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Our File Number: LEX-500166425

January 10, 2025

Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, Ontario K1A 1J4

Dear Members Marchildon and Lustig,

**Re: First Nations Child and Family Caring Society of Canada et al. v.
the Attorney General of Canada et al.
Tribunal File: T1340/7008**

We write on behalf of Indigenous Services Canada (ISC) with Canada's report to the Tribunal, as required by the November 21, 2024 Summary Ruling (**Summary Ruling**), that Canada provide information (1) confirming sufficient and sustainable resources, including funding for First Nations and others under Jordan's Principle; and (2) reporting on progress in coordinating federal programs. This is the second report Canada has filed with the Tribunal in response to the Summary Ruling (filed December 10, 2024).

This report is being provided while Canada and the parties are currently participating in Tribunal-assisted mediation on a number of overlapping issues, and as ordered in the Summary Ruling.

As directed by the Tribunal on December 18, 2024, Canada will provide an additional report with an update on ISC's progress on backlogged requests on January 17, 2025.

(1) Confirmation of sufficient and sustainable resources, including funding

Annual Baseline Funding

The Jordan's Principle initiative has an annual reference level (or baseline) of \$772.8 million per year approved by the Department of Finance until the end of the 2027-28 fiscal year.¹ The baseline level is the amount ISC begins each fiscal year to cover annual costs of approved requests as well as the operational costs of administering the Jordan's Principle initiative. If necessary, ISC may seek additional in-year funding through the federal budget process or through off-cycle budget requests. Decisions on funding levels are made by the Minister of Finance and the Prime Minister and are subject to Parliamentary appropriations.

¹ The federal government fiscal year begins April 1 and ends March 31.

Since 2016, over \$8.8 billion has been allocated to Jordan's Principle in funding for products, services, and supports for First Nation children. More than 8.2 million products, services and supports have been approved.

Requests to Jordan's Principle may be made in either an individual or a group request stream. Different service models have been developed across the country in response to realities within the regions. Several parties are involved in the delivery of Jordan's Principle, including those taking a broader role in decision-making. This includes the delivery of approved services through their group requests or delivery of service coordination to support individual requestors. Some parties provide support in the administration of invoice processing related to approved individual requests by ISC.

ISC works diligently to track the costs associated with the delivery of these different functions and to provide appropriate level of funding to support these functions and requests. Overall, communities submitting group requests have received approval and funding without issue.

Contribution Agreements

Group requests under Jordan's Principle for products, services, or supports that address the needs of multiple children from different families/households are funded through contribution agreements between ISC and First Nation partners and community organizations. ISC reimburses a recipient in accordance with the terms and conditions of the contribution agreement, and the recipient distributes the funding based on the community's proposal outlined in the group request. If a First Nation or community organization has an existing contribution agreement with ISC for other ISC programs, the contribution agreement can be amended by agreement to include funding for the approved group request.

Since the 2020-21 fiscal year, ISC has approved over \$5 billion in funding through contribution agreements with First Nations, Tribal Councils, First Nation organizations, and others to support the delivery of Jordan's Principle services to First Nation children. This includes the 2024-25 fiscal year in which ISC approved over \$1.67 billion in funding through contribution agreements (see Annex A, Table 1). Of this, over \$1.23 billion was approved through requests from First Nations, Tribal Councils, and other First Nation organizations that are involved in the delivery of services for First Nation children (see Annex A, Table 2).

For the purposes of this report, ISC is sharing with the Tribunal and parties relevant information from the contribution agreements in Annex A that report on the level of funding approved by ISC over the last five fiscal years.

Annex A: tables provide relevant information on funding approved by ISC through contribution agreements under Jordan's Principle for the last five fiscal years:

Table 1 – overall total funding approved and allocated by ISC through contribution agreements for each region. This includes total funding to First Nations, Tribal Councils, and other First Nation organizations (summarized separately in Table 2), as well as service providers including Provincial School Boards, First Nation or Provincial Health

Authorities/Boards, Child and Family Services, Friendship Centres, cultural centres, and others.

Table 2 – funding approved and allocated through contribution agreements to First Nations, Tribal Councils, and First Nation organizations under Jordan’s Principle.

Reporting Requirements

Reporting requirements are key to understanding how funds are spent, including how funds are utilized for group requests. Reporting is also helpful to identify unspent funds at the end of the fiscal year and the results achieved with the funding.

All recipients of contribution agreement funding, including for Jordan’s Principle, are subject to reporting requirements, timelines, and procedures as set out under the terms and conditions of the contribution agreement and the Transfer Payment Policy. Reporting requirements were suspended due to the extraordinary public health emergency during the COVID-19 pandemic in 2020 but reinstated in October 2024.

(2) Coordination of federal programs

Since the Tribunal’s 2016 merits decision, Canada has improved overall access to critical services for First Nation children and their families across the country. To date, federal efforts have focused on scaling up the Jordan’s Principle initiative to ensure that it is implemented as directed by successive Tribunal orders.

ISC was created in 2017 to bring a holistic approach to delivering social, healthcare, and infrastructure services essential to healthy First Nation children, individuals, families and communities. The majority of ISC programs provide funding to First Nation communities and organizations in the delivery of those services according to the terms and conditions of the programs and service delivery plan.

The Jordan’s Principle operational model is a complex federal-centric request driven model that is large scale and not easily coordinated. As such, there are challenges coordinating Jordan’s Principle horizontally with sector-specific programs at community, provincial, territorial and federal levels. In addition, there are multiple sectors implicated at this stage from health (including various types of health services including allied health, medical supplies, and equipment) education, social and other community-based services.

Moreover, urgent/non-urgent individual and group requests are at times submitted to Jordan’s Principle with limited supporting documentation and are decided with limited parameters on eligibility of cost, type, frequency and duration of funding for services, products and supports. Such a complex request driven model is challenging to synchronize with an operational approach used in the majority of public programs or service delivery models at local, provincial/territorial, and federal levels.

By way of an example of the challenges in coordinating federal programs where funding requests are made under Jordan’s Principle but covered under another program: a request may be made to Jordan’s Principle for expenses for medical transportation to support eligible clients to access

medically necessary health services that are not available in the requestor's community. This request would ordinarily fall within the coverage provided by the Non-Insured Health Benefits (NIHB). However, since NIHB operates differently, the amount of time taken to decide the request would likely exceed the current timelines in place under Jordan's Principle. Therefore, it may not be possible for NIHB to receive a referral request from Jordan's Principle and make a decision within 48 hours (for a non-urgent request).

That said, the Tribunal's recent clarifications that ISC may connect requestors with existing programs is helpful to ISC's continued efforts to implement the Tribunal's orders and make operational improvements. These improvements will necessarily take time to develop to ensure the capacity and responsiveness of existing program processes comply with the Tribunal's orders, and First Nations who are responsible for the operation and management of ISC funded programs are engaged with as required.

To be able to undertake meaningful coordination across federal programs would require moving beyond the current federal model of Jordan's Principle and advance much needed reforms. To that end, ISC is engaging in numerous efforts, as outlined below.

The Service Alignment Initiative

ISC has begun an internal assessment and mapping of Jordan's Principle requests to ISC federal programs through the Service Alignment Initiative to better understand trends and connections in ISC funded community-based programs and Jordan's Principle requests.

Based on an initial review, there are few existing ISC programs and services providing off-reserve funding on the scale provided through Jordan's Principle because First Nations Peoples residing off-reserve are able to access services available to any other resident living off-reserve within a province or territory. Moreover, Jordan's Principle does not operate using the same parameters as other programs that have policies, rules, terms and conditions regarding program eligibility and scope. As such, there is limited transferability between Jordan's Principle requests and other ISC programs.

It is anticipated that the Service Alignment Initiative will inform further changes to Jordan's Principle. The preliminary analysis of the Service Alignment Initiative is expected in the Summer of 2025.

Ultimately, Canada's goal is to increase First Nation's control, delivery and decision-making for the services, supports and programs for children.

IFSD research project to examine options to reform Jordan's Principle

ISC has funded the Institute of Fiscal Studies and Democracy (IFSD) (via the Caring Society) to complete a data assessment (completed in Nov 2022) and a needs assessment (final report pending). ISC's funding for the needs assessment is \$1,297,340 million over the period of 2022 to 2025. The IFSD needs assessment will include:

- Recommendations for the development of a policy framework;

- A review of existing programs and services;
- Recommendations for reforming the operationalization of Jordan's Principle; and
- A financial analysis and costing of the baseline and any proposed reforms.

Given the IFSD's project objectives, the final IFSD report will offer helpful insights on existing programs and services as well as how to better coordinate among these programs.

ISC's understanding is the final report is currently being drafted. ISC will thoroughly consider IFSD's recommendations once available.

In addition to IFSD's research, ISC continues to consider all analyses and service delivery experience from stakeholders and experts. As such, ISC continues to make operational changes to dynamically respond to all information it receives, as well as the Tribunal's orders. This has recently included, for example, revisiting how urgent cases are triaged, prioritizing the clearing of backlogs, and systemic changes to better identify urgent cases.

Connecting recurrent group requestors within Jordan's Principle with First Nation Community-based programs

ISC is exploring options to address recurring group requests through community-based programming.

ISC has initiated a pilot establishing a children's stream within the First Nations and Inuit Home and Community Care (FNIHCC) program. This will allow the highest recurrent expenditures approved within Jordan's Principle for home and community care related services to be delivered through the FNIHCC pilot program.

ISC has received additional funding of \$234 million over 5 years for the FNIHCC pilot program beginning in 2025. It is anticipated that during Year 1, twenty to twenty-five community home care programs will be identified to participate in the pilot program. This funding will target community home care programs in Ontario, Manitoba and Saskatchewan as these regions have the highest expenditures for home and community care related products and services under Jordan's Principle. Regional officials from the FNIHCC program and Jordan's Principle are working together to determine eligible communities based on specific criteria. The services that would be eligible for this funding include pediatric palliative care services, allied health services, respite services, case management services and nursing services.

Connecting incoming requestors to Jordan's Principle with available programs and services.

ISC will continue to consider ways to improve service coordination to allow First Nation children and families to access programs and services, in addition to Jordan's Principle.

Overall, ISC remains dedicated to building the capacity of existing Jordan's Principle service coordinators to assist families navigate the full range of existing federal and provincial programs. Moreover, ISC is working to establish an interdepartmental network to share information among departments providing programming to First Nation children and families on and off-reserve.

ISC's work continues to improve efforts to ensure First Nation children and families are connected to provincial, territorial, federal and community-based programs and find further ways to clarify under which circumstances requestors may be safely re-directed to other existing programs.

Sincerely,



Sarah Bird
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Encls.
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ANNEX A

TABLE 1: total funding overall approved and allocated by ISC through contribution agreements for each region under the Jordan's Principle initiative. Represents funding to First Nations, Tribal Councils, First Nations' organizations, as well as service providers including Provincial/Territorial School Boards, First Nations or Provincial Health Authorities/Boards, Child and Family Services, Friendship Centres, Cultural Centres, and others.

Region	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	Grand Total
ALBERTA	\$ 48,935,473.00	\$ 38,935,742.00	\$ 73,279,665.00	\$ 151,367,153.56	\$ 157,397,761.00	\$ 469,915,794.56
ATLANTIC (NS, NB, NL, PEI)	\$ 32,391,697.00	\$ 34,676,293.00	\$ 60,731,001.00	\$ 70,215,571.00	\$ 62,909,661.00	\$ 260,924,223.00
BRITISH COLUMBIA	\$ 1,890,096.52	\$ 4,363,507.13	\$ 10,182,041.76	\$ 23,810,123.11	\$ 37,930,076.14	\$ 78,175,844.66
MANITOBA	\$ 125,685,604.00	\$ 127,370,749.00	\$ 190,211,484.00	\$ 390,811,743.44	\$ 453,472,900.00	\$ 1,287,552,480.44
NORTHERN REGION (NWT, YK, NU)	\$ 50,056,830.00	\$ 68,502,833.69	\$ 87,841,811.00	\$ 151,746,628.50	\$ 242,508,252.95	\$ 600,656,356.14
ONTARIO	\$ 167,021,977.87	\$ 193,789,837.00	\$ 318,092,323.75	\$ 468,099,245.94	\$ 463,534,010.09	\$ 1,610,537,394.65
QUEBEC	\$ 34,852,378.00	\$ 31,618,493.00	\$ 56,330,761.00	\$ 79,314,725.00	\$ 56,610,235.00	\$ 258,726,592.00
SASKATCHEWAN	\$ 49,641,526.40	\$ 55,618,988.00	\$ 65,481,102.00	\$ 165,576,294.00	\$ 197,106,500.00	\$ 533,424,410.40
Grand Total	\$ 510,475,582.79	\$ 554,876,442.82	\$ 862,150,189.51	\$ 1,500,941,484.55	\$ 1,671,469,396.18	\$ 5,099,913,095.85

TABLE 2: funding approved and allocated by ISC through contribution agreements with First Nations, Tribal Councils, and First Nations' organizations under the Jordan's Principle initiative.

Region	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	Grand Total
ALBERTA	\$ 33,733,825.00	\$ 14,301,474.00	\$ 34,332,835.00	\$ 72,509,536.56	\$ 67,767,524.00	\$ 222,645,194.56
ATLANTIC (NS, NB, NL, PEI)	\$ 30,555,177.00	\$ 32,047,898.00	\$ 53,633,339.00	\$ 61,704,469.00	\$ 58,939,824.00	\$ 236,880,707.00
BRITISH COLUMBIA	\$ 1,860,096.52	\$ 4,273,507.13	\$ 9,442,730.40	\$ 21,804,099.95	\$ 33,806,020.88	\$ 71,186,454.88
MANITOBA	\$ 106,298,676.00	\$ 106,785,824.00	\$ 159,488,648.00	\$ 345,517,154.44	\$ 416,706,435.00	\$ 1,134,796,737.44
NORTHERN REGION (NWT, YK, NU)	\$ 9,350,914.00	\$ 16,601,598.69	\$ 27,541,407.00	\$ 49,580,168.50	\$ 62,817,554.95	\$ 165,891,643.14
ONTARIO	\$ 152,428,430.87	\$ 175,156,443.00	\$ 293,991,433.75	\$ 429,585,114.94	\$ 414,671,794.09	\$ 1,465,833,216.65
QUEBEC	\$ 25,058,558.00	\$ 25,158,605.00	\$ 45,292,202.00	\$ 57,311,959.00	\$ 44,794,205.00	\$ 197,615,529.00
SASKATCHEWAN	\$ 30,099,264.40	\$ 33,073,257.00	\$ 39,481,382.00	\$ 112,614,960.00	\$ 131,069,637.00	\$ 346,338,500.40
Grand Total	\$ 389,384,941.79	\$ 407,398,606.82	\$ 663,203,977.15	\$ 1,150,627,462.39	\$ 1,230,572,994.92	\$ 3,841,187,983.07