED] approval. On August 30, 2023, ISC sent a second approval to the requestor for the **Privacy** [REDACTED], advising the requestor the approval **Privacy** [REDACTED].
29. In the meantime, ISC has approved **\$225,873.75** for a number of other Jordan's Principle products, services and supports for **Priv** [REDACTED] including **Privacy** [REDACTED] [REDACTED] [REDACTED], in addition to the **\$307,034.30** that remains available for **Privacy** [REDACTED].

C. ISC is addressing concerns directly with group requestors

30. Exhibits 33-37, 42-44, 48, and 55-59 of the Blackstock Affidavit address communications between the Caring Society and several First Nation partners and community organizations with which ISC has contribution agreements. Most of these concerns relate to backlogs, timelines, and reimbursement delays. As noted above, ISC acknowledges the overall backlog, but also notes that it is implementing measures to alleviate delays (as set out below), and that every Jordan's Principle request differs in its complexity and the amount of time and effort required to ensure that the appropriate support can be provided.
31. Where First Nations partners and community organizations have formally raised concerns directly with Canada, ISC remains open to further direct discussions and has already taken measures to respond those concerns. For example, in response to concerns raised in October 2023 by the Ojibways of Onigaming First Nation (Ontario) (outlined in the Blackstock Affidavit, Exhibit 55), a team from ISC including the Assistant Deputy Minister and Regional Directors travelled to Onigaming to meet directly with their leadership. Monthly tri-lateral meetings with the community, the province and federal offices have followed, in an effort to respond to Onigaming's needs.
32. As a further example, and in response to concerns raised in Manitoba by the Interlake Reserves Tribal Council (IRTC) and the Assembly of Manitoba Chiefs (AMC) regarding funding and resources (outlined in the Blackstock Affidavit, Exhibits 43 and 59), in 2023-24, ISC approved over \$8M in additional funding for IRTC and matched AMC's funding

requests for service coordination and reunification. These community partners already had contribution agreements with ISC to support Jordan's Principle activities, with IRTC's agreement now adjusted to reflect the greater level of funding.

33. In response to AMC's concerns with the Back-to-Basics Approach, ISC's Manitoba regional office is actively working with all Manitoba First Nations to provide guidance on the approach, including providing national Back-to-Basics training. At this time, IRTC and AMC have no outstanding requests awaiting determination.
34. Another example is that in response to concerns raised by the Northern Shore Mi'kmaq Tribal Council, ISC's Atlantic regional office has met directly with the Council to discuss its concerns and identify steps for improvement. ISC acknowledges that some of the Council's requests remain in process, due to missing information or documentation that ISC has subsequently requested. To clarify the excerpt at paragraph 127 of the Blackstock Affidavit about "good practice", ISC simply cautioned the Council against suggesting to third parties that services had already been approved by ISC in circumstances where those approvals had not yet been granted.
35. In ISC's British Columbia region, ISC remains committed to engaging in meaningful and frequent discussions with First Nations partners and community organizations through different avenues, such as monthly drop in question-and-answer sessions and regular learning and dialogue sessions. With respect to the oversight committee referred to in a letter from the Carrier Sekani Family Services (CSFS), attached at Exhibit 44 of the Blackstock Affidavit, ISC has reached out CSFS to schedule a meeting, but no date has yet been set.
36. To clarify the excerpt at paragraph 130 of the Blackstock Affidavit regarding CSFS orthodontic requests, ISC has approved 13 orthodontic treatment items requested by CSFS Service Coordinators between May 13, 2022 and January 2024. The remaining requests for orthodontic treatments were deemed ineligible as the patients were over the age of majority in British Columbia.
37. To further clarify representations made by Surrounded by Cedar Child and Family Services in the Blackstock Affidavit, Exhibit 36, ISC's British Columbia region has no record of the temporary housing request. In 2023, the region received three requests from the organization, none of which related to temporary housing.

38. In response to the concerns raised by the Taku River Tlingit First Nation (outlined in the Blackstock Affidavit, paragraphs 153-54 and Exhibit 56), I understand that the “mixed response on eligibility” stemmed from confusion around two separate group requests made by the requestor in two separate regions. To avoid further confusion, ISC has transferred both requests into one region for review.
39. To date, and outside of the Caring Society’s affidavit evidence, ISC has not been made directly aware of any formal concerns by the Independent First Nations, Dnaagdawawenmag Binnoojiiyag Child and Family Services, the Blood Tribe, the Cowessess First Nation or the Federation of Sovereign Indigenous Nations. ISC is nonetheless in regular contact with them and would be pleased to discuss any concerns they may have directly with them.

D. Third party service providers in Northwestern Ontario are reimbursed in a timely manner

40. ISC disputes the allegation in paragraph 95 and 96 of the Matthews affidavit that Jordan’s Principle service providers in Northwestern Ontario have discontinued servicing clients funded through Jordan’s Principle because of reimbursement delays. A review of ISC’s files reflects that of all of the Jordan’s Principle vendors operating in Northwestern Ontario who have submitted 10 or more invoices in the last three years, 64% have increased the amount invoiced in 2023-24 compared to 2022-23. Similarly, of all of the Jordan’s Principle Allied Services vendors in the area, who have submitted 10 or more invoices in the last three years, 81% increased the amount invoiced in 2023-24 compared to 2022-23. These statistics indicate that vendors in Northwestern Ontario continue to provide Jordan’s Principle and Jordan’s Principle Allied Services at increasingly high rates.
41. Paragraph 94 and Exhibit 22A of the Mathews Affidavit refers to communications the Caring Society received from the owner of Spark Rehabilitation. Spark Rehabilitation is a Jordan’s Principle third party service provider. To correct the information in Exhibit 22E to the Mathews’ Affidavit, ISC’s records reflect that:
 - a. ISC made \$54,101.53 in payments to Spark Rehabilitation between April 1 and April 21, 2023, and a further payment of \$82,764.33 on April 25, 2023, which addressed all services invoiced by Spark Rehabilitation to that date;

- b. on June 28, 2023, Spark Rehabilitation submitted a new invoice to ISC for \$219,290.55;
 - c. on June 29, 2023, Spark Rehabilitation submitted a new invoice to ISC for \$263,053.73;
 - d. ISC paid these invoices on July 12 and 14, 2023 respectively, within the 15-business day standard for processing reimbursements.
42. ISC is committed to working with third party vendors like Spark Rehabilitation to reduce administrative burdens and ensure reimbursements are processed efficiently. To that end, in June 2023, the Ontario Region introduced cohort billing for large volume vendors. This allows vendors to have one case number for multiple children. Each case number is invoiced once per month.
43. In the case of Spark Rehabilitation, this reduced the number of invoices submitted per month by 66%, from an average of 80 per month to 20-25 per month, speeding up the payment process. Since June 2023, the average number of business days required to pay for third party services in Northwestern Ontario has been approximately 15-17 business days, with large invoices being paid within two weeks of receipt.

III. Operational Initiatives to Address Backlogs

44. The Caring Society has proposed a number of solutions in its Notice of Motion and accompanying materials, and ISC acknowledges its mutual interest in finding ways to reduce the existing backlog. ISC has carefully considered the problems and has already introduced operational measures to help address backlogs. These measures have been specifically designed to take into account the operating environment and government wide policies and practices including privacy, information technology, and ongoing staffing requirements including hiring, training, and employee wellness. These measures, developed in 2023 and described in greater detail below, are underway and include:
- a. measures to manage call volume;
 - b. the use of surge teams to address backlogs;
 - c. hiring additional staff;

- d. measures to manage staff retention; and
 - e. use of technology.
45. Where practical, some of the measures proposed by the Caring Society have already been adopted by ISC. For example, ISC has already made the changes to its website requested by the Caring Society (described below in paragraph 56).
46. However, other measures proposed by the Caring Society could inadvertently cause harm, risk introducing further delay, are duplicative or impractical, or are not operationally feasible. For example, the Caring Society's proposal that all requests be considered urgent would further inhibit ISC's ability to ensure that objectively urgent Jordan's Principle requests, as opposed to non-urgent ones, are quickly identifiable and prioritized accordingly.
47. As a further example, the Caring Society's proposal for a complaints mechanism is duplicative and conflicts with the appeals process already established by way of agreement with the parties. The agreed upon and comprehensive appeals process is described in more detail in the Affidavit of Valerie Gideon, at paragraphs 54-63.
48. As yet a further example, the additional reporting sought by the Caring Society is duplicative. In addition to frequently providing supplemental data to the Caring Society on an *ad hoc* basis, ISC already publishes and shares the following reports with the Caring Society:
- a. Jordan's Principle Monthly Report (listing products, services, support, requests and finances);
 - b. Jordan's Principle Monthly Compliance Report (setting out timeline compliance trends);
 - c. Annual National Deep Dive Deck (setting out national utilization trends, operational trends and demographic breakdowns);
 - d. Annual Regional Deep Dive Decks (for each region, setting out utilization trends, operational trends and demographic breakdowns); and

- e. Annual Deep Dive Table Package (the 2022-23 table is in progress, while the 2021-22 table contained 89 separate data tables).

A. Call volume initiatives

- 49. The National Call Centre (Call Centre), which is described in paragraphs 37-42 of the Affidavit of Valerie Gideon, has seen a steadily increasing volume of calls from March 2022 to January 2024, with peaks typically occurring in August when there is an influx of school related requests. From March 2022 to March 2023, Call Centre call volume increased by approximately 300%.
- 50. The higher volume of phone calls into the Call Centre has required ISC to work on updating its technological systems. This includes employing a callback system in the Call Centre. This callback feature is now an automated process, and the caller must complete the callback request requirements in order to have their call placed into a callback queue.
- 51. In collaboration with the other parties, ISC proactively implemented a separate urgent callback queue for the Call Centre, specifically for requests in which the requestor is of the view that the child is “at risk”. Callers can select options from a menu to help determine the urgency of a call. If the caller is unable to reach a live agent, their call will be placed in a priority 1 queue, ahead of the non-urgent callback requests, permitting the Call Centre to respond within 2 hours. The average callback time for calls in the urgent queue is 20 minutes.
- 52. As of October 5, 2023, other improvements made to the Call Centre include:
 - a. Call Centre agents now enter all requests into the Jordan’s Principle Case Management System;
 - b. the Quality Assurance team:
 - i. evaluates recordings of live calls, conducts call audits and provides timely coaching to Call agents;
 - ii. reviews case work before assigning requests to regional offices;
 - iii. notifies the regions of cases that came in over the previous night;
 - iv. assists with onboarding and service delivery improvements for new and existing call agents; and
 - v. provides surge support to address backlogs for callbacks.

53. ISC is also proactively planning enhancements to the call tree for the 2024-25 fiscal year which will shorten the call tree and redirect callers to live agents as needed. Other improvements include having the “child at risk” option at the very start of the call tree to redirect callers to a live agent. This is another example where improvements are based on the Caring Society’s recommendations on service enhancements.
54. To further increase efficiency, in 2024 ISC will consolidate all regional focal points into the Call Centre’s toll-free number. ISC expects this will better serve children and their families, and realize efficiencies for supporting compliance with timelines. Consolidation is also expected to enable a better client experience by allowing warm transfers and reducing administrative burden for the client.
55. In the absence of a clear definition of 'urgent' and recognizing the need to respond to critical medical care or imminent harm to a child, ISC will work to further refine a process for triaging urgent requests.
56. Canada has already updated its website to include contact phone numbers, e-mail addresses, and hours of operation for regional offices and headquarters, for both requests and payment inquiries.

B. Additional staffing

57. To address the growing volume of requests and backlogs, ISC has also needed to increase overall Jordan’s Principle staffing. For example, in the 2022-23 fiscal year, ISC planned to employ 252 full time equivalent staff, however it actually employed 360 full time equivalent staff, which is approximately 43% higher than anticipated:¹

Fiscal Year	Number of Full-Time Equivalent Staff
2018-19	65

¹ The total number of full time equivalent staff reported here support both Jordan’s Principle and the Inuit Child First Initiative.

2019-20	147
2020-21	170
2021-22	221
2022-23	360
2023-24 (forecasted)	476

58. These additional full-time equivalent employees provide a temporary solution to managing increased volume and complexity, while other operational modifications are considered.
59. From Canada’s perspective, the Caring Society’s proposed solution of appointing “sufficient staff” within 45 days for urgent determination purposes, set out on page 3 of their Notice of Motion, is not feasible for a number of reasons:
- a. there is no readily available formula that can determine the number of sufficient staff, giving the constantly fluctuating level of complexity and volume of requests;
 - b. ISC must abide by budget allocation and is fully expending its annual salary envelope for full-time equivalent employees; and
 - c. hiring federal public servants must be done accordance with the *Public Service Employment Act*, applicable collective bargaining agreements and departmental hiring policies. These administrative steps are inherent to the federal public service and are more time-consuming than when First Nations communities hire and train staff directly; and
 - d. all new staff must receive appropriate training prior to working in the Jordan’s Principle initiative. Training timelines are variable and depend on the individual’s position, experience, learning speed, approach and adaptability. Very generally speaking, required training takes from 4 to 6 weeks. However, some positions require significantly longer training of up to 6 months.

C. Surge team support

60. ISC has mobilized surge teams, consisting of staff from ISC and the Department of Crown Indigenous Relations and Northern Affairs Canada to assist with backlogs, facilitate determinations and provide ongoing support to the regions. Surge teams review backlogged email correspondence and provide data entry support in the Jordan's Principle Case Management System so that regional focal point staff can focus on other areas (such as determinations) that require their greater knowledge and expertise.
61. Between January 15 and March 8, 2024, surge teams have entered 3,379 requests for products, services or supports into the Jordan's Principle Case Management System. 59% of those additional requests (or, 2,334) were determined as of March 8, 2024. Together, and in this same time frame, surge teams and regional focal points entered 10,582 requests for products, services or supports into the Jordan's Principle Case Management System. 62% of those items (or 6,538) were determined as of March 8, 2024.
62. Surge teams are an interim measure to support administration and determination of Jordan's Principle requests. ISC is concurrently developing broader system and technological tools to enable faster determination. ISC also remains open to discussing with the parties other possible interim solutions to address backlogs.
63. In the meantime, Canada is of the view that the Caring Society's proposed solutions to the backlog, set out on pages 3 and 4 of their Notice of Motion, are not feasible because:
 - a. until each backlogged email is individually reviewed, it is not possible to identify the total number of backlogged "cases", the number of new requests, the urgency of new requests or the number of requests being elevated to an urgent level. ISC estimates that approximately 55% of incoming emails contain new requests;
 - b. multiple backlogged emails may relate to a single request;
 - c. emails may contain insufficient or incomplete information, or require no further action; and
 - d. the number of incoming emails fluctuates daily.

D. Staff retention initiatives

64. ISC's Jordan's Principle employees are dedicated and committed to the children, families and communities who submit requests. They make all efforts to determine requests within Tribunal timelines in a timely, compassionate manner, frequently working overtime.
65. However, Jordan's Principle is an extremely difficult operating environment which has led to some employees experiencing high stress and burnout. This has resulted in an increasingly high employee turnover rate across Jordan's Principle operations over time:
 - a. 21% employee turnover in the 2019-2020 fiscal year;
 - b. 21% employee turnover in the 2020-2021 fiscal year;
 - c. 18% employee turnover in the 2021-2022 fiscal year;
 - d. 13% employee turnover in the 2022-2023 fiscal year; and
 - e. 19% employee turnover between April 1 and December 31, 2023.
66. In response to these retention issues and to increase Call Centre call coverage, ISC has increased staffing for the 24/7 shift schedule, approved 100% remote work for Call Centre staff and introduced new technological system capabilities.

E. Technology initiatives

67. Canada has launched operational initiatives to improve Jordan's Principle intake processes, including:
 - a. implementation of enhancements in the Jordan's Principle Case Management System to accelerate data entry and processing. This currently represents 80% of frontline staff workload and has a direct impact on the backlog of requests in the Jordan's Principle Case Management System;
 - b. enhancement of the notification process to provide requestors with automated updates on the status of their requests. This is expected to be complete by fall 2024;
 - c. development of new technological solutions including but not limited to automatic entry of request forms send by fax or email, web-based request submission and status updates for community service providers, and interoperability between the Jordan's Principle Case Management System and ISC financial systems;

- d. undertaking a comparative analysis on the regional implementation of Jordan's Principle methodologies to identify best practices, with the intention of improving consistency, timeliness and system effectiveness; and
 - e. streamlining payment processes across regions to facilitate automation. To that end, ISC has engaged a consulting firm to document end to end payment processes with the objective of identifying efficiencies and ensuring adequacy of internal controls. Project completion is expected in March 2024.
68. ISC is also exploring potential automated determination under a certain cost threshold. This would require the development of clear parameters and standard operating procedures to guide automated approvals in order to achieve increased effectiveness. Automated adjudication may also not be feasible in certain circumstances, given that Jordan's Principle is needs based and involves case by case assessments.

IV. Need for a Long-Term Vision of Jordan's Principle

69. Over time, Jordan's Principle has evolved into a critical stop-gap measure for First Nations families as they cope with inconsistencies in core federal and provincial/territorial programs and services. The current request-driven and federally managed approach to Jordan's Principle has enabled Canada to fill gaps and address the health, social, and educational needs that are identified by parents, guardians and service providers.
70. To date, ISC has worked with the parties to advance many operational improvements in the Department's implementation of Jordan's Principle. Despite the tremendous success of the current approach to addressing unmet needs through the provision of over 4.4 million products, services and supports between July 2016 and January 31, 2024, Jordan's Principle would benefit from taking a more systematic and holistic, community-based approach to continuity of care. This new approach needs to include specific operational parameters, and most importantly, increased First Nations' self-determination and control.

71. Growth in the volume of requests and level of expenditures² is forecasted to continue, as First Nations families increasingly turn to Jordan's Principle for essential products, services and supports. However, responding only through growth in the federal implementation of Jordan's Principle could have unintended consequences, such as inadvertently shifting funds and services away from First Nations led programs thereby creating a greater dependency on Jordan's Principle. Maintaining the current federal implementation approach also facilitates prioritizing federal decision-making over that of First Nations in the delivery of services to First Nations children. While the current approach is based on Tribunal orders, a response solely through operational growth does not address gaps in products, services and supports through core programming or community level service delivery.
72. Looking forward, it is incumbent upon ISC to fulfill its legislative mandate to work collaboratively with partners to improve access to high quality services and to support and empower Indigenous peoples to independently deliver services and address the socio-economic conditions in their communities. The ultimate goal is to transfer funds and control to First Nations communities and organizations for culturally appropriate and comprehensive service delivery to First Nations children.
73. The comments of the Assembly of Manitoba Chiefs, included in paragraph 164 of the Blackstock Affidavit, highlight the need for community level service delivery for First Nations children. The Assembly of Manitoba Chiefs indicate that the Back-to-Basics Approach has led to a larger number of families who are "not connecting at the local level and are contacting ISC directly for requests". Due to the current Tribunal orders, Canada is not permitted to redirect or connect requestors to existing programs or to their First Nations for more fulsome supports. This approach does not ensure or allow for individual children to be connected locally to services and supports from which they may benefit. It also limits the ability of ISC and First Nations to work together to address gaps identified through Jordan's Principle, which could instead be resolved through existing or new programs where appropriate.

² Throughout my affidavit, the term "expenditures" refers to the actual amount of funding that has been spent through Jordan's Principle, according to ISC's financial system of record (SAP). This reflects the amount spent for Jordan's Principle in the individual fiscal year only.

74. In Canada's view, a more strategic and comprehensive long-term approach to supporting First Nations children through Jordan's Principle is required. To that end, and consistent with ISC's legislated mandate to support self-determination through the transfer of service design, development and delivery to Indigenous organizations and partners, Canada must have the ability to work with national and regional First Nations partners and communities to advance a long-term vision for Jordan's Principle.
75. This approach requires the introduction of robust systems that provide timely and equitable access to core services and programming that is responsive to the needs of First Nations children. It aligns with a long-term vision for Jordan's Principle self-determination, whereby the needs of First Nations' children are met through a First Nations led approach, centred around culturally appropriate, community-based and holistic services. First Nations' service delivery mechanisms would allow willing First Nations to administer Jordan's Principle in their communities, based on their knowledge of the unique needs of their community members.
76. Under this long-term vision, while continuing to cover remaining gaps, Canada's role would be more limited to providing products, supports and services where the demands exceed the resources and capacity of the First Nation or where an eligible child does not have a connection to community or with the First Nation service delivery organization.
77. Currently, ISC is using data and evidence from Jordan's Principle to provide a more in depth understanding of requests and to inform more systematic improvements. ISC is leading a project to systematically identify the present overlaps, gaps and/or opportunities for ISC funded community-based programs to provide similar access to the most frequent Jordan's Principle requests. Results from this project will be used to inform future program reforms and funding requests. This would allow for communities and individuals to receive programmatic supports rather than continuing to make *ad hoc* funding requests. In addition, information on individual and group requests to Jordan's Principle could be used to inform First Nations on areas of high request, to begin to address gaps through community-based programs and services, without requiring the submission of requests to be determined by federal public servants.
78. To increase First Nations' control over Jordan's Principle, Canada would work to support First Nations in their efforts to strengthen capacity to develop new governance and service

delivery models. To achieve this, consideration may be given to the establishment of Jordan's Principle regional agreements and governance structures. Information on the current state of individual and group requests could be leveraged in discussions with First Nations, to assess approaches to service delivery that address the needs of children without requiring the submission of a request to the federal government.

79. Canada is of the view that a long-term vision cannot be achieved while Canada remains obliged to implement Jordan's Principle in accordance with all of the Tribunal's existing orders. For instance, under the Tribunal's orders, when ISC is the government department of first contact, ISC is prohibited from administrative case conferencing or service navigation to existing First Nations' service providers. As such, ISC cannot direct a family requesting respite service through a Jordan's Principle individual request back to their community, even if respite care is already being delivered through community-based programming funded by Jordan's Principle or other programs. This may unintentionally create competition in the hiring of finite local human resources as well and perpetuate a 'one-off' approach to service delivery, rather than a 'system-based' approach. Further, the respite care provider employed by the community usually operates in a more supportive environment, as part of a team, receiving training and making sure performance standards are met, with the oversight of a First Nations health manager. It is not guaranteed that these factors would be present when families contract their own respite care provider funded through a Jordan's Principle individual request.
80. Further, Canada has heard from First Nations service providers that they do not want to be bound by the timelines in 2017 CHRT 35, and are unwilling to assume responsibility for the administration of the Jordan's Principle initiative without the ability to redesign the service delivery model.

81. Canada has confirmed its interest in advancing a long-term approach for Jordan's Principle to the parties, including more recently in 2022, and remains committed to doing so with First Nations partners. First Nations have expressed to ISC their interest in new approaches in how Jordan's Principle is delivered in their regions. In response, in 2023 ISC assigned a dedicated team to advance exploratory discussions on modernizing and tailoring Jordan's Principle service delivery mechanisms to local and regional circumstances.

SWORN/AFFIRMED before me this 14th)
day of March, 2024, at the City of Gatineau,)
in the Province of Quebec, Canada)



_____)
A Commissioner of Oaths for Quebec,)
with jurisdiction across Canada and)
all Countries)


_____)
CANDICE ST-AUBIN

(George Exarhos #229835)

