

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

and

INNU NATION

Intervener

Affidavit of Nathalie Nepton

I, Nathalie Nepton, Director General of the Children and Families Branch at Indigenous Services Canada, residing in the City of Gatineau, in the Province of Quebec, AFFIRM THAT:

1. I am a proud Innu woman of the *Première Nation des Pekuakamiulnuatsh*, of Mashteuiatsh, located in the Province of Québec.
2. I am currently employed as the Director General of the Children and Families Branch at Indigenous Services Canada ("ISC"), which falls within the Child and Family Services Reform Sector. I have been in this position since June 3, 2019 and report directly to the Assistant Deputy Minister of the Child and Family Services Reform Sector of ISC.
3. As Director General of the Children and Families Branch, I am responsible for overseeing the delivery of First Nations Child and Family Services ("FNCFS") Program. Teams within the Branch support the delivery of the Program, and the implementation of the orders of the Canadian Human Rights Tribunal (the "Tribunal") in the case *First Nations Child and Family Caring Society of Canada et al v. Attorney General of Canada* (T1340/7008)
4. I joined what was then the Department of Indian Affairs and Northern Development in 1998. I have held various roles within the Department where I have provided policy advice, overseen the administration of programs, and worked on legislative reforms.
5. I graduated from the University of Ottawa with a degree in Common Law. I also hold a Bachelor's Degree in History, which I obtained from the College of St. Elizabeth (Morristown, New Jersey).
6. In my capacity as Director General of the Children and Families Branch, I have personal knowledge of the management and implementation of the First Nations Child and Family Services ("FNCFS") Program. This includes the implementation of the Tribunal orders and the Program's efforts to shift the child and family services system to be truly community-directed, child-centered and focused on prevention and early intervention. Where I do not have direct knowledge about the matters I attest to in this affidavit, I identify the source of information and believe that information to be true.
7. In preparing this affidavit, I have reviewed the affidavits of Cindy Blackstock and Peter Johnston affirmed October 30, 2020, filed by the First Nations Child and Family Caring

Society (“Caring Society”); the affidavit of Grand Chief Joel Abram affirmed October 30, 2020, filed by Chiefs of Ontario; and, the affidavit of Germaine Benuen sworn October 30, 2020, filed by Innu Nation. I have also read the January 26, 2016 Decision (2016 CHRT 2) and the Tribunal rulings dated April 26, 2016 (2016 CHRT 10), September 16, 2016 (2016 CHRT 16), and February 1, 2018 (2018 CHRT 4).

A. Response to Dr. Blackstock’s Requests for Information

8. On January 29, 2020, Dr. Blackstock asked ISC to outline how it was aligning funding it provides to provinces and territories through the FNCFS Program as a result of the 2016 CHRT Decision. Given the broad scope of the question, ISC sought clarification from Dr. Blackstock over the next few months to better understand her request in order to provide as fulsome a response as possible. In addition, given the potential privacy implications of sharing federal, provincial, territorial agreements, ISC was required to work with provincial governments and regional colleagues to obtain the documents requested and determine the feasibility of sharing this information. While there was a delay in communication given the COVID-19 pandemic, between April and July 2020, ISC worked with Dr. Blackstock to respond to a variety of requests related to the original question, including providing a breakdown of funding in each region and a copy of all federal-provincial/territorial agreements in place. This type of communication between the Department and its partners is normal.

B. Delivery of Child and Family Services to On-Reserve First Nations Children and Families

9. Child and family services are currently delivered to on-reserve First Nations children and families and their communities through multiple mechanisms. First Nations children and families ordinarily resident on reserve and in the Yukon are funded by the federal government through the FNCFS Program and services are primarily delivered by provincially delegated FNCFS agencies (“FNCFS delegated agencies”) or, in communities that are not served by a FNCFS delegated agency, services are provided by the province or territory directly to the First Nation.
10. FNCFS delegated agencies must comply with the FNCFS Program’s Terms and Conditions to receive funding from Canada. In particular, they must deliver services in accordance with

provincial/territorial legislation and standards. They must also comply with the national principles and minimum standards for the provision of child and family services, as required by the *Act respecting First Nations, Inuit and Métis children, youth and families* (“the Act”) since it came into force on January 1, 2020. Currently, the Terms and Conditions of the FNCFS Program provide for funding in four broad categories: operations, prevention, maintenance, and community well-being initiatives (discussed in more detail below). The FNCFS Program’s Terms and Conditions are attached as **Exhibit NN-1**.

11. In the instances where First Nations are not served by a FNCFS delegated agency, funding is provided to the province or to the Yukon through federal-provincial or federal-territorial funding agreements which deliver child and family services directly to First Nations reserve communities. In these situations, ISC reimburses the provinces or territory for these costs consistent with the provisions under these funding agreements. Agreements are in place with Newfoundland and Labrador, Yukon, Alberta, British Columbia and Ontario. In jurisdictions where a federal-provincial agreement is not in place, ISC funds provincial governments to provide services to communities not served by a FNCFS delegated agency through other arrangements. This information is included in **Exhibit NN-2**. In addition, **Exhibit NN-3** provides an overview of FNCFS related expenditures in each jurisdiction from 2015-2016 to 2018-2019.

12. It is important to note that the number of FNCFS delegated agencies, as well as the number of communities they serve varies through time, depending on an FNCFS agency’s delegation status, as well as on whether it has an agreement with a given community to deliver services. On August 4, 2020, there were 149 FNCFS delegated agencies in Canada, serving approximately 500 First Nations communities. As of November 6, 2020, ISC estimates that there are up to 138 First Nations that are not currently served by a FNCFS delegated agency but receive services directly from provinces or the Yukon government.

C. Improving Funding to FNCFS Program Funding to First Nations Communities

13. In response to the CHRT’s January 2016 decision, which found the funding model for the FNCFS Program to be discriminatory, in 2016, ISC engaged with First Nations leadership, communities, youth, agencies and other service providers, and the provinces and Yukon on

how to reform the FNCFS Program. A key point heard through this engagement process was the need for additional investments directly to First Nations for prevention and early intervention.

14. Following this engagement process, the then Minister of ISC hosted an emergency meeting in 2018 with provincial and territorial governments, First Nations, Inuit and Métis leaders, Elders, youth, community service organizations and advocates to address the over-representation of Indigenous children in care and chart a plan towards systemic reform. The meeting yielded six points of action that currently guide the FNCFS reform agenda, which included Point of Action #2: 'shifting programming focus to prevention and early intervention.' This approach is a significant aspect of the current reform work underway with the Parties to the CHRT complaint. The six points of action are attached as **Exhibit NN-4**.
15. Subsequent to the 2016 Tribunal rulings, ISC has increased funding to both FNCFS delegated agencies and First Nations through Budgets 2016 and 2018 to support FNCFS Program reform and implement the CHRT's orders.
16. For example, Budget 2016 committed \$634 million over 5 years, beginning in 2016-2017, to support both the immediate needs of First Nations children and to begin a process of reforming the FNCFS Program ("Enhanced Prevention" funding). Further, Budget 2018 committed an additional \$1.4 billion over 6 years and ongoing to address funding pressures facing FNCFS delegated agencies, while increasing prevention resources for communities through the introduction of the Community Well-Being and Jurisdiction Initiative (CWJI).
17. These investments have allowed ISC to adjust FNCFS delegated agency funding for inflation and cost of living, while also working to ensure that prevention-based investments are consistent across the country.

Community Well-Being and Jurisdiction Initiative

18. The introduction of the CWJI funding stream marked a concrete shift toward the implementation of a community-driven and community-delivered child and family services prevention model in First Nations.

19. CWJI extends funding beyond FNCFS delegated agencies, which were the subject of the 2016 CHRT Decision and the 2018 Ruling. In addition to implementing the Tribunal's orders, ISC sought to introduce additional funding to ensure that communities not served by FNCFS delegated agencies also received financial support for prevention-related activities.
20. The CWJI funding stream is also designed to directly support First Nations to assert greater control over the well-being of their children and families. In effort to develop nation-to-nation relationships between Canada and First Nations, CWJI gives communities the broadest flexibility, within the Terms and Conditions of the FNCFS Program, by allowing communities to decide how to use their funding allocation to address their needs, including building their own capacity to deliver prevention services. First Nations may use funding in whole or in part to develop and deliver prevention services, or for projects that support the exercise of jurisdiction over child and family services. In addition, communities have the ability to carry over unspent funds from year to year, to ensure that they have the resources needed to support their children and families.
21. Of the estimated 138 First Nations not served by a FNCFS delegated agency, approximately 124 have since 2018 received direct funding from the FNCFS Program through CWJI. Beginning in 2018-2019 communities received \$105 million, and funding will increase incrementally to \$140 million in 2022-2023. While the commitment to fund recipients through CWJI is set to expire on March 31, 2023, this does not necessarily mean that the activities supported by CWJI will end. ISC is committed to the long-term reform of the FNCFS Program, but it must be done in cooperation with First Nations partners and in accordance with the principles of the *Act*, which affirms the rights of First Nations, the Métis and the Inuit over child and family services, and establishes national principles and minimum standards applicable to the provision of child and family services in relation to Indigenous children. As part of this process, ISC will examine how it can best continue to support First Nations in shifting child and family services in their respective communities towards a prevention model which respects the principles of the *Act*.
22. CWJI funding is currently being provided to a variety of First Nation organizations and communities not served by a FNCFS delegated agency. This funding has been distributed

through two main avenues: 1) Pilot projects and engagement/jurisdiction projects; and 2) Regional allocations. The pilot projects are projects that were brought forward during a Ministerial Special Representative's engagement process on FNCFS Program reform in 2016 and 2017 and the engagement and jurisdiction projects specifically relate to the *Act*. The regional allocation amounts were determined based on engagement with the Consultation Committee on Child Welfare in 2018. Regional allocation distribution approaches within each region were determined through regional tripartite tables and by consulting other regional partners, such as First Nations and First Nation organizations.

23. In British Columbia, for example, as per a recommendation from the First Nations Leadership Council, \$40,000 was provided to each of the 82 unaffiliated First Nations communities based on a formula, with an additional allocation available if requested. First Nations communities not served by a FNCFS delegated agency completed a basic proposal form to access the funds. In Alberta, both unaffiliated and affiliated First Nations were provided a base amount of \$150,000. The remaining regional allocation was distributed to these communities based on the three-year average of their on-reserve child population. These two models provides the greatest flexibility to First Nations on how to allocate funding at a regional level.
24. The CWJI funding stream is currently being accessed by a variety of First Nations organizations and communities nationally for projects ranging from prevention to building capacity to assume jurisdiction of child and family services, as contemplated by the *Act*. For example, in 2019-2020, ISC funded approximately 51 pilot/engagement and jurisdiction projects, as well as approximately 387 regional allocation projects. The pilot/engagement and jurisdiction projects included both prevention and jurisdiction-related initiatives. The approximately 387 projects funded through the regional allocations fit within the following themes: child, family and community well-being; prevention and healing activities; integrated and wrap around services to support families; repatriation and reunification of children and youth in care or supports for aging out youth; jurisdictional models for child and family services to support child and family well-being; and other types of projects.
25. Some examples of successful CWJI pilot projects funded to date include:

- a. Manitoba First Nations Family Advocate Office - Funding provided to expand the advocacy role of the Child Advocate Office and to support families who have brought, or who are bringing, their children home after a period of time in child and family services care. This funding is also being used to support the Assembly of Manitoba Chiefs Grandmothers Council which plays an important role in revitalizing traditional parenting ways, providing traditional knowledge as community customary care models are planned, and taking the lead role in preventing newborn apprehensions.
- b. Ma Mawa We Chi Itata Centre Family Group Conferencing - Established in 1984 in Winnipeg, Ma Mawi Wi Chi Itata, offers community-based programs and services and has over 30 years of experience working with Indigenous families. It uses Family Group conferencing, a Maori wise practice which has been successful in New Zealand with outcomes that include reducing the number of children in care by provision of adequate resources. Family Group Conferencing is an Indigenous model of care that utilizes ceremony to support traditional Indigenous ways to support and empower the voice of families to become the decision makers in the safety and protection of their children while mandated and non-mandated services engage by supporting the family plan. Success is based on children being reunited with their parents and/or family members with the ultimate goal of the child(ren) no longer being in care of the child and family services system. ISC provided funding to support a family centered, culturally appropriate community-based model using Family Group Conferencing for Indigenous families residing on reserve or migrating to urban centres. The focus was to work with key family members, child and family services and other supports/resources to develop a supportive plan for the child and family.
- c. The Stikine Wholistic Working Group - Three First Nations in British Columbia (Tahltan, Kaska, Tlingit) through the Stikine Wholistic Working Group (SWWG) are trailblazing a new best practice in social policy and innovation. The SWWG has been recognized as a provincial and international best practice for its work that builds healthy communities by using local expertise to restore traditional practices and networks of support. The Stikine region of BC is seen as likely the only jurisdiction in Canada to have reduced their number of children in care by 50%. Relations with Ministry social workers also improved significantly.

26. Some examples of successful projects funded to date through the regional allocation processes include:

- a. Misipawistik Cree Nation – Funding provided to support: cultural activities to increase opportunities for community members and families to learn and participate in culture including annual powwow, sun dances and ceremonies throughout the year; recreational activities and initiatives including playground maintenance, support for youth fitness, sports and community events; community services to promote community well-being, opportunities for youth, social connections, Cree language promotion and Elder engagement; and positive parenting and life skills workshop and an Aftercare Coordinator position created to provide services and support to community members returning home from addictions treatment, to reduce relapses and families at risk.
- b. Opaskwayak Cree Nation (OCN) - Building an Elder and Youth/Family Cultural Centre for partners to use for collaborative programming, including as a culture and language centre for restoration of families and community relationships. Programming within the building will be accomplished through collaboration between OCN organizations – child and family services, Opaskwayak Education Authority, Opaskwayak Health Authority, as well as the recreation and restorative justice departments as they practice Minoyawin Katoskatamak (Working Together for Health).

D. Delivery of First Nations Child and Family Services by Jurisdiction

27. The provincial government of **Newfoundland and Labrador** provides protection child and family services directly to the two Innu communities of Natuashish and Sheshatshiu, both located in Labrador. According to ISC's data, on March 31, 2019, there were approximately 82 on-reserve First Nations children in care from these communities. ISC reimburses the province for the cost of providing these services as per the bilateral funding agreement between Canada and the province. Given that prevention is not part of the legislation in the province of Newfoundland and Labrador, the Enhanced Prevention Focused Approach ("EPFA") was not incorporated in the bilateral funding agreement. However, following Budget 2016 investments,

funding has been provided to the Innu Roundtable Secretariat, Natuashish and Sheshatshiu for prevention-based programming in these two communities. Nearly \$3 million was provided in prevention funding in 2020-2021. In addition, funding provided to the Province of Newfoundland and Labrador through the bilateral agreement has increased from \$10.8 million in 2015-2016 to \$19.1 million in 2018-2019. This represents a 76.9% increase over four years.

28. ISC has also been providing band representatives funding to the Innu Nation since 2019-2020 under the Jordan's Principle funding stream. Funding will be made available in 2020-2021 for band representatives to the Innu Nation under the FNCFS CWJI funding stream.
29. Miakpukek First Nation operates in accordance with an agency model which allows it to access the CHRT actual claims process for protection, operations, and prevention related costs. As such, ISC provides direct funding to the Miakpukek First Nation based on actual expenditures to deliver protection and prevention child and family services. Miawpukek has its own service agreement with the Province of Newfoundland and Labrador for protection services, in which the salary of a delegated provincial social worker is paid for by Miawpukek to work within the community and with the community's social workers. ISC has proposed a similar service delivery model to the Innu, whom have chosen not to use this option.
30. In **Nova Scotia**, all First Nations are served by one FNCFS delegated agency, the Mi'kmaw Family and Children Services of Nova Scotia, which provides both protection and prevention services and receives funding from ISC, including through the CHRT actual claims process and CWJI.
31. In **Prince Edward Island**, all FNCFS Program funding, including CHRT actual claims and CWJI, flows to the Mi'kmaq Confederacy of Prince Edward Island ("MCPEI"), which operates according to an agency model and delivers prevention services to the province's on-reserve First Nations. MCPEI purchases protection services from the province.
32. In **New Brunswick**, most communities receive services from FNCFS agencies. These FNCFS agencies receive direct funding from ISC, which includes access to the CHRT actual claims process. In two communities, at the request of the First Nations, ISC funds the Province according to a funding agreement, and the Province in turn delegates the delivery of protection

and prevention services to an incorporated organization, the Tobique Child and Family Services Agency. Prevention funding has flowed to the agency under the funding agreement since Budget 2016 and also includes Budget 2018 investments. Additional operations and prevention funding is being provided to the agency in 2020-2021 to meet the needs expressed and submitted via an additional funding request. ISC continues to work with the province and these First Nations to ensure they have the funding needed for delivering prevention and protection services.

33. In **Quebec**, ISC funds FNCFS delegated agencies to deliver prevention and protection services in First Nations communities. In addition, provincially-run *Centres intégrés de santé et de services sociaux* provide protection services to certain communities through an agreement between ISC and the Province. ISC also has agreements with the communities served by the provincial centres to provide prevention services to their own communities. ISC also funds the *Conseil de la Nation Atikamekw* through an agreement with the Tribal Council to deliver protection and prevention services to two First Nations communities. All First Nations communities in Quebec are currently served by a service provider that have access to the CHRT actual claims process.
34. In **Ontario**, child and family services for First Nation people living on reserve is delivered through the Ontario *1965 Memorandum of Agreement Respecting Welfare Programs for Indians* (the “1965 Agreement”). Under this agreement, the federal government reimburses Ontario for a portion of the costs of a variety of social programs, including its welfare and child and family services programs (approximately 93% of provincially delegated First Nations agency eligible expenditures). Ontario provides the oversight and general administration of the *Child, Youth and Family Services Act, 2017* to all residents in Ontario including on reserve First Nations children and families.
35. Service providers in Ontario include FNCFS delegated agencies, mainstream Children’s Aid Societies, FNCFS agencies that are mandated by the province to provide only prevention services, and First Nations that have service contracts with the Province to deliver prevention services to their communities.

36. In addition, in 2016, at the request of the Chiefs of Ontario, and to support First Nations in moving towards a community-based prevention model, ISC provided the Ontario portion of Budget 2016 Enhanced Prevention funding directly to all First Nations communities in the province. First Nations in Ontario also receive CWJI funding from the FNCFS Program.
37. In **Manitoba**, all First Nations receive protection and prevention services from FNCFS delegated agencies. As a result, communities have access to the CHRT actual claims process, in addition to receiving CWJI funding.
38. In **Saskatchewan**, ISC funds FNCFS delegated agencies, which deliver protection and prevention services to the majority of First Nations in the province. These agencies have access to the CHRT actual claims process. The Province delivers services to the remaining communities; many of which have entered into a Prevention Protocol with the Saskatchewan Ministry of Social Services in order for them to provide prevention services to their own communities. The Prevention Protocol allows the communities to undertake prevention activities while the province provides protection services. ISC funds these prevention activities through CWJI funding.
39. In **Alberta**, ISC funds FNCFS delegated agencies to provide protection and prevention services to most First Nations. Provincial agencies also provide protection services to the other communities, pursuant to the “Arrangement for the Funding and Administration of Social Services” (“Administrative Reform Agreement”) which sets out the arrangements for funding and administration of various social services, including child welfare, applicable to First Nations ordinarily resident on reserve. Alberta is reimbursed by Canada for these services, according to this agreement. These communities also receive CWJI funding from the FNCFS Program to support prevention activities.
40. In **British Columbia**, delegated FNCFS agencies deliver some or all child and family services to First Nations¹. For communities not served by a delegated agency, ISC funds the Province for prevention and protection services. ISC also provides prevention funding directly to the communities not served by a delegated agency through the CWJI funding stream. British

¹ One FNCFS agency operates under its nation’s by-law (Splatsin First Nation) and receives funding from the FNCFS Program.

Columbia has a phased and graduated system of granting provincial delegation to FNCFS agencies, with levels of delegation ranging from prevention services only, to a full range of prevention and protection activities. Not all the FNCFS agencies in the province are fully delegated. In communities that are served by partly delegated agencies, the agencies provide prevention services while the Province provides protection services. ISC has a service delivery agreement with the Province to fund operations and reimburse maintenance expenses incurred for the delivery of protection services to the communities that are either not served, or are partly served, by an FNCFS delegated agency.

41. With respect to Dr. Blackstock's statements at paragraphs 29 and 30 of her affidavit alleging that Canada's funding under the service delivery agreements from 2012-2013 and 2013-2014 did not fund British Columbia according to its stated need, ISC can confirm that Canada and British Columbia are currently in discussion to identify and resolve any issues. Beginning in 2013-2014, funding under the Service Level Agreement has increased incrementally by \$7.1 million up to 2020-2021. Tripartite discussions between Canada, British Columbia, and the First Nations Leadership Council, with the participation of Dr. Blackstock, are ongoing to resolve any remaining funding issues.
42. Currently, there are no FNCFS delegated agencies in the **Yukon**. First Nations children and families receive services directly from the territorial government in the same manner as other children. Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) on behalf of ISC has a funding agreement in place with the Yukon Government to provide protection services to all First Nations children living in the Yukon.
43. Funding provided to the Yukon was determined using Directive 20-1 up until 2016. Since that time, Canada has reimbursed the territorial government based on actual costs incurred.
44. In 2016-2017, Canada introduced the 5-year EPFA funding stream. Funding flowed to the Yukon Government in year one in support of prevention related projects. In year two, funding was redirected pursuant to decisions at the Trilateral Table for the Wellbeing of Yukon First Nations Children and Families ("Trilateral Table") to the Council of Yukon First Nations in consultation with Yukon First Nations. The Trilateral Table, composed of representatives from Canada, Yukon First Nations, the Council of Yukon First Nations, and the Yukon Government,

makes funding decisions collaboratively with respect to child and family services and determines prevention funding approaches and allocations for Yukon First Nations.

45. The partnership approach to discussing First Nations child and family services matters in the Yukon has been critical in improving service delivery for First Nations children and families. The purpose of the Trilateral Table is to facilitate information sharing, collaborative decision making on priorities, program implementation, and financial resources. Decisions are based on a set of overarching principles that are grounded in acknowledgement, respect and trust within the context of the experiences of Yukon First Nations.
46. Since fiscal year 2018-2019, Enhanced Prevention Funding has flowed directly to the Council of Yukon First Nations. Currently, the Council of Yukon First Nations has over \$11 million unexpended Enhanced Prevention funding. Work is ongoing at the Trilateral Table and at the Health and Social Commission with all Yukon First Nations to support prevention needs and their vision for how services could be provided in the future. It is anticipated that once a mandate is approved by Chiefs and Councils, all funding will be expended.
47. Since the introduction of the CWJI funding stream in 2018-2019, the Trilateral Table has also determined funding approaches and allocations for community-led prevention projects in Yukon.
48. In 2018-2019 and 2019-2020, the Council of Yukon First Nations used these funds to collaborate with the Yukon Government and Yukon First Nations on the review of existing continuing care orders for First Nations children - also called the "Reunification Project" - and in 2020-2021, the parties to the Trilateral Table agreed that a call for applications would be undertaken. A sub-group of the Trilateral Table, representing all three partners, was tasked with assessing applications, including meeting with proponents and communicating decisions. Funding was provided to eight of the 14 Yukon First Nations in September 2020. A second call for applications is underway as of November 2020. It is anticipated that the full allocation will be used.
49. As a result of federal Budget investments in 2016 and 2018, the Yukon has seen a steady increase in funding since 2016. For example, in 2015-2016, the Yukon received a total of \$10

million in funding. In 2018-2019, this had increased to \$19.23 million. This represents a 92% increase over four years.

50. The FNCFS Program does not operate in **Nunavut or the Northwest Territories**. In these territories, the Department of Finance provides funding for child and family services through transfer payment agreements, which make up a portion of their annual budgets. These territorial governments decide how and where to spend the funds.

E. Policy and Legislative Context for Delivery of On-Reserve First Nations Child and Family Services

51. As noted in the description of funding across Canadian jurisdictions at paragraphs 28 to 50 above, there exists different models for the delivery of child and family services based on provincial legislation, each of which place different emphasis on prevention and early intervention.

52. It remains that there is still a wide variation across Canadian jurisdictions on legislative standards for child and family services, with some governments placing a great deal of emphasis on preventative care while others (for example Newfoundland and Labrador) are not regulating preventative activities and remain focused on protection. Examples showing the variation in legislation across jurisdictions include the following:

- a. In Ontario, a new child and youth-centered legislation came into effect on April 30, 2018, which includes culturally-appropriate support for Indigenous children and families and commits the province, in the spirit of reconciliation, to working with First Nations, Inuit and Métis peoples to help ensure that, wherever possible, they care for their children in accordance with their distinct cultures, heritages and traditions.
- b. In Québec, amendments to the *Youth Protection Act* came into force in 2017. This *Act* now recognizes the identity and cultural preservation of First Nations children; provides greater recognition for the participation of First Nations band councils and Inuit community groups in child and family services; and requires notification when Indigenous children are being placed in alternative care so as to preserve cultural identity and ensure, when possible, that care is provided by extended family or the Indigenous community.

- c. In British Columbia, amendments to the *Child, Family, and Community Service Act* came into force in late 2018. This *Act* now provides for greater involvement of British Columbia's Indigenous communities in the planning and care for their community's children who are identified as at risk.
 - d. In 2019, Yukon's Child and Youth Advocate released the Yukon Child and Youth Advocate Office Systemic Review and Recommendations report, providing the Yukon Government with 30 recommendations. The Yukon Government is working to address the recommendations from these reports to better serve children and youth in care, and in particular Indigenous children, youth and families. A review of all child welfare legislation began in 2018 in partnership with Yukon First Nations. An independent review committee has been put in place with a broad mandate to deliver recommendations on what needs to change in Yukon to improve Indigenous child welfare outcomes.
 - e. In Newfoundland and Labrador, new legislation relating to child and family services came into force on June 28, 2019. The *Children Youth and Families Act* is culturally responsive and provides for Indigenous representation at protection hearings. However, it continues to emphasize protection rather than prevention and early intervention. While prevention activities are not prohibited under the *Act*, the legislation does not regulate them.
53. In addition, First Nations, Inuit, and Métis groups have shown significant interest in exercising jurisdiction relating to child and family services under the *Act*. As of October 9, 2020, ISC has received letters or documents from Indigenous governing bodies representing over 65 Indigenous groups which include notices of intent to exercise jurisdiction under subsection 20(1) of the *Act*, and requests to enter into a coordination agreement under subsection 20(2) of the *Act*.
54. Through the *Act*, Canada has demonstrated its commitment to working with Indigenous partners towards the long-term reform of Indigenous child welfare. As these reform efforts continue and more Indigenous groups exercise their jurisdiction over the delivery of child and family services in their respective communities, the FNCFS Program will continue to respect provincial and territorial legislative frameworks and fund recipients that provide services in accordance with them.

55. Canada is at the forefront of prevention funding as most provincial and territorial jurisdictions have not yet revised legislation to account for a significant shift towards prevention. Given the need expressed by First Nations for programming that focuses on prevention and early intervention, Canada has been working directly with them to find ways to support building capacity to undertake prevention activities in their communities. Canada has made significant shifts in funding to prevention under the FNCFS Program and in doing so takes into account provincial and territorial legislative frameworks. For example, while the province of Nova Scotia made considerable changes to its legislation, prevention is still not a focus of or funded by the Province, but ISC funds the Mi'kmaw Family and Children Services of Nova Scotia agency through actuals and provides CWJI to communities.

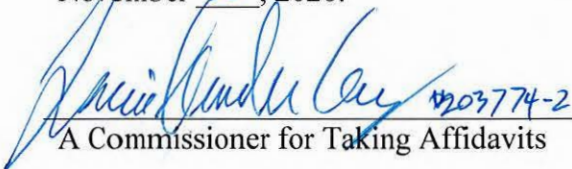
FNCFS Program and Long-Term Reform of the Program to Address Tribunal Orders

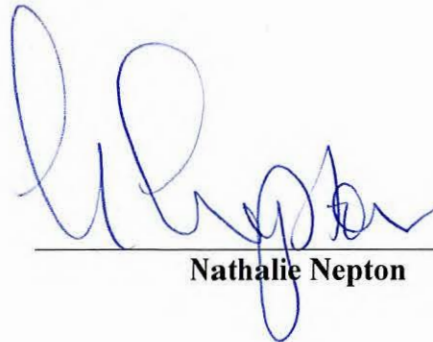
56. Canada has made many important reforms since the Tribunal's finding of discrimination in 2016. Canada has restructured government departments, co-developed Indigenous child and family services legislation, and significantly increased funding for First Nations child and family services and Jordan's Principle. More specifically, Canada's reform efforts include: conducting significant engagement with, and seeking feedback from, Indigenous partners; funding studies that provide options and recommendations on Program reform, such as those conducted by the Institute of Fiscal Studies and Democracy (IFSD), and another study that examined the impact of remoteness on the funding; working through the Child, Youth and Family Well-Being Tripartite Technical Table towards an approach to reforming the 1965 Agreement in Ontario; revising the Program's Terms and Conditions to coincide with ongoing Program reform and to ensure compliance with the CHRT's rulings; having ongoing discussions with parties to achieve resolution of issues currently before the Tribunal; and passing the *Act*.

57. The *Act* addresses long-term reform and provides a foundation for comprehensive FNCFS Program reform. The long-term reform envisioned by the *Act* represents a Nation-to-Nation, government-to-government, and Inuit-Crown approach that will result in Indigenous groups exercising their right of self-government with regards to child and family services.

58. The *Act* will allow Indigenous groups to transition toward exercising partial or full jurisdiction over child and family services at their own pace. It supports change in the way child and family services are delivered to Indigenous children, with the ultimate goal of reducing the number of Indigenous children in care.
59. While Canada and Indigenous partners work towards exercising jurisdiction by Indigenous communities, it is important to continue reforming the FNCFS Program to address the CHRT orders. This will also ensure improved Program results and ensure that the child welfare system is appropriately funded.
60. ISC is committed to achieving reform of Indigenous child and family services and will continue to advance long-term reform of the FNCFS Program through discussions with First Nations in a number of forums, including developing options for a new funding methodology that will address the orders of the CHRT, and address the needs of First Nations families and children.

AFFIRMED before me at the City of
Gatineau, Province of Québec, on
November 20, 2020.


A Commissioner for Taking Affidavits


Nathalie Nepton

This is **Exhibit «NN-1»** to the Affidavit of
Nathalie Nepton sworn before me at
Gatineau, province of Québec, on
the 20th day of November, 2020



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A Commissioner for taking oaths, etc.



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Contributions to provide children and families with protection and prevention services

Terms and conditions: Child and Family Services program

i Context

In January 2016, in response to a complaint from the First Nations Child and Family Caring Society of Canada and the Assembly of First Nations, the Canadian Human Rights Tribunal (tribunal or CHRT) ordered Canada to cease its discriminatory practices and reform the First Nations Child and Family Services (FNCFS) program and the 1965 Agreement with the Province of Ontario. The tribunal also required Canada to properly implement Jordan's Principle, without delay.

The objective of the FNCFS program is to strengthen the safety and well-being of First Nations children and their families ordinarily resident on reserve by funding culturally appropriate prevention and protection services that are in keeping with the best interests of the child.

These new terms and conditions improve aspects of the program that were determined by the Canadian Human Rights Tribunal to be discriminatory. The changes also support the

broader reform of the program ordered by the tribunal (2016 CHRT 2 at para 463) which focused on addressing the real needs of First Nations children and families living on reserve and preventing the perpetuation of historical disadvantage. Further changes will be made to the terms and conditions as Canada continues to respond to the tribunal's orders, in particular following the development of a new funding model for the FNCFS program.

According to the United Nations Convention on the Rights of the Child (UNCRC), which has been ratified by Canada, First Nations children benefit from rights including the right to non-discrimination, the right to grow up in their families, the right to participate in matters affecting them and the right to grow up with members of their group. Consistent with the UNCRC, changes to the FNCFS program emphasize that the safety and well-being of children are paramount and that cultural and linguistic connections should be upheld to the extent possible. Indigenous Services Canada (ISC) will continue making changes to these terms and conditions to reflect the tribunal orders, agreements reached with the parties, advice provided by the National Advisory Committee on First Nations Child and Family Services Program Reform and other program reforms. Related documents, such as guidelines and directives, are also being revised according to the terms of the tribunal's orders and Canada's obligations within the consultation protocol signed with the parties.

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1. Introduction

The First Nations Child and Family Services (FNCFS) program oversees and provides contribution funds for the ongoing provision of culturally-appropriate prevention, protection and well-being services for First Nations children and families on reserve.

Children are defined as persons under the age of majority, which means the age at which a person is granted the rights and responsibilities of an adult, in accordance with provincial or

territorial legislation. Services may also be provided to First Nations youth formerly in care after they reach the age of majority pursuant to legislative provisions regarding post-majority care ¹.

In the case of child protection and band representatives in Ontario, services are provided in accordance with the legislation and standards of the province or territory of residence. As provinces and territories have jurisdiction over child and family services, all child and family service providers must be delegated or in the process of delegation by the province or territory and must comply, at minimum, with provincial or territorial legislation and standards. The safety and best interest of the child are paramount in the provision of these services.

The FNCFS program is now intended to emphasize the use of preventive, early intervention and least intrusive measures in order to respond to child maltreatment (abuse or neglect), support for family preservation and well-being, maintenance of family, cultural and linguistic connections for children in care, former children in care (post-majority) and community wellness using a community supported approach. It also promotes a collaborative relationship between communities and agencies. The introduction of a new funding stream within FNCFS for Community Well-being and Jurisdiction Initiatives (CWJI) is designed to enable projects of up to 5 years in duration to expand the availability of prevention and well-being initiatives that are responsive to community needs, and to support First Nations in developing and implementing jurisdictional models.

With program reform, services under the FNCFS program will be provided on the basis of substantive equality to address the specific needs and circumstances of First Nations children and families living on reserve (including their cultural, historical and geographical needs and circumstances) in a manner that accounts for cost drivers related to inflation and increased needs or numbers of children in care and their families. The program also needs to provide paramountcy to the safety and best interest of the child. In order to provide equal opportunity and achieve equitable results and outcomes, the program supports variations in service requirements and methods of service provision.

Fixed and flexible funding approaches through contribution agreements are available for the FNCFS program, as described in the Directive on Transfer Payments (Appendix K: Transfer payments to Indigenous recipients). CWJI projects will also be managed through multi-year contribution agreements.

2. Authority

The FNCFS program is delivered under the authority of the *Department of Indigenous Services Act, S.C., 2019, c. 29, s.336.*, which provides the Minister of Indigenous Services with powers, duties and functions that extend to and include all matters over which Parliament has jurisdiction and that are not by law assigned to any other department, board or agency of the Government of Canada — relating to the provision of services to Indigenous individuals who,

and Indigenous governing bodies that, are eligible to receive those services under an Act of Parliament or a program of the Government of Canada for which the minister is responsible.

The Canadian Human Rights Tribunal orders relating to the FNCFS program are as follows:

- The tribunal's January 26, 2016 order (2016 CHRT 2) to cease its discriminatory practices with respect to First Nations child welfare and reform the FNCFS program and *1965 Agreement* to comply with the tribunal's findings.
- The tribunal's April 26, 2016 order (2016 CHRT 10) to immediately take measures to address:
 - incentives in the FNCFS program to remove children from their homes and communities
 - the funding of FNCFS agency operations budgets based on assumptions regarding population thresholds and children in care
 - reductions in operations budgets for small and remote FNCFS agencies that affect these agencies' ability to provide effective programming, respond to emergencies, and put some small and remote agencies at risk of closing
 - bringing the FNCFS program in line with current provincial child welfare legislation and standards
 - the need for adjustments to funding for inflation and cost of living or changing service standards to help address increased costs over time and to ensure that prevention-

- based investments more closely match the full continuum of services provided off reserve
- funding deficiencies for items such as salaries and benefits, training, cost of living, legal costs, insurance premiums, travel, remoteness, multiple offices, capital infrastructure, culturally appropriate programs and services, band representatives and least disruptive measures
- The tribunal's September 14, 2016 order (2016 CHRT 16):
 - not to decrease or further restrict funding for First Nations child and family services
 - to determine budgets for each FNCFS agency based on an evaluation of that agency's distinct needs and circumstances, including an appropriate evaluation of remoteness
 - to establish the assumption of 6% of First Nations children in care and 20% of families in need of services as minimum assumptions only and to determine funding for FNCFS agencies with rates of First Nations children in care and families in need exceeding these assumptions in accordance with the actual level of children in care and families in need
 - to cease formulaically reducing funding for FNCFS agencies serving fewer than 251 eligible children and instead determine funding based on actual service level needs, regardless of population level

- to cease requiring FNCFS agencies to recover cost overruns related to maintenance from prevention or operations streams
- The tribunal's May 26, 2017 order (2017 CHRT 14) to immediately implement the full meaning and scope of Jordan's Principle
- The tribunal's February 1, 2018 order (2018 CHRT 4) to:
 - eliminate that aspect of the FNCFS program's funding formulas and models that creates an incentive resulting in unnecessary apprehension of First Nations children from their families and communities and cease its discriminatory practice of not fully funding the cost of prevention and least disruptive measures, building repairs, intake and investigations and legal fees in child welfare
 - to provide funding on actual costs for least disruptive measures and prevention, building repairs, intake and investigations and legal fees in child welfare
 - to provide funding on actual costs for child service purchase in child welfare
 - to provide funding on actual costs for small FNCFS agencies
 - to provide funding on actual costs for band representative services for Ontario First Nations

Authority is also conveyed through the "Administrative Reform Agreement with the Province of Alberta (1991)," also known as the "Alberta Reform Agreement".

3. Purpose, objectives and expected results

ISC provides funding for social services on reserve including the FNCFS program. This program mainly aims to fund protection and prevention services for children and families ordinarily resident on reserve. First Nations, provincial or territorial representatives and other recipients who receive funding provide on reserve residents and Yukon First Nations with individual and family services that are developed and implemented in collaboration with partners. The intention of the program is to assist First Nations individuals and communities to become more self-sufficient to provide prevention supports that allow individuals and families to better care for their children.

First Nations that are engaged in advancing their own development are better equipped to leverage opportunities made available by their communities and actively contribute to the broader Canadian economy and society.

FNCFS outcomes focus on safe, healthy children and families being supported by communities able to identify and address child and family needs.

Immediate (1 to 2 years)

- First Nations families have greater access to culturally-appropriate prevention and early intervention services
- First Nations service providers have adequate and predictable resources that allow for the development and delivery of

culturally based child welfare standards and services including prevention services

Intermediate (3 to 5 years)

- Continuity of family, community and cultural connections is preserved for First Nations children in care
- First Nations children in care achieve permanence and stability

Ultimate (5 years and beyond)

- The over-representation of First Nations children in care is decreased compared to the proportion of non-Indigenous children in care in the overall population of children in Canada
- The safety and well-being of First Nations children are improved

4. Eligible recipients

Eligible recipients	FNCFS Agencies	Band representative services in Ontario	CWJI
FNCFS agencies or societies	Yes	Yes	No

Eligible recipients	FNCFS Agencies	Band representative services in Ontario	CWJI
Other delegated or designated providers of child and family service providers, including provincially (or Yukon) delegated or designated agencies and societies	Yes	No	No
Provinces and Yukon territory	Yes	No	No
Chiefs and councils of First Nations bands recognized by the Minister of Indigenous Services, tribal councils, First Nations, and First Nations organizations	Yes	Yes	Yes
First Nations communities, First Nations authority, board, committee or other entity created by chief and council for purposes such as providing social services or health care	No	Yes	Yes

FNCFS agencies or societies would include agencies in the process of obtaining delegation, and those that are recognized by provinces in the delivery of child and family services.

Prevention services may be delivered by non-delegated service providers. Communities who undertake prevention related activities and projects through the CWJI stream of funding can do so without being delegated as well.

5. Eligible initiatives and projects

FNCFS agencies

a. Planning

Multi-year plans were introduced in the 2019 to 2020 fiscal year to support new or existing strategic planning and coordination of efforts among child welfare service providers. Each delegated FNCFS agency is required to develop a multi-year plan for child and family services to describe the agency's response to identified needs and priorities within the community, including how service delivery will be coordinated with other service providers, and provide the expected outcomes. The plans will also provide the FNCFS program with a better understanding of agency priorities over the medium-term and how to best support these priorities going forward. Agencies will be resourced to support the development of new or modified plans.

Services delivered by the agency should take into account the distinct needs and circumstances of the First Nations children and families served (including their cultural, historical and geographical needs and circumstances) in order to ensure substantive equality in the provision of child and family services. The plans will assist with the integration of prevention services that an agency and potentially communities or other services providers are delivering to families.

In certain cases, FNCFS agencies may work with organizations to support First Nations children in care off reserve, including when children are being reunited with families who reside on reserve.

b. Prevention

- Development and delivery of child maltreatment prevention services (which may be at primary, secondary or tertiary levels) that are evidence-informed, culturally-appropriate, address identified risk factors, and build protective capacities within families and communities. CWJI projects can be funded with the intention to build a greater evidence base for culturally-specific interventions
 - Primary prevention services are aimed at the community as a whole and include the ongoing promotion of public awareness and education on the healthy family and how to prevent or respond to child maltreatment
 - Secondary prevention services are triggered when a child is identified as at risk of child maltreatment and intervention could help avoid a crisis

- Tertiary prevention services target specific families when a crisis or risks to a child have been identified and are designed to be least disruptive measures that attempt to mitigate the risks of separating a child from his or her family, rather than separate the child from his or her family. These services also assist families to address risks so that children in care can be reunified with their families as quickly as possible
- Training for staff to ensure culturally-based standards for child and family service delivery
- Cultivation of community social health and well-being through activities that address inequalities in the determinants of health, promote reductions in adverse childhood experiences, address addictions and mental health concerns that are placing children at risk, meet the needs of children and youth with disabilities and special needs, promote positive culturally-based parenting skills, provide family support, promote healthy child and youth development and enable family preservation, especially through early intervention to avoid a more intrusive approach (such as removal from the family home)

c. Child protection, guardianship and support

- Child protection services are triggered when a child's safety or well-being is at risk. Child protection includes those services related to:
 - public education on child maltreatment

- assessments and investigations of child maltreatment reports (including after-hours services)
 - intervention planning (including family case conferencing)
 - alternative dispute resolution services and proceedings (such as family group conferencing)
 - family court
 - supervision orders
 - guardianship and voluntary and special needs custody agreements
 - post-majority services for former youth in care
 - placement, support and supervision for children and youth who cannot live safely in the family home while measures are taken with the family to remedy the situation (such as kinship, foster or group care, residential treatment, support for Elders and extended family members caring for children, independent living)
 - adoption and custom care
 - reunification services
 - extended services for youth transitioning out of care
 - alternative care resource development, training, support and monitoring
- Activities also may include community liaison and outreach, cultural and language interpretation, legal services, court support, family preservation, placement planning, standards development and implementation, policy development and implementation, and evaluation activities

- Culturally-based standards can be developed and applied by First Nations for child welfare

Band representative services in Ontario

Further information on the activities and responsibilities associated with band representative services in Ontario can be found in provincial legislation.

Community well-being and jurisdiction initiatives

a. Community well-being initiatives

- Targeted prevention and well-being services that support children and families in the home and community (for example parent education programs, family enhancement or preservation supports, cultural and traditional supports, in-home supports, respite care, services for mental health and addictions, community-wide prevention efforts)
- Provision of wrap-around services and integration of service delivery with other relevant federal or provincial sectors or programs, such as health, education, social services, public safety and corrections, and youth services
- Repatriation and reunification of children and youth in care with their families and home communities, including support for youth transitioning out of the child welfare system

b. Jurisdiction initiatives

- Support the development and implementation of First Nation-based jurisdiction that includes child and family safety and well-being, as well as structures, processes, and services to support full and proper jurisdictional implementation
- Support bilateral meetings with federal or provincial governments
- Research and development of First Nations child and family safety and well-being interventions
- Expand the range of jurisdictional models to recognize the exercise of First Nations jurisdiction that meets or exceeds provincial or territorial standards

Retroactivity

Under these terms and conditions and for the period of January 26, 2016 to March 31, 2018, the FNCFS program will reimburse actual costs incurred for eligible activities, as identified by the tribunal.

6. Type and nature of eligible expenditures

These expenses should support the activities stated in section 5.

FNCFS agencies

Care and maintenance

The costs must relate to children ordinarily resident on reserve,

registered under the *Indian Act* or who are entitled to be registered.

- allowances for assessment
- crisis line
- placement development: recruiting, assessing, training, supporting, monitoring and evaluating care providers
- direct client costs
- costs for children in alternative care
- purchases on behalf of children in care
- special needs assessment and testing
- non-medical services to children with behavioural problems
- non-medical, limited-duration services
- other provincially-approved purchases and professional services where funding from other sources was not received in whole or in part for that activity
- establishment and maintenance of Registered Education Saving Programs when necessary to comply with provincial legislation or policy
- formal customary care and adoption
- post-adoption subsidies and supports
- family support costs
- reunification services
- land-based or cultural activities and equipment
- recreational and other activities to meet needs of children living at home
- post-majority care services

Planning and operations

- community consultations
- design of service and delivery models
- financial policy research
- development of service standards
- determination of staffing requirements and plans
- negotiation of agreements
- security services
- workplace safety
- after-hour emergency services
- coordination of services at the community level

Administrative needs

- costs for training forums, workshops, outreach, awareness
- professional and paraprofessional services
- interpretation services
- development of client and management information systems
- staff recruitment and professional development costs
- staff salaries and benefits
- honoraria for Elders or Knowledge Keepers
- staff travel and transportation
- employee assistance programs
- administrative overhead
- audits, monitoring, program research, policy development, evaluation
- board and committee operations
- professional development

- orientation and training of local committees, boards of directors and agency staff
- provisions to ensure privacy, security and proper management of records
- insurance

Legal services

- corporate legal services
- legal services related to the provision of child and family services including inquests
- legal services for child representation

Infrastructure purchase, maintenance and renovations

With the exception of building repairs which are reimbursed based on actual needs as per the tribunal orders, the total capital costs per project cannot exceed \$2.5 million per FNCFS agency, per fiscal year

2.

- purchase or construction of capital assets (such as buildings) that support the delivery of FNCFS services
- purchase and maintenance of vehicles suitable for the transportation of children and families that support the delivery of FNCFS services
- purchase and maintenance of information technology equipment and systems that are tailored to child and family services delivery
- establishment and maintenance of an agency office
- purchasing and maintenance of equipment and furniture

- operations, minor maintenance such as general repairs, painting, plumbing, minor electrical
- janitorial and ground maintenance services
- renovations and repairs to the building structure, structural foundations
- repair or replacement of roofing, siding
- repairs or replacement of heating system, cooling system, ventilation system, electrical system, water system, plumbing system, back-up generators
- floor repairs
- repairs or repainting: walls, ceiling
- repairs or replacement: windows, doors
- repairs or renovations to the toilets, bathrooms
- repairs or renovations to the kitchen including replacement of cupboards, counters
- repairs or renovations to storage space
- repairs or renovations related to improved indoor environmental quality including:
 - air quality such as vent replacement
 - thermal comfort such as replacement of thermostats
 - acoustics such as wall insulation
 - day lighting such as additional windows, replacing or installing additional light fixtures to simulate external light for centers in the north
 - pollutant source control such as water purification systems
 - use of low-emission materials and building system controls

- fixtures and equipment required by fire regulations including fire alarms, fire doors, exit signs, fire extinguishers, first aid kits, earthquake kits
- repairs or renovations to the parking lot
- repairs or renovations to external alleys, paths
- repairs or renovations to external structures
- permanent signage
- outdoor play structures and space
- porch, deck, fences

In regards to the purchase and sale of buildings FNCFS terms and conditions are consistent with those of the First Nations Infrastructure Fund. These are:

Where asset is sold, leased, encumbered or disposed of within:	Return of contribution (in current dollars)
2 years after project completion	100%
Between 2 and 5 years after project completion	55%
Between 5 and 10 years after project completion	10%

Band representative services in Ontario

- salary and benefits
- daily honorarium
- travel (accommodations and meals)
- long distance telephone calls

- client transportation (non-medical)
- family support services
- court fees and disbursements and court-ordered costs related to child protection cases
- purchase or construction of capital assets (such as buildings), maintenance, renovations and repairs (up to a one-time maximum of \$1.5 million per recipient):
 - purchase or construction of capital assets (such as buildings), maintenance, renovations and repairs to support the delivery of band representative services in Ontario
 - purchase and maintenance of vehicles suitable for the transportation of children and families that support the delivery of band representative services in Ontario

Where asset is sold, leased, encumbered or disposed of within:	Return of contribution (in current dollars)
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2 years after project completion	100%
Between 2 and 5 years after project completion	55%
Between 5 and 10 years after project completion	10%

Community well-being and jurisdiction initiatives

Planning and operations

- after-hour emergency services
- workplace safety
- provisions to ensure privacy, security and proper management of records
- coordination of services at the community level
- crisis line
- direct client costs
- other provincially-approved purchases and professional services where funding from other sources was not received to cover the entire cost of the related activity
- family support costs
- special needs assessment and testing
- non-medical services to children with behavioural problems
- non-medical, limited-duration services
- interpretation services
- land-based and cultural activities
- recreational and other activities to meet needs of children living at home
- post-majority care services
- parenting courses and anger management courses

Administrative needs

- staff recruitment and professional development costs
- staff salaries and benefits
- employee assistance programs
- staff travel and transportation
- professional development

- board and committee operations
- administrative overhead
- audits, monitoring, program research, policy development, evaluation
- insurance
- costs for training forums, workshops, outreach, awareness
- policy positions
- professional and paraprofessional services

Legal services

- corporate legal services
- legal services related to the provision of child and family services

Infrastructure purchase, maintenance and renovations

- capital costs for:
 - purchase or construction of capital assets such as buildings that support the delivery of FNCFS services
 - purchase and maintenance of vehicles suitable for the transportation of children and families that support the delivery of FNCFS services
 - purchase and maintenance of information technology equipment and systems that are tailored to child and family services delivery
- operations, minor maintenance such as general repairs, painting, plumbing and minor electrical

- janitorial and ground maintenance services

Where asset is sold, leased, encumbered or disposed of within:	Return of contribution (in current dollars)
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2 years after project completion	100%
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Between 2 and 5 years after project completion	55%
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Between 5 and 10 years after project completion	10%
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7. Stacking limits

The stacking limit is the maximum level of funding to a recipient from all sources (including federal, provincial, territorial, and municipal) for any 1 activity, initiative or project. The limit is 100% of eligible costs.

The Children's Special Allowance is not used to fund child welfare services generally and is not to be considered as a source of revenue by the program for stacking purposes.

8. Method for determining the amount of funding

FNCFS agencies

Funding for prevention, protection, maintenance, legal services, child service purchase amounts, intake and investigations, building repairs, as well as for agency operations costs for small FNCFS agencies, is based on the actual needs of the children and families served by FNCFS agencies, as reflected by expenditures in these categories.

In terms of all other capital expenditures for agencies, the total capital costs per project cannot exceed \$2.5 million per FNCFS agency, per fiscal year, and agencies must use either the increased Budget 2018 funding (ramp-up and remoteness allocations) or any surpluses they may have for these expenditures.

Band representative services in Ontario

Funding for band representative services delivered to First Nations in Ontario is based on the actual needs of children and families receiving these services. In relation to eligible costs associated with the purchase or construction of capital assets (such as buildings), maintenance, renovations and repairs (listed in section 6) to support the delivery of band representative services in Ontario, the FNCFS Program can only provide a one-time amount up to a maximum of \$1.5 million per recipient.

Community well-being and jurisdiction initiatives

Funding for CWJI projects is determined at the regional level based on the specific needs, circumstances and goals of the community, as well as on the nature and duration of the activities described in the project proposal.

9. Maximum amount payable

The program's funding methodology is being reformed as per orders from the Canadian Human Rights Tribunal (CHRT). While the department has a temporary exception to item 8 of Appendix E of the Directive on Transfer Payments, from an operational perspective the maximum amount payable is currently considered to be the maximum amount of a given claim of actual eligible expenditures that meets the reasonableness requirements included in section 10 (Basis for payment). Once the revised funding methodology has been established, or in 3 years (whichever is earlier), the department will return to the Treasury Board with a maximum amount payable that adheres to the Policy on Transfer Payments.

10. Basis for payment

Payments will be made in accordance with the type of funding arrangement, and will be guided by departmental policies as reflected in the contribution agreement. Where it is advantageous to the success of the activities, the department shall offer fixed or flexible funding approaches for contributions to Indigenous recipients, in accordance with Appendix K of the Directive on Transfer Payments. Basic payment principles applicable to FNCFS specify that:

- funds be used for eligible activities and cost categories as specified in the contribution agreement

- costs charged to the program not exceed any maximums specified in the agreement
- funds be used within the period and to address the needs for which they were provided
- financial reporting requirements specified in the contribution agreement be met

Notwithstanding the above, costs for maintenance will continue to be reimbursed based on actual costs incurred. In addition, the department will reimburse actual costs for the following expenses when agencies have not already received funding through another federal program (including another program of ISC), or any provincial, territorial or municipal government funding source for that activity:

- prevention
- intake and investigations services
- legal fees
- building repairs
- full eligible agency operations costs for small agencies
- child service purchase costs

The 6 areas above are those the tribunal has ordered the program to pay on actuals. A National Recipient Guide detailing how recipients may claim retroactive costs in these areas has been shared with recipients to support them in accessing funds as ordered by the tribunal.

As per tribunal orders, the department will also reimburse actual costs for band representative services delivered to Ontario First Nations (see section 6 for eligible expenditures and any applicable funding caps) when eligible recipients have not already received funding through another federal program or any provincial, territorial or municipal government funding source for that activity.

In this respect, the reasonableness of a particular cost will be established by determining whether the expense was:

- necessary to ensure substantive equality and the provision of culturally-appropriate services, given the distinct needs and circumstances of the individual child and his or her family, including their cultural, historical and geographical needs and circumstances, for instance, by taking into account any needs that stem from historical disadvantage and the lack of on-reserve or surrounding services
- deemed by the recipient to be necessary for the best interest of the child
- generally recognized as normal and necessary for the conduct of the activity
- aligned with restraints and requirements of generally accepted accounting principles, arm's length bargaining, federal, provincial or local laws and regulations or Certified Accountant terms

Advance payments will be permitted, based on a forecast of cash flow provided by the recipient and supported by the community plan. Progress payments will be subject to periodic reports of activities and expenditures, as specified within the funding agreement, which will be reviewed and validated by the department. Officials will ensure that all applicable requirements are met prior to processing a payment.

Holdback requirements, if applicable, will be determined based on risk assessment and may be up to 20% of the total contribution.

Final payment will be contingent on the receipt by the department of the final activity, performance and financial reports, as specified in the agreement.

Funding under the FNCFS program is targeted and cannot be used for any other purposes.

11. Application requirements and assessment criteria

Before entering into a funding arrangement, ISC shall confirm its authorities to enter into an agreement with the recipient and to fund the proposed activities. The departmental review procedures for verifying eligibility, entitlement and application approval (including risk assessments) are detailed in relevant departmental program directives and procedures. Specific requirements include, but may not be limited to:

FNCFS agencies or societies, other delegated or designated providers of child and family service providers, including provincially delegated or designated agencies and societies, provinces and Yukon territory:

- legal entity's name, address and telephone
- provincial delegation document or certification (those wishing to only provide prevention services are not required to have a delegation agreement in place)
- for corporations: incorporating documents (articles of incorporation or Patents Letters), by-laws
- band council resolution for each community being represented or serviced
- disclosure of any involvement of former public servants who are subject to the Conflict of Interest and Post-Employment Code for Public Office Holders or the Conflict of Interest and Post-Employment Code for the Public Service
- multi-year plan identifying community's needs, planned activities, performance measures and reporting requirements; along with evidence of consultation and collaboration with communities

Communities (CWJI)

- a mandate, as evidenced by a band council resolution, or other formal mandate for initial agreements, upon renewal of agreements or for the addition of any new initiatives, as required by the program

- a multi-year community plan that identifies the community's needs, defines its capacity to respond and outlines its programs and services, performance measures and reporting requirements to address priorities
- evidence of demonstrated capacity in areas such as financial and administrative experience to deliver the programs and services

12. Performance measurement and reporting

Performance measurement

To ensure that a balanced approach is implemented and that the reporting burden is minimized, a reliable performance data collection, analysis and reporting methodology is being developed that will meet the respective needs of the recipients, the communities, the provinces or territories, and the department. The methodology will be developed collaboratively with the parties to the Canadian Human Rights Tribunal complaint, the National Advisory Committee, and other partners as appropriate, including the provinces or Yukon. Funding recipients will be required to provide to the department only the performance data required for mandatory reporting on program performance and achievement of program outcomes.

Until the methodology is finalized and implemented, data will continue to be collected by recipients using various methods and sources, and will meet requirements set out in the Reporting Guide. Frequency of financial and performance reporting will be specified in the contribution agreement, but all recipients will be required to report at least annually on their Community Plan for Child and Family Services or CWJI project plan. Financial reviews will be conducted to ensure each recipient submits financial reports in accordance with its funding agreement specifications. An annual audited financial statement will be required in all cases.

Financial reporting

Financial reporting requirements will be determined based on the recipient's circumstances and the type of funding agreement. Appropriate financial reporting obligations, including frequency, will be contained within each funding agreement.

As per the department's Management Control Framework, annual reviews will be undertaken to ascertain whether funds provided are being expended for the purposes intended, and whether a recipient's financial situation is sufficiently stable to enable continued delivery of funded activities. Where any instability is due to the department's funding structures or levels of funding, the department will take measures to mitigate and remediate these risks.

13. Official languages

Where a program supports activities that may be delivered to members of either official language community, which means where there is significant demand, the recipient is required to provide access to services in both official languages. In addition, the department will ensure that the design and the delivery of programs respect the obligations of the Government of Canada as set out in the *Official Languages Act*.

14. Redistribution of contributions

Recipients may redistribute contributions, as per the terms of their funding agreements. Redistributions should be done in line with program objectives, eligibility criteria and eligible expenses. In doing so however, recipients will not act as agents of the federal government. Where a recipient further distributes contribution funding to another service delivery organization (such as an authority, board, committee, or other entity authorized to act on behalf of the recipient), the recipient will remain liable to the department for the performance of its obligations under the funding agreement. Neither the objectives of the programs and services nor the expectations of transparent, fair and substantively equivalent services will be compromised by any redistribution of contribution funding.

15. Other terms and conditions

Land-less bands and non-reserve communities

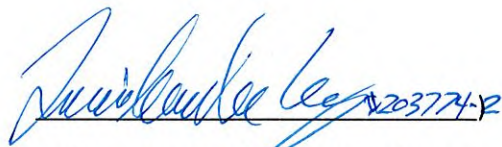
Subject to an annual review, the department will maintain a list of land-less bands and non-reserve communities that are eligible to receive program funding, as contained in the FNCFS program guidelines.

Footnote

- 1 In an effort to address challenges stemming from the COVID-19 pandemic, the Minister of Indigenous Services has put in place a national measure to ensure that protection services already funded through the FNCFS program are maintained for all First Nations children and youth regardless of whether they would have ordinarily aged out of these services. This temporary measure will be in effect from at least March 9, 2020 to March 31, 2021. This end date may be amended to correspond to the period of the pandemic crisis. These changes fall within the Minister's authorities as outlined in the Authority section.
- 2 Instances whereby remoteness is a factor in determining the cost of a project will be reviewed on a case-by-case basis.

Date modified: 2020-10-13

This is **Exhibit «NN-2»** to the Affidavit of
Nathalie Nepton sworn before me at
Gatineau, province of Québec, on
the 20th day of November, 2020

A handwritten signature in blue ink, appearing to read "Julie Gauthier" followed by a long horizontal stroke and the number "20374-R".

A Commissioner for taking oaths, etc.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

GENERAL INTRODUCTION: ¹

The following tables outline how protection and prevention child and family services, funded under the First Nations Child and Family Services (FNCFS) Program, are delivered across Canada to First Nations children and families ordinarily resident on reserve and in Yukon. Under the FNCFS Program, Indigenous Services Canada (ISC) provides funding to First Nations child and family services agencies (FNCFS agencies), which are established, managed and controlled by First Nations. Provinces delegate authority to FNCFS agencies to manage and deliver child and family services (i.e. prevention and/or protection services) to eligible First Nations children and families². In areas where these agencies do not exist, ISC funds services provided by the provinces and Yukon. In all scenarios, these services must be provided in accordance with the legislation and standards of the province or territory of residence, as well as comply with the minimum standards set out in the *Act respecting First Nations, Inuit and Métis children, youth and families* as of January 1st, 2020.

It is important to note that the number of FNCFS delegated agencies, as well as the number of communities they serve varies through time, depending on an FNCFS agency's delegation status, as well as whether it has an agreement with a given community to deliver services. As of November 6, 2020, ISC estimates that there are up to 138 First Nations communities that are not currently served by a FNCFS delegated agency but receive services directly from provinces or territories.

¹ The information in this document was valid as of August 2020.

² Applicable child and family services legislation in varying jurisdictions throughout Canada use terms such as "delegated", "mandated", or "designated" to refer to agencies or service providers which have been granted the authority by the Province to manage and deliver child and family services. For the sake of consistency, the term "delegated" is used throughout this document.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

The tables also provide a snapshot of the number of projects³ that were funded in 2019-20 under the FNCFS Program's Community Well-Being and Jurisdiction Initiatives (CWJI) funding stream.⁴ This new funding stream from Budget 2018 supports First Nations communities to lead the development and delivery of prevention services and to assert greater control over the well-being of their children and families.

³ Please be aware that the number of CWJI projects is somewhat fluid and, consequently, it may eventually be revised as more information is collected from recipients.

⁴ These CWJI project counts do not include engagement projects or projects specifically related to the implementation of the *Act respecting First Nations, Inuit and Métis children, youth and families* which were funded in 2019-20 with CWJI funds. The project counts only include projects that were funded through the CWJI regional allocations or as CWJI pilot projects. The regional allocations were distributed to each ISC Regional Office based on a methodology that considered community well-being and remoteness, population size including the proportionate number of children, and whether or not communities were serviced by an agency. Each ISC Regional Office then worked with their First Nation partners to determine on what basis their allocations should be distributed to communities. The CWJI pilot projects consist of several well-being and jurisdiction proposals received during and after the Minister's Special Representative consultations on FNCFS Program Reform in 2017 – in 2018, ISC began funding these pilot projects under CWJI because they were thematically similar in focus.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

NEWFOUNDLAND AND LABRADOR			
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM ⁵ :	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?	WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 3,465</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 1,223</p>	<p>Provincial Legislation: <i>Children Youth and Families Act</i></p> <ul style="list-style-type: none"> • Regulates protective intervention with a focus on maintaining children with their families where it is the best interest of the child (s. 8) • Recognizes the importance of preserving Indigenous culture (ss. 9(2)f)) • Courts take cultural connection plan into account (ss. 29(3)e)iv))⁶ • Notices must be provided to Indigenous gov't/orgs⁷ • Allows Indigenous gov't/orgs to make representations (ss. 54(b)) 	<ul style="list-style-type: none"> • The provincial government provides child protection services to two Innu communities (Natuashish and Shéshatshiu) in Labrador. • The Department reimburses the Province for the costs of these services through a funding agreement. • Following Budget 2016, funding has been provided to the Innu Round Table Secretariat for prevention-based programming and services. • In addition, the Department provides direct FNCFS Program funding on actuals to the Miakpukek First Nation to deliver protection and prevention child and family services in that community. Miakpukek First Nation purchases a delegated protection social worker from the Province. 	Tripartite Working Group with the Innu Round Table Secretariat, the Province, and the Federal Government
		<p>Name of service provider</p>	<p>Does the provider deliver protection and/or prevention services?</p>

⁵ In this column, only key aspects of provincial and territorial laws with respect to child and family services to Indigenous children are presented. The provincial laws may contain other elements relevant for the delivery of child and family services to Indigenous children.

⁶ See ss. 2(1)f) for a definition of the cultural connection plan.

⁷ Ss. 25(3)c), 27(2)c), 36(3)c), 43(4)c), 45(2)d), 50(1)a)iii).

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

			Protection	Prevention		
<p>Children aged 0-18 in care (FNCFS IMS data as of March 31, 2018): 233</p>	<ul style="list-style-type: none"> • Prioritizes placement within community (ss. 65(3)) • Provides for agreements with Indigenous gov't/orgs in decisions for delegated responsibilities (s. 105) • Youth under voluntary Youth Services Agreement eligible for services until age 21. (ss. 88(3)) 	<p>Miawpukek First Nation (delegated)</p>	<p>✓ (First Nation purchases services from Province)</p>	<p>✓</p>	<p>Agreement with First Nation</p>	<p>2019-20 Projects funded through Regional CWJI Allocations: 6</p> <p>2019-20 CWJI Pilot Projects: 2</p>
<p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 235</p>		<p>Province of NL</p>	<p>✓</p>		<p>Agreement with Province</p>	

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

NOVA SCOTIA					
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?		WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?	
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 9,889</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 3,850</p> <p>Children aged 0-18 in care (FNCFS IMS data as of March 31, 2018): 144</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 153</p>	<p>Provincial Legislation: <i>Children and Family Services Act</i></p> <ul style="list-style-type: none"> Services take preservation of cultural identity into account (Preamble, s. 47A, ss. 39(4)da, 42(1)ca)) Notices must be provided to MFCNS and it may be included as a party (ss. 36(3), 68(11), 68(12), 78(4)) Prioritizes placement within the community (ss. 42(3)b), 44(3)e), 47(5)) Recognizes customary adoption (s. 78A) Delegation to agencies for protection services (s. 5) Eligibility for services under the Act 	<ul style="list-style-type: none"> The Mi'kmaw Family and Children Services of Nova Scotia (MFCNS) is the only FNCFS agency in Nova Scotia, serving all 13 First Nation communities in the province. MFCNS delivers all FNCFS services. 		Tripartite Working Group	
		Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?
			Protection	Prevention	
	Mi'kmaw Family and Children Services of Nova Scotia (delegated)	✓	✓	Agreement with agency	
NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:					
2019-20 Projects funded through Regional CWJI Allocations: 1					
2019-20 CWJI Pilot Projects: 1					

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

	terminates upon reaching 19 years of age. (ss. 3(1)e))						
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HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

PRINCE EDWARD ISLAND						
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?			WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?	
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 635</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 193</p> <p>Children aged 0-18 in care (FNCFS IMS data as of</p>	<p>Provincial Legislation: <i>Child Protection Act</i></p> <ul style="list-style-type: none"> Recognizes the importance of preserving cultural identity (ss. 2(2j)) Allows band councils to make representations (ss. 30(2)) Notices must be provided to the band⁹ Consultation and collaboration with band in developing a plan of care (ss. 37(4)) A band's representative may be present at the 	<ul style="list-style-type: none"> All FNCFS Program funding flows to the Mi'kmaq Confederacy of Prince Edward Island (MCPEI) which provides prevention services to the two on-reserve First Nation communities. Protection services are purchased by MCPEI from the province. 			Tripartite Indigenous Child Well-Being Committee	
		Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?	NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:
			Protection	Prevention		
	MCPEI (delegated)	✓ (MCPEI has a service agreement with the Province)	✓	Agreement with Tribal Council	<p>2019-20 Projects funded through Regional CWJI Allocations: 1</p> <p>2019-20 CWJI Pilot Projects: 0</p>	

⁹ Ss. 12(3.1), 12(3.2), 13(7), 13(8), 18.1, 24(1.2), 24(1.3), 27(1)a.1), 27(1.1), 27(2)a.1), 32(2)(3), 37(2), 37(4), 39(2)b).

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

<p>March 31, 2018): 15 or less⁸</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 15 or less</p>	<p>hearings (ss. 35(1)c))</p> <ul style="list-style-type: none"> • Director may delegate power to provide child protection services (ss. 5(1), 48(1)) • Eligibility for services under the Act terminates upon reaching 18 years of age, with possibility of extension until age 21 (s. 46) 					
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NEW BRUNSWICK			
<p>OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:</p>	<p>ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:</p>	<p>HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?</p>	<p>WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?</p>

⁸ To help protect individual privacy, when the number of children in care is 15 or less, the FNCFS Program suppresses the data.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 11,111</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 3,001</p> <p>Children aged 0-18 in care (FNCFS IMS data as of March 31, 2018): 153</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 156</p>	<p>Provincial Legislation: <i>Family Services Act</i></p> <ul style="list-style-type: none"> Provides for prevention and protection services Best interests of the child takes into account cultural heritage (s.1, 45(1)(a), 45(3)(b)) Affirms need for continuity of care through kinship network (s. 1, 31.2) Designation of social workers and approval of agencies (s. 3(1)(b)(c)) <p>Eligibility for services under the Act terminates upon reaching 19 years of age (with some exceptions)(s. 1).</p>	<ul style="list-style-type: none"> The Department provides FNCFS Program funding to 8 child and family services delivery organizations (direct funding to 7 band run and to one agency) that in turn provide services to 13 First Nation communities in the Province. For the two remaining communities (Tobique and Madawaska), the department funds the Province, which funds the Tobique FNCFS agency for delivering child and family services. 			Tripartite working group	
		<p>Name of service provider:</p>	<p>Does the provider deliver protection and/or prevention services?</p>		<p>What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?</p>	<p>NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:</p>
			<p>Protection</p>	<p>Prevention</p>		
		Mi'gmaq Child and Family Services of New Brunswick Inc (FNCFS agency)	✓	✓	Agreement with agency	
7 Band-run FNCFS delegated agencies	✓	✓	Agreements with First Nations			
Province	✓	✓	Agreement with Province			

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

QUEBEC												
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?	WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?									
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 58,903¹⁰</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 17,908</p> <p>Children aged 0-18 in care (FNCFS)</p>	<p>Provincial Legislation: <i>Youth Protection Act</i></p> <ul style="list-style-type: none"> • Preservation of the child's cultural identity must be taken in account (s. 3, 4) • Characteristics of the Native communities must be taken into account (ss. 2.4(5)c)) • Indigenous agency must be informed of the removal of a child (s. 72.6.0.1) 	<ul style="list-style-type: none"> • In Quebec, 15 FNCFS Agencies (which consist of either First Nation Social Service Branches or Tribal Councils) are funded by the FNCFS Program to deliver child and family services in 19 First Nation communities, while three provincially-run Centres intégrés de santé et de services sociaux (CISSS) deliver protection services to eight other First Nation communities. Prevention funding is provided directly to the communities (including payment on actuals) . • The Department also funds the Conseil de la Nation Atikamekw to deliver protection and prevention services to 2 First Nations communities. 		Regional roundtable and tripartite working group								
		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Name of service provider:</th> <th colspan="2" style="width: 30%;">Does the provider deliver protection and/or prevention services?</th> <th rowspan="2" style="width: 25%;">What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?</th> </tr> <tr> <td></td> <th style="width: 15%;">Protection</th> <th style="width: 15%;">Prevention</th> </tr> </thead> <tbody> <tr> <td style="height: 40px;"></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?		Protection	Prevention			
Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?									
	Protection	Prevention										

¹⁰ Please note that this figure includes approximately 19,000 individuals from Inuit, Cree and Naskapi communities in Quebec who do not receive services funded through the FNCFS Program.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

<p>IMS data as of March 31, 2018): 987</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 991</p>	<p>and can make representations (s. 81.1)</p> <ul style="list-style-type: none"> Recognizes customary tutorship and adoption (ss. 2.4(5)c), 71.3.1, 71.3.3) Prioritizes placement within community (s. 4, 72.6.0.1) Eligibility for services under the Act terminates upon reaching 18 years of age (with some exceptions) Province may enter into agreements with FN communities to establish a special youth protection program (s. 33, 37.5, 37.6, 37.7) <p>Additional Note: The Conseil de la Nation Atikamekw (CNA) Tribal Council is the first Indigenous nation in Quebec to officially establish an agreement with the government to set up a</p>	13 FNCFS Agencies	✓	✓	Agreements with agencies	<p>2019-20 Projects funded through Regional CWJI Allocations: 26</p> <p>2019-20 CWJI Pilot Projects: 0</p>
		3 provincially-run Centres de Jeunesse	✓	(prevention is provided by the community, with federal funding)	Agreement with Province for protection services Agreements with First Nations for prevention services	
		Conseil de la Nation Atikamekw	✓	✓	Agreement with Tribal Council	
		Grand Conseil de la Nation Waban-Aki	✓	✓	Agreement with Tribal Council	
		Regroupement Mannit-Innuat	✓	✓	Agreement with Tribal Council	

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

	special youth protection program under s. 37.5 of the <i>Youth Protection Act.</i>					
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HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

ONTARIO			
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?	WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 98,770</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 28,885</p> <p>Children aged 0-18 in care (FNCFS IMS data as of March 31, 2018): 1,251</p>	<p>Provincial Legislation: <i>Child, Youth and Family Services Act (CFSYA)</i></p> <ul style="list-style-type: none"> • Covers FN, Inuit and Métis Children (s. 2) • Recognizes the importance of preserving the child's cultural identity and connection to community¹¹ • Favors customary care and the provision of service by Indigenous CFS (ss. 1(2), 80, 112) • Indigenous community shall be consulted (ss. 	<ul style="list-style-type: none"> • The 1965 <i>Memorandum of Agreement Respecting Welfare Programs for Indians</i> (1965 Agreement) is a bilateral agreement where the Department reimburses the Province of Ontario for the cost of delivering child and family services to First Nation children and families on reserve according to a cost-sharing formula. Currently, the Department pays approximately 93% of the costs, while the Province of Ontario pays the difference of approximately 7%. • According to this Agreement, the Province of Ontario governs most aspects of funding and delivery of child and family services in the province. The Province is responsible for financial and operational oversight of Children's Aid Societies and First Nations Child and Family Services Agencies in Ontario. • There are 50 provincially-approved service providers in Ontario that deliver child protection and prevention services covering all First Nation communities. This includes 12 FNCFS delegated agencies and 38 mainstream Children's Aid Societies. • In addition to the 12 fully delegated FNCFS agencies, there are two First Nations agencies that are mandated by the province to provide prevention services only, and 26 individual First Nations that have service contracts with the Province to deliver prevention services to their communities. • In response to February 2018 CHRT Orders 411, the Department now reimburses First Nations Child and Family Services Agencies' actual costs for certain services (prevention/least disruptive measures; intake and investigation; legal fees; and building repairs). Order 411 does not cover 	<p>Technical Table on Child and Family Well-Being</p>

¹¹ Ss. 64(5)g), 74(3)b), 179(2)b), 187, 197(9)b), 198(5)c), 207(6)c)ii), 212(1).

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

<p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 1,347</p>	<p>17(2), 72, 73, 186)</p> <ul style="list-style-type: none"> • Notices and reports must be provided to Indigenous community¹² • Indigenous community may be parties to proceedings (ss. 66(4)c), 79(1), 104(2), 109(13), 113(4)d), 121(1)e), 137(4)f), 192(9)) • Prioritizes placement within community (ss. 101(5), 109(2)d)) • Province may enter into agreements with Indigenous community for the provision of services and may 	<p>Agencies' actual costs related to maintenance or protection services; these costs remain under the purview of the Province of Ontario.</p> <ul style="list-style-type: none"> • In response to February 2018 CHRT Order 427, which is unique to Ontario, the Department reimburses FNCFS Agencies, First Nations, and Tribal Councils for actual costs of band representative services. • The Department has supported the Chiefs of Ontario's development of the Ontario Special Study (formal title: "Our Children, Our Future: Transforming Child Welfare for the Well-Being of Children of Families"), with the aim of developing new policy, program and funding reforms in Ontario, and to begin addressing the specific 2016 CHRT Order to reform the 1965 Agreement. 				
		Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?	NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:
			Protection	Prevention		
	<p>14 FNCFS Agencies (12 delegated and 2 pre-delegated)¹³</p>	✓	✓	<p>Agreement with Province (1965 Agreement)</p>	<p>2019-20 Projects funded through Regional CWJI Allocations: 133</p> <p>2019-20 CWJI Pilot Projects: 2</p>	

¹² Ss. 17(4), 65(1), 98(8)f), 163(4)g), 104(4), 109(7)b), 109(10), 113(5), 186, 192(2)c), 192(6), 197(2).

¹³ Pre-delegated, or mandated agencies do not offer the complete range of child welfare services provided by delegated child welfare authorities; they do not have authorization to apprehend children and to apply the provincial act. These mandated/pre-delegated agencies have the right to develop their own standards of practice and, like delegated agencies, are funded in accordance with the 1965 Agreement.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

	fund those services (s. 55, 69, 70, 71)	38 Children's Aid Societies	✓	✓	Agreement with Province (1965 Agreement)	
		26 First Nations		✓	Agreement with Province (1965 Agreement)	

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

MANITOBA																		
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?		WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?														
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 94,692</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 34,497</p> <p>Children aged 0-18 in care (FNCFS IMS data as of March 31, 2018): 2,517</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018):</p>	<p>Provincial Legislation: <i>The Child and Family Services Act</i></p> <ul style="list-style-type: none"> • Provision of CFS must respect the child's cultural heritage (s. 2(1)) • Notices must be provided to the agency (ss. 30(1)e), 38(8), 77(2)c.2)) • Provides for agency delegation (ss. 4(3)) • Eligibility for services under the Act terminates upon reaching 18 years of age. 	<ul style="list-style-type: none"> • The Department provides FNCFS Program funding directly to 15 provincially-delegated FNCFS agencies that deliver services to all 63 First Nation communities in Manitoba and are responsible for the delivery of services (protection and prevention) on and off-reserve. • Prior to the January 26, 2016 CHRT ruling, under a MOU arrangement, the province of Manitoba and the Department cost-shared the funding of core operations costs for the 15 FNCFS agencies (province funded 60%, federal government funded 40%). This MOU expired March 31, 2016. The agencies are currently funded on actual costs per the CHRT orders. 		Regional Advisory Committee on Child and Family Services														
		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Name of service provider:</th> <th colspan="2" style="width: 25%;">Does the provider deliver protection and/or prevention services?</th> <th style="width: 25%;">What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?</th> <th style="width: 25%;">NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:</th> </tr> <tr> <td></td> <th style="width: 12.5%;">Protection</th> <th style="width: 12.5%;">Prevention</th> <td></td> <td></td> </tr> </thead> <tbody> <tr> <td>15 First Nations Child and Family Services Agencies (delegated)</td> <td style="text-align: center;">✓</td> <td style="text-align: center;">✓</td> <td>Agreements with agencies</td> <td> <p>2019-20 Projects funded through Regional CWJI Allocations: 62</p> <p>2019-20 CWJI Pilot Projects: 7</p> </td> </tr> </tbody> </table>	Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?	NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:		Protection	Prevention			15 First Nations Child and Family Services Agencies (delegated)	✓	✓	Agreements with agencies	<p>2019-20 Projects funded through Regional CWJI Allocations: 62</p> <p>2019-20 CWJI Pilot Projects: 7</p>	
Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?	NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:														
	Protection	Prevention																
15 First Nations Child and Family Services Agencies (delegated)	✓	✓	Agreements with agencies	<p>2019-20 Projects funded through Regional CWJI Allocations: 62</p> <p>2019-20 CWJI Pilot Projects: 7</p>														

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

2,612						
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HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

SASKATCHEWAN																					
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?	WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?																		
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 78,887</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 29,203</p> <p>Children aged 0-18 in care (FNCFS IMS data as of March 31, 2018): 1,211</p>	<p>Provincial Legislation: <i>Child and Family Services Act</i></p> <ul style="list-style-type: none"> • Notices must be provided to the Band or agency (ss. 37(10)) • Chief of the child's band or the chief's designate may be designated as a person having a sufficient interest in a child (ss. 23(1)b)) may be a party to a protection hearing (ss. 37(11)) • Eligibility for services under the Act terminates upon reaching 18 years of age, with possibility of extension until age 21 (ss. 56(3)a)) • Province may enter into agreements with Aboriginal community to administer all or any part of the Act (s. 61) 	<ul style="list-style-type: none"> • The Department provides FNCFS Program funding to 19 delegated FNCFS agencies which deliver services to 61 of the 70 First Nations in Saskatchewan (protection and prevention). • 9 First Nations receive services from the province. 5 of these First Nations have entered into a Prevention Protocol with the Ministry of Social Services in order to provide prevention services. These First Nations are still eligible to receive CWJI funding. 	<p>Regional table</p> <p>ISC also participates in the Federation of Sovereign Indigenous Nations' (FSIN) Technical Advisory Group when asked/invited.</p>																		
		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="width: 25%;">Name of service provider:</th> <th colspan="2" style="width: 25%;">Does the provider deliver protection and/or prevention services?</th> <th rowspan="2" style="width: 25%;">What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?</th> </tr> <tr> <th style="width: 10%;">Protection</th> <th style="width: 15%;">Prevention</th> </tr> </thead> <tbody> <tr> <td>19 FNCFS Agencies</td> <td style="text-align: center;">✓</td> <td style="text-align: center;">✓</td> <td>Agreements with agencies</td> </tr> <tr> <td>Province</td> <td style="text-align: center;">✓</td> <td style="text-align: center;">✓</td> <td>Agreement with Province</td> </tr> <tr> <td>5 First Nations</td> <td></td> <td style="text-align: center;">✓ (via Prevention Protocol)</td> <td>Agreements with First Nations The funding for the Prevention Protocols is</td> </tr> </tbody> </table>	Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?	Protection	Prevention	19 FNCFS Agencies	✓	✓	Agreements with agencies	Province	✓	✓	Agreement with Province	5 First Nations		✓ (via Prevention Protocol)	Agreements with First Nations The funding for the Prevention Protocols is	<p>NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:</p>
		Name of service provider:		Does the provider deliver protection and/or prevention services?			What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?														
			Protection	Prevention																	
19 FNCFS Agencies	✓	✓	Agreements with agencies																		
Province	✓	✓	Agreement with Province																		
5 First Nations		✓ (via Prevention Protocol)	Agreements with First Nations The funding for the Prevention Protocols is																		
			<p>2019-20 Projects funded through Regional CWJI Allocations: 6</p>																		

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 1,221				with the Province)	flowed through the First Nations' regular agreement with ISC.	2019-20 CWJI Pilot Projects: 0
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HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

ALBERTA					
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?		WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?	
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 79,745</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 28,335</p> <p>Children aged 0-18 in care (FNCFS IMS data as of</p>	<p>Provincial Legislation: <i>Child, Youth and Family Enhancement Act</i></p> <ul style="list-style-type: none"> Recognizes the importance of preserving the child's Indigenous identity, culture, heritage, spirituality, language and traditions (ss. 1.1(c)ii), 2(1)c), 2(1)j)iii), 52(1.3), 58.1(g), 63(1)f)) Affirms the right of Indigenous people to be involved in the planning and provision of services to and decisions respecting Indigenous families and their children (ss. 1.1(d), 67(1), 107(1)) Applications must be accompanied with a plan addressing how the Indigenous child's culture will be respected, supported and 	<ul style="list-style-type: none"> In Alberta, 17 FNCFS agencies provide both protection and prevention services to 37 of the 46 First Nations. The remaining 11 First Nation communities are provided direct protection services by the province which is reimbursed for actual expenditures via the 1991 Alberta Reform Agreement. Under this agreement, the Department reimburses the Province of Alberta for select social services delivered to First Nation child and families ordinarily resident on reserve. 		<p>Previously had the Senior Officials Steering Committee and Technical Working Group. The Province cancelled these tables citing lack of adequate participation by First Nations leadership.</p>	
		Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?
			Protection	Prevention	
	17 First Nations Child and Family Services Agencies (delegated)	✓	✓	Agreements with agencies	
				NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:	
				2019-20 Projects funded through	

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

<p>March 31, 2018): 1,676</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 1,799</p>	<p>preserved (ss. 52(1.3), 63(1)f, 63(2)f, 63(3)e))</p> <ul style="list-style-type: none"> • Notices must be provided to the child’s band (ss. 53(1.1)) • Provides for agency delegation (ss. 121(1)) • Eligibility for services under the Act terminates upon reaching 18 years of age (with some exceptions). (s. 57.3) 	<p>Province</p>	<p style="text-align: center;">✓</p>	<p>These communities receive CWJI funding to support prevention activities.</p>	<p>Agreement with Province</p>	<p>Regional CWJI Allocations: 46</p> <p>2019-20 CWJI Pilot Projects: 1</p>
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HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

BRITISH COLUMBIA			
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?	WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 62,933</p> <p>Total population aged 0-18 on reserve (for all Bands) (as of December 31, 2019): 15,861</p> <p>Children aged 0-18 in care</p>	<p>Provincial Legislation: <i>Child Family and Community Service Act</i></p> <ul style="list-style-type: none"> • Recognizes the right of Indigenous children to learn about and practise their traditions, customs and language and to belong to their community (ss. 2(b.1)f), 4(2), 70(1.1)) • Increases participation of Indigenous communities in prevention and child protection matters (ss. 2(b.1), 3(b), 50.01, 16(1)b), 16(2)b)d), 60(1)e)) • Considers the impact of residential schools (ss. 3(c.1)) 	<ul style="list-style-type: none"> • The Department provides FNCFS Program funding to 20 FNCFS agencies (called delegated Aboriginal agencies (DAA) in the provincial system) that serve 114 First Nations. Of the 20 agencies, 1 operates under a bylaw¹⁴ and 9 are not fully delegated to provide protection services. In communities that are served by partially delegated agencies, the agencies provide prevention and limited delegated services while protection services are provided by the provincial Ministry of Child and Family Development (MCFD). • Through a Service Delivery Agreement, the Department also provides funding to the Province, which serves the remaining 82 communities (not served by a DAA) and the communities served by a partially delegated agency (for protection services). • ISC also provides funding for the delivery of prevention programming in the 82 communities not served by a DAA. 	<p>First Nations Leadership Council tripartite working group and memorandum of understanding between Indigenous and Northern Affairs Canada and the First Nations Health Council</p> <p>The Partnership Forum,</p>

¹⁴ By-law for the Care of Our Indian: Spallumcheen Indian Band By-law #3 – 1980.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

<p>(FNCFS IMS data as of March 31, 2018): 623</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 623</p>	<ul style="list-style-type: none"> An interim plan addressing the steps to be taken to support the Indigenous child's culture and sense of belonging to his community (ss. 35(1)b, 42.1(5)b)) Notice of of hearings must be served to Indigenous orgs (ss. 34(3)d), 36(2.1), 38(1), 49(2), 50(4), 54.01(3), 54.1(2)) Entitles Indigenous orgs to be parties at the court hearing (ss. 39(1)) Prioritizes placement within community (ss. 71(3)) Director may make an agreements with a person that has a cultural or traditional responsibility towards the child(ss. 5(1.1), 6(2.1), 7(2.1), 8(3)b), 12.2(2.1), 33.01(1)a), 48(1.1)a), 90) Province may enter into agreements with Indigenous community to administer all or any part of the Act (s. 90, 91, 92, 92.1) Eligibility for services under the Act terminates upon reaching 19 years of age (with some exceptions) (s. 12.3). 				<p>comprised of Executive Directors from DAAs and representatives from ISC and MCFD.</p>	
		Name of service provider:	Does the provider deliver protection and/or prevention services?		What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?	NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:
			Protection	Prevention		
20 FNCFS agencies (also called Delegated Aboriginal Agencies (DAAs))	✓	✓	Agreements with agencies	<p>2019-20 Projects funded through Regional CWJI Allocations: 88</p> <p>2019-20 CWJI Pilot Projects: 6</p>		
Province	✓	✓	Agreement with Province			

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

YUKON						
OVERVIEW OF FIRST NATIONS LIVING ON RESERVE AND ON CROWN LAND:	ENVIRONMENTAL SCAN: P/T CHILD AND FAMILY SERVICES LEGISLATION THAT APPLIES TO SERVICES FUNDED THROUGH THE FNCFS PROGRAM:	HOW ARE PROTECTION AND PREVENTION SERVICES THAT ARE FUNDED THROUGH THE FNCFS PROGRAM DELIVERED IN THIS JURISDICTION?		WHAT REGIONAL BODIES DOES THE FNCFS PROGRAM PARTICIPATE IN TO DISCUSS SERVICE DELIVERY MATTERS WITH PARTNERS?		
<p>Total registered population living on reserve and on Crown land (as of December 31, 2019): 3,986 on Crown land (There are no reserves in Yukon)¹⁵</p> <p>Total population aged 0-18 on Crown land (for</p>	<p>Provincial Legislation: <i>Child and Family Services Act</i></p> <ul style="list-style-type: none"> Provides that the cultural identity of a child should be preserved (ss. 2(d), 4(2)) Affirms the right of FN to be involved as early as practicable in the decision-making processes regarding FN child, as well as in the planning and delivery of programs and services (ss. 2(j), 3(e)(f), 7(1)(c), 98(2), 178(2)e)) FN orgs must be advised of an investigation (ss. 27(1), 28(1)b)) 	<ul style="list-style-type: none"> The Department has a funding agreement in place with the Government of Yukon to provide child and family services to all First Nation children and families living in the Territory, as opposed to “ordinarily resident on reserve” because there are no reserves in the Territory. It includes maintenance and operations funding. The Yukon Government is the service provider for all First Nations (there are no agencies) however, ISC funding for prevention flows directly to the Council of Yukon First Nations which then distribute this funding to all Yukon First Nations. 		<p>The Council of Yukon First Nations, the Territory, and ISC are partnering in a tripartite table.</p>		
		Name of service provider:	Does the provider deliver protection and/or prevention services?		NUMBER OF FUNDED CWJI PROJECTS IN 2019-20:	
			Protection		Prevention	What funding mechanism is used by FNCFS Program to flow funding for the services from this provider?
Territory	✓		Agreement with Territory			

¹⁵ For the sake of consistency and for comparative purposes, as per the other jurisdiction tables, this data only captures the registered population on reserve (no reserves in Yukon) and on Crown land. Please be mindful though that the population eligible for FNCFS Program-funded services in Yukon is actually broader than this. The Department has a funding agreement in place with the Government of Yukon to provide child and family services to all First Nation children and families living in the Territory, as opposed to “ordinarily resident on reserve” because there are no reserves in the Territory. According to the Indian Registry System (as of December 2019), the total First Nation population for the 14 Yukon First Nations is 9,561 and, of this, the total population aged 0-17 is 1,682.

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

<p>all Bands) (as of December 31, 2019): 792 land (There are no reserves in Yukon)¹⁶</p> <p>Children aged 0-18 in care (FNCFS IMS data as of March 31, 2018): 103</p> <p>Children in care (all ages) (FNCFS IMS data as of March 31, 2018): 103</p>	<ul style="list-style-type: none"> • FN orgs must be served notice of hearings and notified when a child is brought into care (ss. 32(2)d), 33(2)c), 41(1)b), 47(1), 51) • FN orgs have the right to be parties to an application (ss. 48(1)b)) • Prioritizes placement within community (ss. 89(3)) • The Director may arrange for another FN to have the care or custody of a child (ss. 94(2)(4)) • Recognizes customary adoption (ss. 134(1)) • Province may enter into agreements with FN to administer all or any part of the Act (ss. 166(a), 168(1), 169, 170) • Eligibility for services under the Act terminates upon reaching 24 years of age (ss. 17(2)) • Provides for the delegation of powers and duties (s. 176) • Act developed through combined efforts of representatives of the Yukon Government and First Nations. 	<p>Each First Nation</p>		<p>✓</p>	<p>Agreement with Council of Yukon First Nations</p>	<p>2019-20 Projects funded through Regional CWJI Allocations: 2</p> <p>2019-20 CWJI Pilot Projects: 0</p>
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¹⁶ For the sake of consistency and for comparative purposes, as per the other jurisdiction tables, this data only captures the total population aged 0-18 on reserve/Crown land (for all Bands). Please be mindful though that the population aged 0-18 that would be eligible for FNCFS Program-funded services in Yukon is actually broader than this. The Department has a funding agreement in place with the Government of Yukon to provide child and family services to all First Nation children and families living in the Territory, as opposed to “ordinarily resident on reserve” because there are no reserves in the Territory.

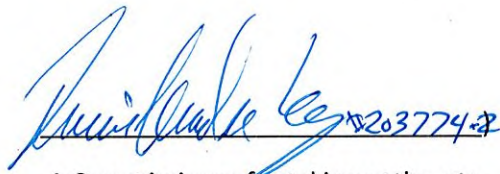
HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

HOW FNCFS PROGRAM IS DELIVERED ACROSS CANADA

NORTHWEST TERRITORIES AND NUNAVUT

- The FNCFS Program is not delivered in neither Nunavut nor the Northwest Territories.
- In Nunavut and the Northwest Territories, child and family services are provided to all residents through the Nunavut and Northwest Territories' governments.
- Canada makes annual transfer payments to these territorial governments through the Department of Finance to make up a portion of their annual budgets. The Nunavut and Northwest Territories governments then decide how to allocate this funding to a number of programs and services, including child and family services.

This is **Exhibit «NN-3»** to the Affidavit of
Nathalie Nepton sworn before me at
Gatineau, province of Québec, on
the 20th day of November, 2020

A handwritten signature in blue ink, appearing to read "David... 203774-8".

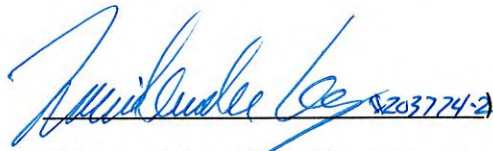
A Commissioner for taking oaths, etc.

CFS Provinces/Terrorities Expenditures by Region and Type (2015-16 to 2018-19)

Federal - Provincial/Territorial Agreements	2015-16	2016-17	2017-18	2018-19
Province of Newfoundland & Labrador - Child and Family Services	10 800 000	9 115 872	9 904 286	19 127 954
Province of Ontario - Ministry of Children, Community and Social Services	122 605 318	127 657 643	124 898 457	132 214 318
Province of Alberta - Minister of Finance	26 976 918	30 775 341	32 749 248	16 660 394
Province of BC - Ministry of Child and Family Development	29 100 000	29 400 000	29 100 000	29 624 713
Government of Yukon	10 000 000	11 136 669	13 913 571	17 803 578
Total Investment Federal - Provincial/Territorial Agreements	199 482 236	208 085 525	210 565 563	215 430 957

Additional Investments made by the Program	2015-16	2016-17	2017-18	2018-19
Atlantic				
CWJI/Community Based Initiatives	-	-	-	4 954 616
Agency Funding	32 767 770	44 664 310	46 365 236	58 746 803
Quebec				
CWJI/Community Based Initiatives	-	-	-	6 523 733
Agency Funding	53 319 644	60 631 166	67 294 040	75 808 857
Ontario				
CWJI/Community Based Initiatives	-	-	-	17 631 255
Agency Funding	1 933 682	4 418 186	22 418 282	135 281 171
Manitoba				
CWJI/Community Based Initiatives	-	-	-	18 670 982
Agency Funding	144 130 276	155 082 434	181 202 951	225 980 763
Saskatchewan				
CWJI/Community Based Initiatives	-	-	-	12 975 619
Agency Funding	88 648 198	97 182 270	103 689 503	160 882 458
Alberta				
CWJI/Community Based Initiatives	-	-	-	14 292 609
Agency Funding	104 122 457	124 663 416	132 824 540	164 254 333
British Columbia				
CWJI/Community Based Initiatives	-	-	-	10 948 839
Agency Funding	30 932 815	39 310 082	44 408 677	86 675 010
Yukon				
First Nations Funding	-	113 294	287 045	1 428 959
Total Additional Investments made by the Program	455 854 842	526 065 159	598 490 273	995 056 007

This is **Exhibit «NN-4»** to the Affidavit of
Nathalie Nepton sworn before me at
Gatineau, province of Québec, on
the 20th day of November, 2020

A handwritten signature in blue ink, appearing to read "David Audet" followed by a flourish. To the right of the signature, the number "203774-2" is written in blue ink.

A Commissioner for taking oaths, etc.




[Canada.ca](#) > [Indigenous Services Canada](#) > [Social programs](#)

- > [First Nations Child and Family Services](#)
- > [Reducing the number of Indigenous children in care](#)

Progress on six points of action

Reforming indigenous child and family services

Progress on 6 points of action

A banner with a dark background. On the right side, there is a photograph of a pair of traditional Indigenous moccasins. The text "Indigenous children and families together" is written in white on the left side of the banner.

**Indigenous children
and families together**

[Canada.ca/indigenous-families-together](https://www.canada.ca/indigenous-families-together)

At the Emergency Meeting on Child and Family Services held in January 2018, the Government of Canada committed to six points of action to address the over-representation of Indigenous children and youth in care in Canada.

The Government of Canada has since made progress on its commitment and on each point of action.

Select the progress boxes under any of the 6 commitments for information about the progress being made.

[Expand all](#)

[Collapse all](#)

1. Continuing the work to fully implement all orders of the Canadian Human Rights Tribunal, and reforming child and family services including moving to a flexible funding model

▼ Progress on point of action 1

- Canada has begun implementing the orders of the Canadian Human Rights Tribunal (CHRT) issued on February 1, 2018. Canada has:
 - been funding First Nations Child and Family Services Agencies for their actual costs in the areas ordered by the CHRT, as part of Canada's ongoing efforts to provide agencies with the funding they need to meet the best interests and needs of First Nations children and families, retroactive to January 2016
 - Worked with the Assembly of First Nations to contract the Institute for Fiscal Studies and Democracy (IFSD) at the University of Ottawa to analyze FNCFS agency needs to inform the development of an alternative funding system

- been providing funding to stakeholders in Ontario for the reimbursement of costs related to mental health services for First Nations children and youth retroactive to January 2016
- been providing funding to bands and Ontario for the reimbursement of costs related to the provision of Band Representative Services retroactive to January 2016
- Canada has formed a Consultation Committee on Child Welfare (CCCW) Reform. This committee is co-chaired by the Assembly of First Nations and the First Nations Child and Family Caring Society of Canada and is comprised of senior assistants and assistant deputy ministers from Indigenous Services Canada (ISC) and all parties of the tribunal. Early accomplishments of this committee include the development of a protocol to govern consultations between Canada and the CHRT complainants and interested parties with a goal towards eliminating discrimination against First Nations children.
- Canada is also working with the Ontario Technical Table on Child and Family Well-Being on an Ontario special study, and with Nishnawbe Aski Nation to develop a remoteness quotient for First Nations delegated agencies in Northern Ontario.
- Since 2016, the Government has made available \$679.9 million to Jordan's Principle to help with health, social and

education services that are needed right away. Examples of this include mental health supports, medical equipment, speech therapy, educational supports and more.

- As of June 19, 2018, the eligibility criteria for Jordan's Principle have been expanded to include non-status Indigenous children ordinarily resident on-reserve. This expansion is an important step towards improving the well-being of Indigenous children, their families and communities.
- In 2018, a 24/7 national call centre was established for Jordan's Principle which provides another channel for First Nations children to access the products, services and supports they need. As of November 26, 2018, a total of 2,809 calls have been received, resulting in 849 requests for services.
- ISC supported the September 2018 Assembly of First Nations Jordan's Principle Summit in Winnipeg, Manitoba. The summit provided First Nations leadership, families and community members the opportunity to join together with health practitioners and service providers, among others, to share lessons learned and promising practices for the implementation of Jordan's Principle to date, as well as to discuss shared priorities and their vision for the future of Jordan's Principle.

In addition to progress made on Jordan's Principle and reforming First Nations child and family services, on September 10, 2018, Inuit Tapiriit Kanatami and ISC announced that the immediate health, social and education needs of Inuit children would be responded to and addressed through an Inuit-specific Child First Initiative. Meanwhile, the Government of Canada continues to work with Inuit partners, provinces and territories to develop a long-term Inuit-specific approach to better address the unique health, social and education needs of Inuit children.

2. Shifting the programming focus to prevention and early intervention

▼ Progress on point of action 2

- As part of its commitment to reform the First Nations Child and Family Services program, Canada is working with First Nations and provincial/territorial partners across the country to fundamentally change the system to be truly child-centered, community-directed, and focused on prevention.
 - In 2017-2018, Canada began supporting community and child well-being initiatives across the country, such as:

- a contribution of \$800,000 to the Assembly of Manitoba Chiefs' First Nations Family Advocate Office to transform how services are provided to First Nations children and families in Manitoba
- \$500,000 to help Ma Mawi Wi Chi Itata Centre Inc. expand its family group conferencing services
- In addition, Canada has committed to fully implementing the orders of the Canadian Human Rights Tribunal, which includes paying actual costs for prevention activities, retroactive to January 2016.
- Budget 2018 provided increased funding for agency service providers so that they can better support the best interests of First Nations children and families. It also provided funding for First Nations communities to lead the development and delivery of prevention services and to assert greater control over the well-being of their children and families.
 - As per the Canadian Human Rights Tribunal orders, Canada is reimbursing agencies' actual costs in prevention and various areas retroactively to January 2016, and going forward until an alternative funding system is in place.
 - The introduction of a new funding stream for Community Well-Being and Jurisdiction Initiatives is designed to enable projects of up to five years to:

- expand the availability of prevention and well-being initiatives that are responsive to community needs
- support First Nations in developing and implementing jurisdictional models

3. Supporting communities to exercise jurisdiction and explore the potential for co-developed federal child and family services legislation

▼ Progress on point of action 3

- Canada-wide engagement sessions were held over the summer and fall of 2018 with Indigenous communities, agencies, experts and representatives as well as provinces and territories to explore the possibility of options for co-developed federal legislation on First Nations, Métis and Inuit child and family services reform. Over 65 sessions have been held, involving nearly 2,000 participants.
- Canada is also working to support multiple First Nations to assert jurisdiction for child and family services. For example:

- Canada signed a Memorandum of Understanding with the Secwepemc (Shuswap) Nation Tribal Council in and the Wet'suwet'en Nation. Both Memorandums of Understanding will serve as a framework to recognize jurisdiction over child and family service.
- Canada signed a Memorandum of Understanding in December 2017 with the Assembly of Manitoba Chiefs to explore restoration of jurisdiction with First Nations in Manitoba.
- Canada funded the Federation of Sovereign Indigenous Nations in Saskatchewan to conduct engagement on transferring jurisdiction over child and family services.
- The Mi'kmaq of Nova Scotia are seeking law-making authority to govern the delivery of child and family services. ISC and the province of Nova Scotia are providing funding support.

4. Accelerating the work of trilateral and technical tables that are in place across the country

▼ Progress on point of action 4

Tripartite tables, technical working groups, and regional advisory committees are in place in each province and Yukon, comprised of representatives from First Nations, the Government of Canada and Provinces and Yukon Territory. For example:

- Alberta has two groups that meet regularly to discuss issues on First Nations children and youth in care: the Senior Officials Steering Committee, and the Trilateral Working Group. Both are made up of representatives from the Confederacy of Treaty Six, the Treaty 7 Management Corporation, Treaty 8 First Nations of Alberta, the Government of Canada, and the Government of Alberta.
- Saskatchewan has an active tripartite working group that meets regularly made up of representatives from the Government of Canada, Ministry of Social Services, the Federation of Sovereign Indigenous Nations and First Nations Child and Family Service Agencies. ISC is working with the Federation of Sovereign Indigenous Nations to establish a Saskatchewan First Nations Leadership Table on child and family services.
- Nova Scotia has an active tripartite working group that meets regularly. Other provinces are taking steps to establish a tripartite working group and then to establish a senior-level tripartite table on child and family services.
- In Ontario, the Technical Table on Child and Family Well-Being provides advice and recommendations to leadership

on child and family services policy and funding reform, with a common interest in the continuous improvement of First Nations child and family well-being in Ontario. The multi-party technical table includes representatives of:

- the Chiefs of Ontario
 - Ontario's Indigenous Representative Organizations
 - independent Ontario First Nations
 - Indigenous Services Canada
 - the Government of Ontario's Ministry of Children and Youth Services
- Since 2001, in Manitoba, the Regional Advisory Committee on First Nations Child and Family Services has played a key role in tripartite discussions on child and family services. Its membership includes representatives from:
 - the Province of Manitoba
 - First Nations political organizations
 - First Nations child and family services agencies and authorities

The funding model working group, a sub-committee of the regional advisory committee, was tasked with developing a new funding model for child and family services and includes membership from the regional advisory committee.

- A Memorandum of Understanding with the Métis Nation is intended to guide the development and implementation of a ten-year Canada-Métis Nation Child and Family Services Accord. To support this, a Canada-Métis Nation Working Group on Métis Child and Family Services Reform has been established, including representatives from the Métis National Council and its governing members, as well as departmental officials from ISC.
- The Emergency Meeting provided a starting point for federal, provincial, territorial and Inuit leadership to determine how to collectively work together to redesign child and family services for Inuit in the four land claim regions (Inuit Nunangat) and in urban centres. The work is with a view to reducing the number of Inuit children coming into care and for empowering communities in improving child, family and community well-being.

5. Supporting Inuit and Métis Nation leadership to advance culturally-appropriate reform

▼ Progress on point of action 5

- Permanent bilateral mechanism forums have been established respectively between Canada and the Métis Nation and Inuit Tapiriit Kanatami, as well as the Assembly

of First Nations, to provide distinction-based fora to jointly set priorities and oversee outcomes.

- The third meeting of Ministers and Métis Nation leaders was held on June 15, 2018, and the second meeting with the Prime Minister since the signing of the Canada-Métis Nation Accord was held on April 13, 2017. Child and family services has been identified as a priority for action in year two in the accord to address the over-representation of Métis children in care.
- The Métis National Council held a Child and Family Services Summit in Winnipeg in March 2018, where Minister Philpott announced \$1 million in funding to the Métis Nation to support engagement efforts towards culturally appropriate child and family services reform.
- Departmental officials have engaged with the Métis National Council and its governing members on the co-development of options for potential legislation for child and family services.
- The fourth Inuit-Crown Partnership Committee meeting was held since the signing of the Inuit Nunangat Declaration on February 9, 2017. The committee of Ministers, Inuit Tapiriit Kanatami and the leaders of the four Inuit land claims organizations met on June 26, 2018 in Inuvik where child and family services reform was part of the agenda for the first time. "Children in care" is part

of the committee's 2018-2019 workplan in the health and wellness priority area.

- Minister Jane Philpott and ISC officials have engaged with a number of Inuit governments and organizations on the reform of child and family services in Inuit Nunangat and in urban settings, including:
 - Inuit Tapiriit Kanatami
 - Pauktuutit (Inuit Women of Canada)
 - Inuvialuit Regional Corporation
 - the Nunatsiavut Government

6. Developing a data and reporting strategy with provinces, territories and Indigenous partners

▼ Progress on point of action 6

The development of a national data and reporting strategy on First Nations child family services is currently in its initial stages. The first goal of this strategy is to provide a more complete picture of the situation and challenges faced by First Nations, Inuit and Métis children and families.

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