

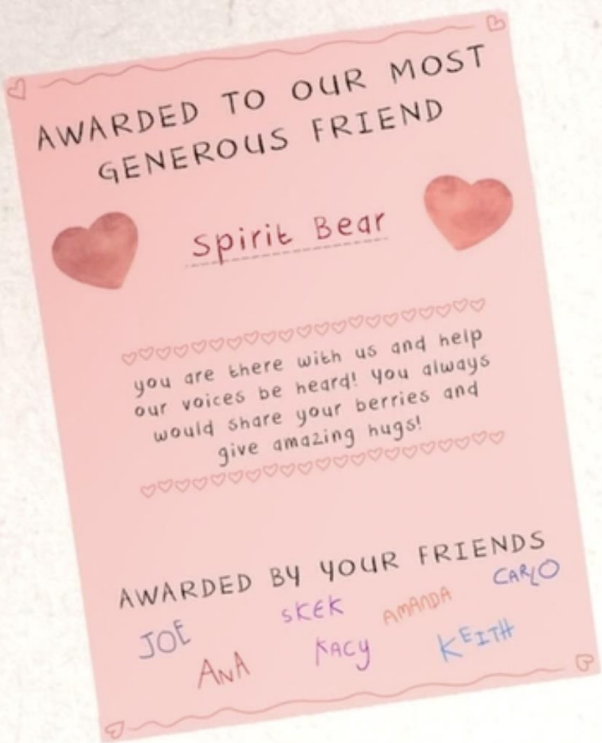
# Caring Society Update: *First Nations Child and Family Caring Society et al. v Attorney General of Canada T-1340/7008*

Presented by  
Cindy Blackstock, PhD  
December 4, 2023



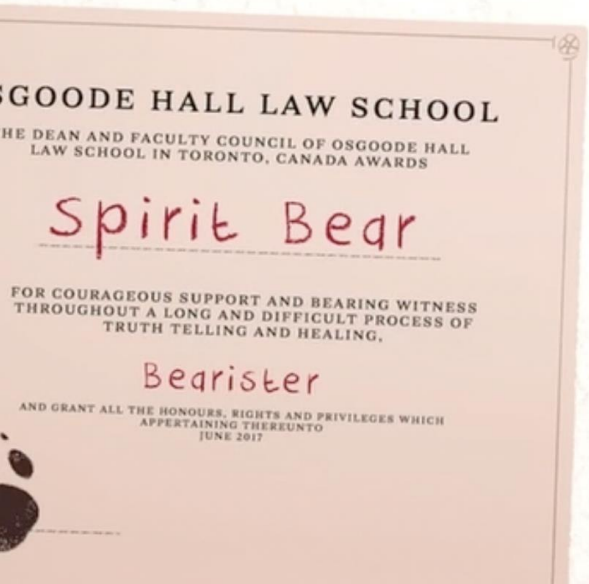
First Nations Child & Family  
Caring Society of Canada


Société de soutien à l'enfance  
et à la famille des Premières Nations  
du Canada



# What is the CHRT case about?

Stopping federal discrimination against First Nations children, youth and families in child and family and Jordan's Principle now and forever

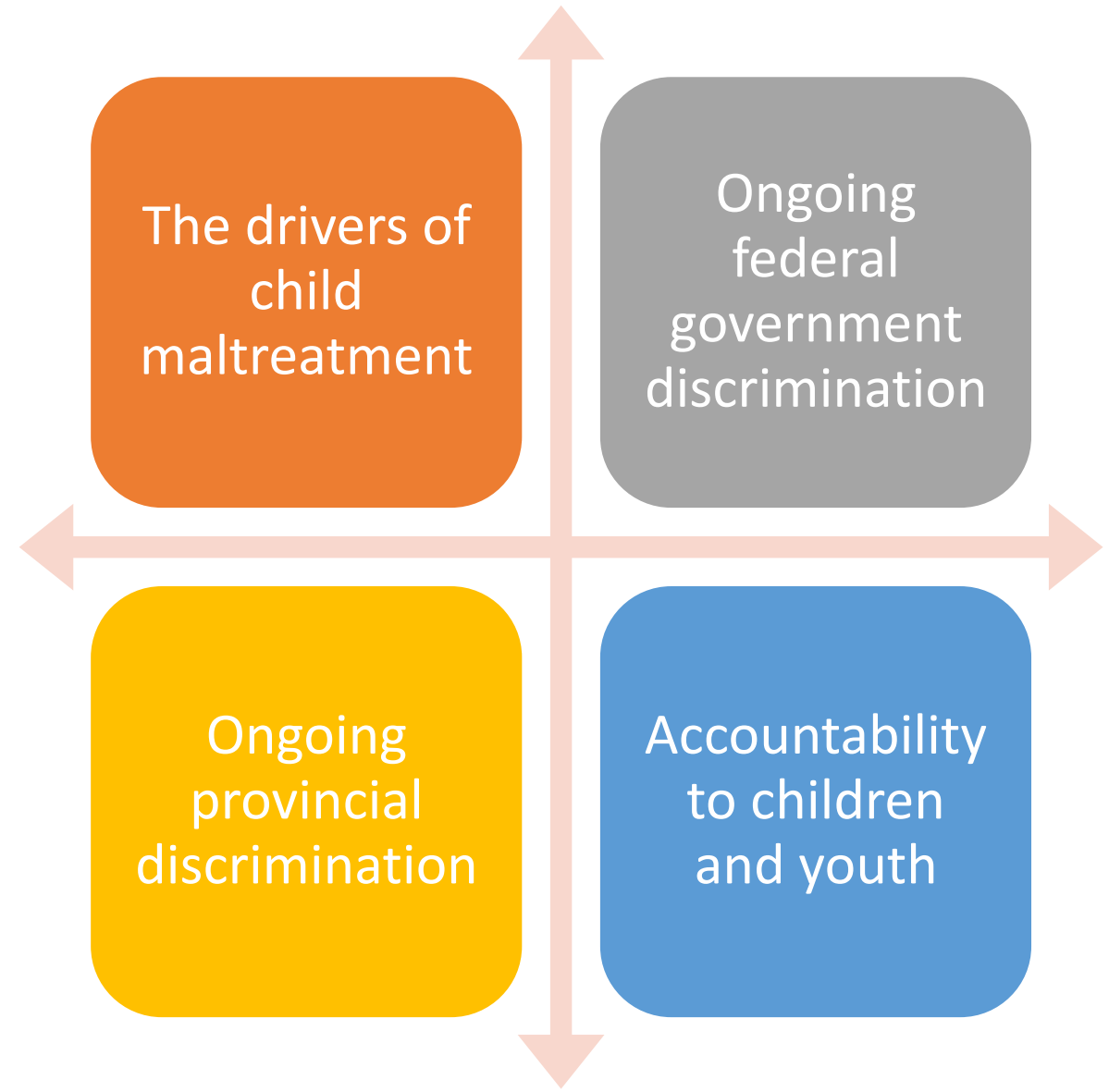




# Child and Family Services: key facts

- First Nations children over-represented at 17.2 times the rate of other children (First Nations CIS- 2019)
- 72% of First Nations children in care are **off reserve** (predominantly served by provinces)
- Main reason why First Nations children go into care is neglect
  - ✓ Addictions
  - ✓ Domestic violence
  - ✓ Mental health
  - ✓ Poverty
  - ✓ Poor housing

What are the key problems we need to solve in child and family?





# What matters most to the Caring Society?



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High quality substantively equal, culturally and needs based child and family and Jordan's Principle services

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Compliance with existing orders

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Evidence informed funding structure, policies and agreements that ends discrimination for children and families **in year 11** and beyond

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Effective safeguards against Canada discriminating again

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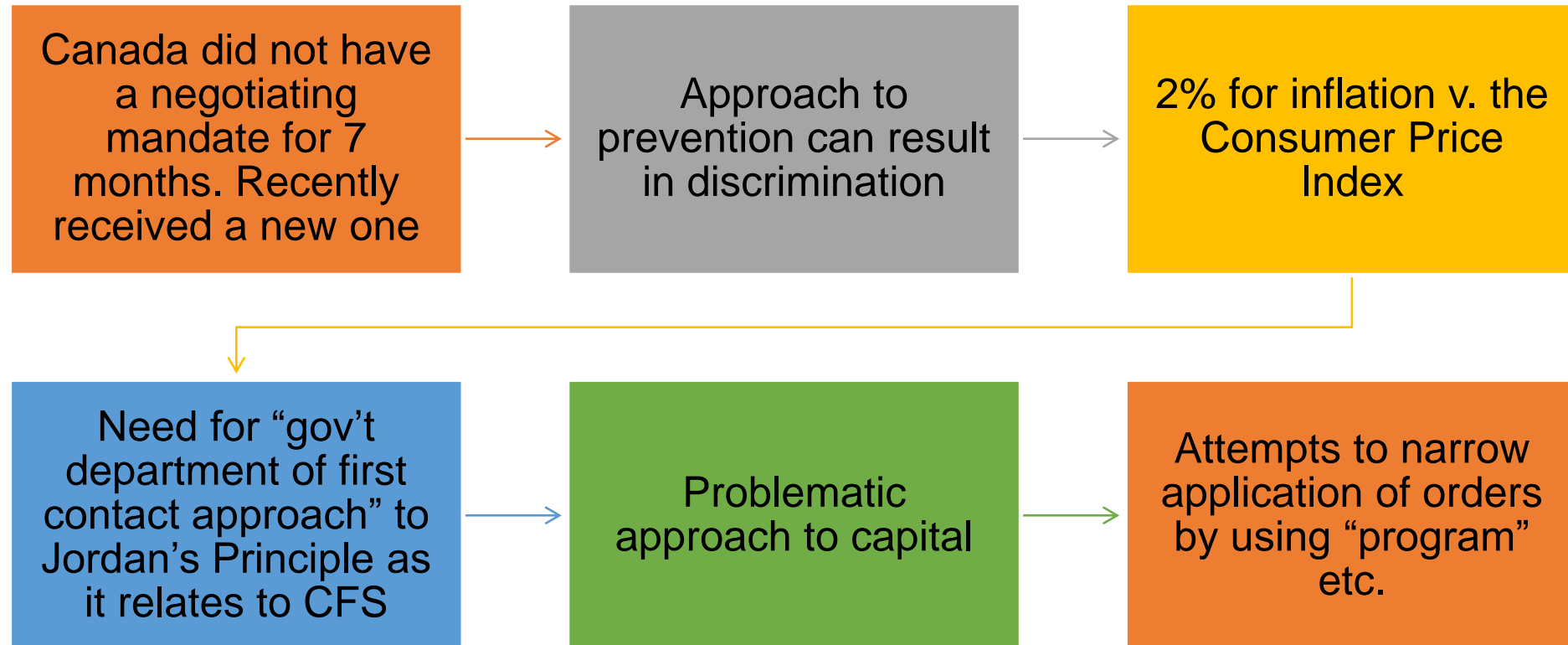
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Enforceability of orders and access to justice for First Nations, First Nations service providers and families

# Recent CHRT Submissions on Ending Discrimination and Preventing Recurrence



# Concerns re: Canada's Child and Family Services



# Final Settlement Agreement on CFS and Jordan's Principle Timeline

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Date	Community based research	Review by First Nations experts	Decision making by Leadership
March 31, 2023	First Nations Agencies	underway	<b>Delayed due to Canada not having a mandate</b>
September 15, 2023	First Nations without Agencies		
TBA	Reform the department		
May 2024	Jordan's Principle		



# Challenge: Inflation on Prevention



Canada is only adjusting prevention by **2 percent** even though the Bank of Canada inflation rate was 4.4% last year;



The 2 Percent cap contributed to the discrimination the Tribunal found in 2016.



**Recommendation:** Adopt 2% base with upwards adjustments to Consumer Price Index

Prevention  
funding: 2022  
CHRT 8 para.  
172 (7)(8)

“Canada shall fund the \$2500 per person resident on reserve and in the Yukon in total prevention funding in advance of the complete reform of the FNCFCS Program funding formulas, policies, procedures and agreements. Canada shall fund the \$2500 on an **ongoing basis adjusted annually based on inflation and population until the reformed FNCFS Program is fully implemented.**”



# Child and Family Prevention Priorities

1. Families with children at risk or in care (Statutory- tertiary)
2. Families who may be at risk of child maltreatment (Statutory- secondary)
3. All families (public health approach- primary)

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## Prevention Amount: 2500 per resident

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Developed for Agencies

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Assumes existing prevention  
infrastructure

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Was not intended to be split

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Was one part of a larger funding  
approach

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Calculated at \$2500 X “resident”  
and “inflation”





A photograph of a classroom or playroom. In the foreground, several teddy bears of various sizes and colors (white, blue, brown) are visible. Behind them, two children are standing. One child is wearing a striped shirt and a red cap, and the other is wearing a pink shirt. They are surrounded by more teddy bears and dolls. The background shows a chalkboard and some classroom furniture.

# Challenges of splitting prevention funds

01

Can leave agencies with inadequate funds to meet legal requirements and prevent children from coming into care

02

Directive 20-1, ISC provided \$285, 297.24 per agency over several years to develop capacity. ISC gives zero to First Nations

03

Increased liability for secondary and tertiary prevention particularly for non-delegated providers

04

**Recommendation:** Avoid splitting inadequate pot- provide additional funds to First Nations that includes capacity building.





## **Challenge:** Prevention population count

ISC adopts Indian Act definitions v. the “per resident” in CHRT orders  
Restricts funding to on reserve

**Recommendation: Adopt definition of First Nations Child per 2020 CHRT 36**

A blurred background image showing several people sitting at a long table in a meeting room, with large windows in the background. The image is out of focus, emphasizing the text overlay.

# Challenge: Post Majority

- Canada has been slow to roll out post majority services
- Canada has refused to provide benefits to individual youth
- Canada has imposed a deadline of March 31, 2024 for post-majority
- **Recommendation: Support AFN resolution to call for extension of post-majority services and the provision of services to individuals**

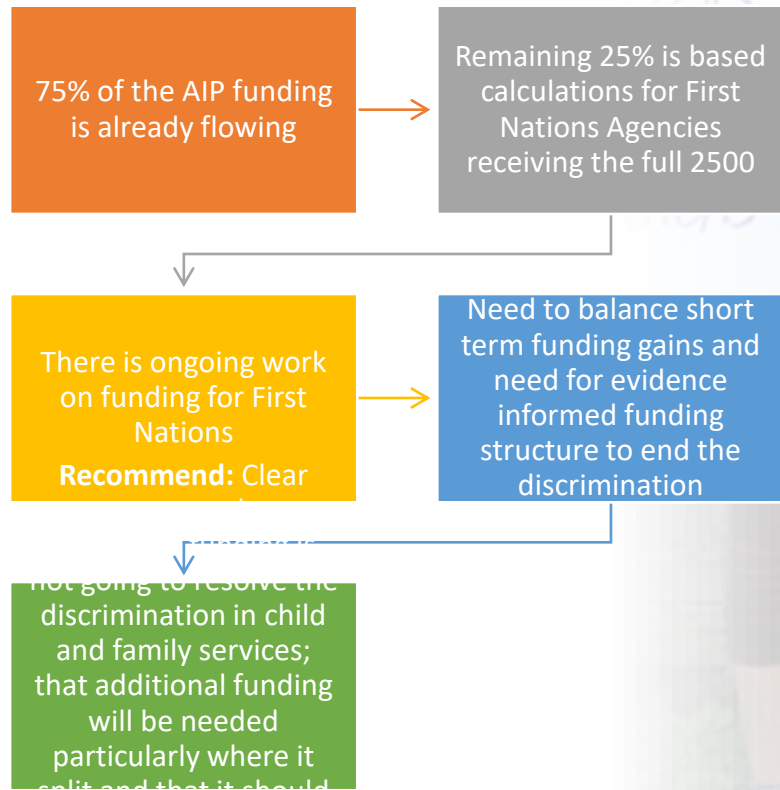


# Challenge: Capital

- Canada is introducing a March 31, 2024 deadline for capital projects related to 2021 CHRT 41
- **This is not permitted under the order**
- Canada is also implementing delays using administrative procedures and unnecessary requirements for projects
- **Recommendation: Support AFN resolution on capital and CHRT non-compliance efforts**



# Decision on Top Ups



# 2020 CHRT 36: Jordan's Principle off reserve

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- Affirms that non status First Nations children resident off reserve who are recognized by their First Nations are eligible for federally funded Jordan's Principle services, products and supports;
- This recognition is **ONLY** for the purposes of Jordan's Principle
- Orders Canada to provide funding to First Nations or First Nations organizations authorized by the First Nation to develop and implement a recognition process;
- Canada appealed 2020 CHRT 36 and the Federal Court dismissed the appeal. Canada did not appeal to the Federal Court of Appeal so the order stands.





# Challenge: Canada's approach to Jordan's Principle

- Denial of requests ISC views “income supplements”
- Failure to take a compassionate and urgent approach in all palliative care cases or when a child experiences a family death;
- Thousands of unopened requests and non-compliance with timeframes for determination and for payment
- ISC 24-hour line and regional line calls often go unanswered and/or long delays in call backs even for urgent cases
- Plugging holes in other under-funded programs- no comprehensive plan by Canada (i.e.: Spirit Bear Plan) to address gaps



# Urgent Non-Compliance re: Jordan's Principle

- **Canada's Non-compliance includes**
  - Unopened – delayed processing requests (1615 in Atlantic)
  - Backlog of approved payments (57 in Atlantic)
  - Lack of timely and compassionate response to urgent cases
  - Serious issues with the 24-hour ISC Jordan's Principle and regional phone lines
  - Denying requests on non-permissible grounds (i.e.: income support)
- **Caring Society Remedies:** Presumptive approvals for requests under \$500 with professional letters; filling holes in other underfunded areas (education/health/income assistance); automating requests/payments; quality control, provide liability protection for First Nations and Coordinators

# Big Questions on CFS Reform



**What happens in year 11**



**Who is tapping into the 22B (19.08 adjusted for inflation and pop)?**

Agencies – Phase 3 projects a need of 17.2 -20B over five years depending on remoteness option

First Nations service providers- authorized by First Nations to deliver services

First Nations (including some via C92 and First Nations receiving prevention)

Provincial/Territorial governments providing CFS to First Nations



**What happens if it is a fixed budget (what gets compromised)?**

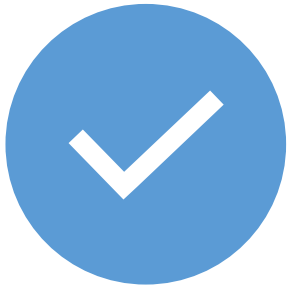


**Will First Nations and First Nations Agencies be able to enforce the agreement/order after the CHRT is done? Statutory funding should be explored**

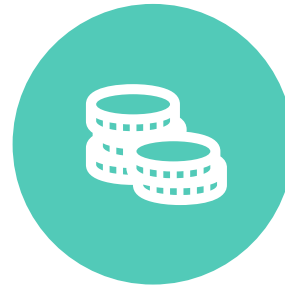


**How will the transition to the new funding approaches be managed and measured to ensure success?**

# Special Chiefs Assembly Resolutions (Dec. 2023)



Post Majority Supports



Capital for CFS and Jordan's Principle



Compensation supports  
**Not in resolutions package**



Long-term reform  
(inflation, population,  
release of remaining funds)



# Take Aways



Get involved in community-based research for Jordan's Principle



CHRT proceedings ongoing, non-compliance a serious concern



Canada just received a negotiation mandate therefore an FSA by December on CFS is not possible. New date TBA



Resolutions from leadership to support recommended reforms



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