

# Funding Jurisdiction in Indigenous Child & Family Services Concerns\* and Considerations



\*MCFD shared the concerns listed below at the request of OCOW. MCFD heard these concerns among Nations during their engagements regarding the IFSD Model. OCOW invites Nations to share any additional concerns, experiences or feedback directly with OCOW for analysis and advocacy.

Email: [Ky.Scott@OurChildrenOurWay.ca](mailto:Ky.Scott@OurChildrenOurWay.ca) / [Kayla.Swing@OurChildrenOurWay.ca](mailto:Kayla.Swing@OurChildrenOurWay.ca)

## CONCERN

A funding model that relies heavily on detailed metrics (data) may conflict with Nations' preferences for data sovereignty and control

## CONSIDERATION

The First Nations Regional Information Governance Centre has a National Data Strategy for First Nations to measure their own indicators of well-being, in alignment with OCAP principles. In BC, a 'Build Your Own Data Center' pilot has recently launched. We need good data to make good and informed decisions.

## CONCERN

Limited data access and the burden of data collection create implementation challenges

## CONSIDERATION

Currently, the Province and the Federal government hold the data of Indigenous children and families. Indigenous communities have a right to this information. In BC, consider using Section 79.2 of the CFCSA to receive information regarding the well-being of your children. Additionally, consider receiving 'Notice of Significant Measures' under the federal Act anywhere in Canada. Note that these are specific to case files- not funding. Funding data is also desperately needed and remains an outstanding promise of the province.

## CONCERN

Baseline funding methodologies are inadequate

## CONSIDERATION

Nations need fulsome information about existing funding and interim funding to inform baseline funding methodologies. Free, prior and informed consent rests on full disclosure (in advance of negotiations) of existing and interim funding.

## CONCERN

Block Funding with Top-Up Calculations is complex to calculate

## CONSIDERATION

Block funding allows service providers the flexibility to allocate resources where they are needed. Robust block funding with top-ups for remoteness, emergencies, infrastructure etc. will provide the most autonomy for Nations while ensuring additional funds are available to Indigenous communities based on their current needs and circumstances.

# How would the Recommendations made by Phase 3 Collaborators\* apply to a

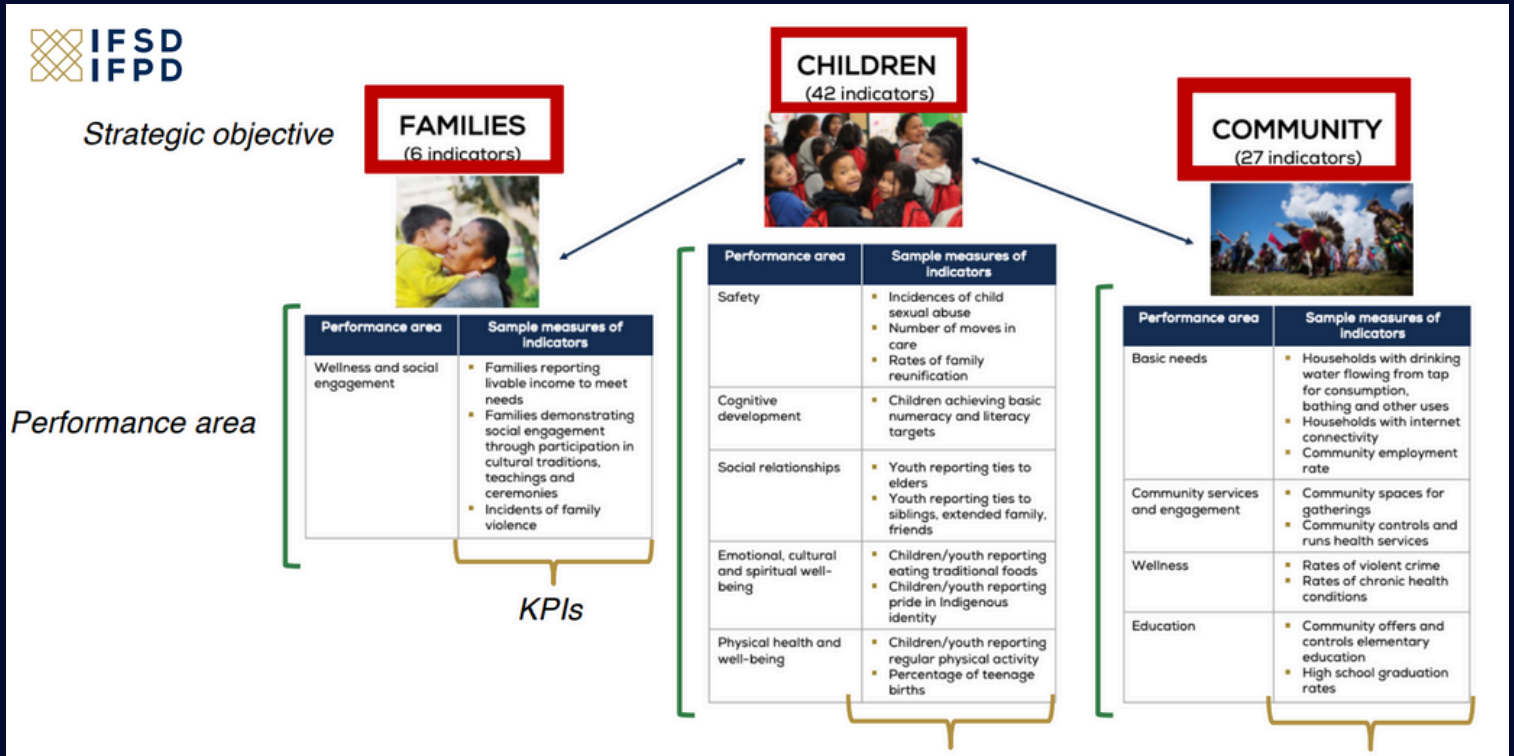
## Provincial Jurisdiction Funding Model?



<b>Recommendations from Phase 3 Collaborators</b> (as listed in IFSD Phase 3 Report, p. 83, Figure 35)	<b>Adapted for Provincial Context by Our Children Our Way</b>
1) Capital funding should be needs-based. It should not be circumscribed by the FNCFS Program, especially for those exercising jurisdiction.	1) Capital funding should be needs-based and included in a provincial funding model to support capacity building using a phased-in approach.
2) Prevention funding should be needs-based.	2) Prevention funding should be included in a provincial funding model, that is based on a Nation's definition and understanding of prevention (including upstream services)
3) Establish a national pool of funds for emergency needs in CFS to address unexpected or costs of high-needs children.	3) Emergency funds are necessary and should be included in a provincial funding model. To be administered using a Jordan's Principle approach (first point of contact pays, federal/provincial governments can negotiate amongst themselves after)
4) ISC must clarify its funding and policy decisions aligning them to CHRT orders, e.g., capital, housing, etc.	4) A province must clarify its current funding structure for delivering Child and Family Services, including the existing cost of services and the methodology of its interim 'cost-neutral' funding model. See: <a href="#">At a Crossroads Report</a> (RCY, 2022) for more on existing costs of services.
5) Housing resources should be free of political influence and should be administered in collaboration with the CFS service provider.	5) Housing is both a federal (on-reserve) and provincial (non-profits) responsibility. To ensure families and children who need safe housing most can access it, both governments should contribute and work with CFS service providers to effectively plan.
6) Allocations for First Nation Representative Services should be revisited with a baseline for small First Nations and consideration of provincial/territorial variances in mandates.	6) First Nation Representative Services plays a key role with connecting children and families with their communities and Nations. A province ought to consider funding similar roles, and advancing the capacity of FN Representatives to strengthen this system of care.
7) To support the delivery of CFS, existing gaps in housing, health, and education in First Nations should be defined.	7) Gaps with other sectors, especially those that are provincially organized (e.g.; health and education) must be clearly defined to support service delivery
8) Population on-reserve does not represent true population served in First Nations as members may move in and out of community. Until such time that First Nations define their own populations, total population should be used for funding estimates.	8) First Nations must define their own populations and membership. The existing on/off reserve dichotomy is worsened through the lack of services and substantive equality in funding provided to off-reserve (i.e. MCFD funded) child, youth and family services. Aligning the provinces existing delivery structure of Child and Family Services with the CHRT orders would improve the current inequities experienced by Indigenous families in BC.
9) Provincial and territorial governments should report all CFS-related information, e.g., expenditures, child outcomes, etc., on a distinctions basis, i.e., Inuit, Metis, etc.	9) Provincial government should report all CFS related information (expenditures, child outcomes, etc.) on a distinctions-basis directly to Indigenous communities on an on-going basis.
10) Those negotiating the reform of the FNCFS Program should be engaging with rights holders and their delegated service providers.	10) Developing a funding model for child and family jurisdiction without the expertise of delegated Indigenous service providers is a disadvantage to Nations in negotiations. Indigenous Child and Family Service Agencies have and continue to experience the underfunding of services and bring valuable insights to the discussion.

\*Phase 3 Collaborators are comprised of First Nations and FNCFS Agencies. The recommendations of the Collaborators differ from IFSD's Final Recommendations.

The **Measuring to Thrive Framework** is an approach based on gathering information at a community level and potentially aggregated to the level of service provider, regionally, or nationally. This outcomes-based framework was informed by front-line child and family practitioners with well-being focused data indicators that aims to address the structural drivers causing families to come into contact with the child welfare system.

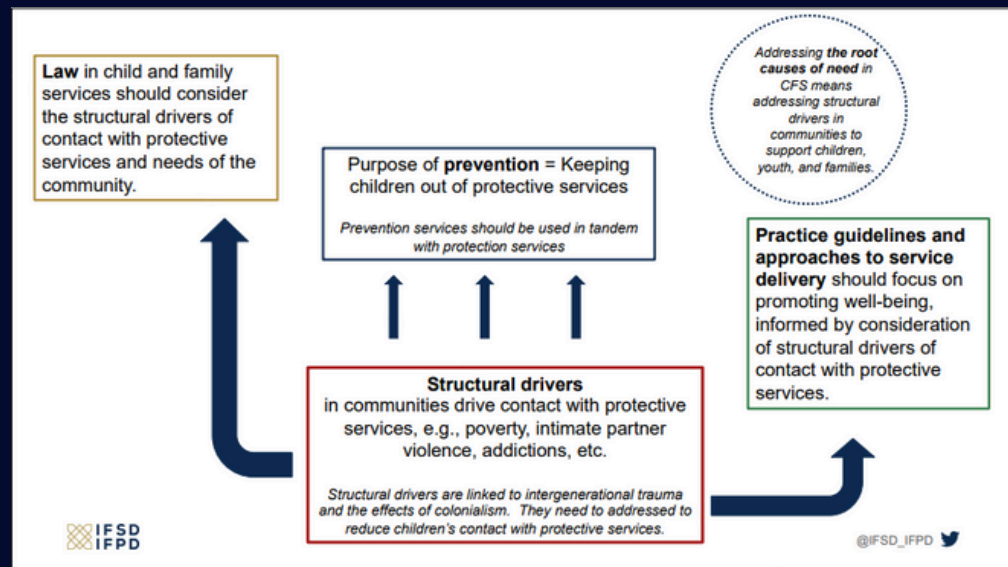


**ACCESS THE IFSD - FUNDING FIRST NATIONS CHILD & FAMILY SERVICES REPORT**

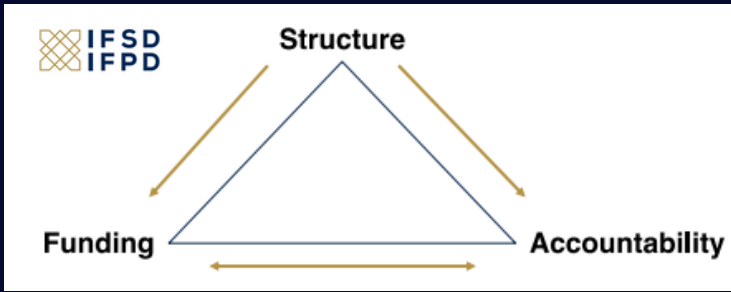
By collecting data on the *causes of the causes* that inform well-being, the measurement framework is a results-based tool to plan, monitor, and assess the performance of policies and programs, against the goal of thriving First Nations children, families, and communities. The horizontal view adopted in the framework is an expression of the interrelated criteria of wellness. This type of integrated performance framework could be considered by provinces and unaffiliated First Nations to capture and track well-being in communities (p. xxi, *Funding First Nations child and family services (FNCFS): A performance budget approach to well-being, 2020*)



Moving from a **protection system** to a **well-being system** means addressing the root causes for intervention from protective services.



## THREE FOCUS AREAS TO CONSIDER IN ASSESSMENT:



- 1) **Structure:** The incentives, rules, and conditions that determine when and how funding moves in a system.
- 2) **Funding:** The amount of money allocated to recipients.
- 3) **Accountability:** Monitoring of detailed indicators to determine if the system structure and funding are working to achieve desired goals

[ACCESS THE IFSD PHASE 3 REPORT AND EXECUTIVE SUMMARY](#)



## WHAT WE CAN LEARN FROM THE IFSD PHASE 3 REPORT : FUNDING CONSIDERATIONS FOR JURISDICTION & REFORM



The CHRT ordered Canada to : 1) end discrimination in FNCFS; and 2) ensure it does not reoccur. With the goal of supporting the fulfilment of these orders, the IFSD has been working at the request of the AFN and the Caring Society to **undertake research and analysis for the reform of the First Nations child and family services (FNCFS) Program**.

While IFSD Recommendations are not directed to any province, **there are lessons and implications for provincial governments to be considering** in jurisdiction funding model development and reform – including the importance of taking approaches that are:

- **data informed and evidence-based;** and
- guided by the **principle of substantive equality** and the **goal of ending discrimination**

Additionally, there are components of the IFSD’s recommendations on structure, funding, and accountability, as highlighted below, that should be considered within the provincial context.

### STRUCTURE

#### Immediate Measure

- Clarify legislation and policy to focus on well-being with alignment to the principles of *An Act respecting First Nations, Inuit and Métis children youth and families*.

#### Future Model Development

- Ensure carry-forward provisions are made, especially in the context of block-funding.

### FUNDING

#### Immediate Measure

- Immediately allocate existing resources to support Nation involvement and capacity building in service delivery.

#### Future Model Development

- Understand the funding approach holistically. Do not pull apart the allocation as this limits the ability to deliver on mandates.

### ACCOUNTABILITY

#### Immediate Measure

- Immediately share all information regarding existing costs and services with full transparency.

#### Future Model Development

- Performance indicators should reflect the structural drivers of contact with protective services.

*“FNCFS agencies and First Nations have shared their knowledge, their data, and their experiences to **shape an approach that comes from the front lines.**”*

(p. 136, IFSD Phase 3 Pre-Production Draft, 2025)

The following questions were defined to seek clarification from a provincial government on activities and approaches to First Nations Child & Family Services:

- **What are the goals of the province's child welfare system?**
- **Are the different starting points of Indigenous and non-Indigenous children considered?**
- **Are results for children in contact with the child welfare system tracked? What have been the results?**
- **How are costs for children-in-care determined?**
- **Are prevention services funded by the province? At what rate? How have they changed?**
- **How is funding for service providers determined?**
- **Is funding reviewed for sufficiency relative to the needs of children and families?**
- **How is the province supporting First Nations jurisdiction in child welfare?**

*(Figure 34, p. 81, IFSD Phase 3 - Pre Production Draft, March 2025)*

### **IFSD Phase 3 Report on Transparency and Data:**

- “Stakeholders should demand transparency- [government must be sharing] information that First Nations and service providers own and control. Only then will a lack of transparency and poor data management cease to be excuses for a failing system.” (pp. 36-37)
- There is an immediate need for a national FNCFS data strategy that is FN led to generate evidence for decision making. The current context is that [government] is a poor performer of counting children in care.

The needs for developing a funding model that will sustain into the future include:

1. FN gathering own data about their well-being (general and specific to child and family services)
2. Existing agencies sharing data for analyses (where regional data centers play a key role)

**The Provinces ought to be reporting data to communities directly.**

**“Essentially, who is [currently] getting funding, to deliver what services, and with what obligations, needs to be clarified. These elements are required for planning, service delivery, and reporting”**

*(p. 83, IFSD Phase 3 Pre-Production Draft, March 2025)*

# Lessons Learned:

## The Canadian Human Rights Tribunal (CHRT) Case

### 2016 CHRT 2

CHRT finds the Canadian government is racially discriminating against 165,000 First Nations children.

Orders Canada to:

- Cease its discriminatory practices regarding the FNCFS Program.
- Reform the FNCFS Program.
- Cease applying the narrow definition of Jordan's Principle; and
- Take measures to immediately implement the full meaning and scope of Jordan's Principle.

### The CHRT's Key Findings of Discrimination

- **Funding**
  - Inadequate fixed funding for operation.
  - Inadequate fixed funding for prevention costs.
- **Structure**
  - The design, management and control of the federal program, along with its corresponding funding formulas, resulted in denials of services and created various adverse impacts.
- **Accountability**
  - Based on flawed assumptions about children in care and population thresholds and did not accurately reflect the service needs.
  - The funding formula inhibited the ability to meet the expectation of providing a comparable range of child and family services.

### WHAT WE CAN LEARN FROM THE CHRT ORDERS: FUNDING MODEL CONSIDERATIONS

- **Operational funding**, including capital costs, multiple offices, cost of living adjustment, staff salaries and benefits, training, legal, remoteness and travel.
- **Prevention funding**, including primary, secondary and tertiary services to maintain children safely in their family homes.
- Reflect a **performance-informed budgeting approach**, with consideration of the **well-being indicators** defined in the Institute for Fiscal Studies and Democracy ("IFSD") Measuring to Thrive framework.
- Funding must be determined on an assessment of the **actual service level needs**.



## 2018 CHRT 4

- Undertake a **cost analysis of the real needs** of First Nations agencies including prevention/least disruptive measures, intake and investigation, building repairs and legal fees related to child welfare taking into account travel distances, case load ratios, remoteness, the gaps and/or lack of surrounding services and all particular circumstances they may face.
- **Eliminate** the aspect of its funding formulas/models that creates an **incentive** resulting in the **unnecessary apprehension**
- Provide **funding on actual costs** for least disruptive measures/prevention, building repairs, intake and investigations and legal fees
- **Stop reallocating funds** from other social programs, especially housing
- Develop an alternative funding approach
- **Evaluate all its Social Programs** for Indigenous peoples

- Funding at actual cost for **prevention/least disruptive measures, legal fees, intake and investigation, and building repairs.**
- Implement recommendations from **At a Crossroads** to better **understand current state.**
- Implement **immediate relief.**
- Funding for the purchase and/or construction of **capital assets.**
- Funding for **capital needs and feasibility studies.**

## 2021 CHRT 41

- **Fund** all FNCFS Agencies including small agencies and/or First Nations **at actual costs for the purchase of capital assets** that:
  - support the delivery of FNCFS to children on-reserve
  - support the delivery of Jordan's Principle services to children on-reserve.
- For the **construction of capital assets**, the Tribunal orders Canada to **fund the actual costs** of projects that:
  - support the delivery of FNCFS to children on-reserve
  - support the delivery of Jordan's Principle services to children on-reserve
- Provide funding for FNCFS Agencies and First Nations to conduct **capital needs and feasibility studies** regarding the purchase and/or construction of capital assets that:
  - support the delivery of FNCFS services on-reserve.
  - support the delivery of Jordan's Principle on-reserve
- **Fund actuals costs** for **Band Representatives** and **prevention services** on-reserve

WHAT WE CAN LEARN FROM  
THE CHRT ORDERS:  
FUNDING MODEL  
CONSIDERATIONS



# Lessons Learned:

## The Canadian Human Rights Tribunal (CHRT) Case



### WHAT WAS FOUND BY THE CHRT : LEGAL & ETHICAL RESPONSIBILITIES

The CHRT:

- Confirmed that ISC provided a “service” through funding; and maintained accountability for how that funding restricted services and detrimentally impacted children and families.
- Recognizes substantive equality as a core principle in both identifying discrimination and remedying it.
  - Substantive equality requires that First Nations children have access to services that meet their unique needs, often exceeding the standard provided to non-First Nations children to end discrimination and redress historical inequities

### WHAT WE CAN LEARN FROM THE CHRT : UPHOLDING LEGAL & ETHICAL RESPONSIBILITIES

While the CHRT orders are made against Canada, and are not binding on any province, BC still has human rights obligations under BC, Canadian and international law including:

- Declaration of the Rights of Indigenous Peoples Act
- United Nations Declaration on the Rights of Indigenous Peoples
- Canadian Charter of Rights and Freedoms
- The Federal Act Respecting First Nations, Inuit and Métis children, youth and families

BC’s failure to meet those obligations perpetrates further discrimination against First Nations children.

