

# *Spirit Bear's Guide to Healthy Children and Youth*

**Presented by  
June 26, 2024**



**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 Canadian Human Rights Tribunal case about?

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**Formally called:** *First Nations Child and Family Caring Society et al v. Attorney General of Canada T1340/7008*

**Stop Canada's discrimination against First Nations children, youth and families now and forever in:**

First Nations Child and Family Services

Jordan's Principle



# CHRT Case Parties: First Nations Child and Family Caring Society et al v. Attorney General

- **Complainants:** AFN and Caring Society
- **Commission:** Canadian Human Rights Commission
- **Interested Parties:**
  - Chiefs of Ontario (1965 Indian Welfare Agreement)
  - Amnesty International (Human Rights)
  - Nishnawbe-Aski Nation (Remoteness in Ontario Northern Communities)

# Three Paths to ending Canada's Discrimination and Preventing Recurrence

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## Negotiation

Final Settlement Agreement (FSA)  
Requires agreement from Canada  
Approval by First Nations in  
Assembly  
Approval by Tribunal



## Combination

Consent order on matters  
Canada agrees to in negotiation  
Contested hearing on other  
matters



## Litigation

Consistent with First Nations in  
Assembly  
Does not require Canada's  
agreement  
Tribunal process is public

# Four Legal Actions for First Nations Children

Legal Action	Class Action Compensation	Jordan's Principle Non-Compliance	Child and Family Long Term Reform	Jordan's Principle Long Term Reform
Time Period	Past harms (1991-2022)	Stop Canada's non-compliance harming children now	Stop Discrimination and prevent recurrence now and forever	Stop Discrimination and prevent recurrence now and forever
Parties	AFN/ Moushoom class action lawyers	CHRT Parties	CHRT Parties	CHRT Parties
Key Decision Makers	<b>Settlement Implementation Committee</b> (AFN- Stuart Wuttke (Chair), Derek Nepinak, Dean Peltier) and David Sterns, Robert Kugler <b>Federal Court</b>	<ol style="list-style-type: none"> <li>Guided by First Nations in Assembly Resolution 40/2022</li> <li>CHRT Parties</li> <li>BC Leadership Council applied for Interested Party status</li> <li>Tribunal</li> </ol>	<ol style="list-style-type: none"> <li>Guided by First Nations in Assembly Resolution 40/2022</li> <li>CHRT Parties</li> <li>First Nations in Assembly must approve</li> <li>Tribunal</li> </ol>	<ol style="list-style-type: none"> <li>Guided by First Nations in Assembly Resolution 40/2022</li> <li>CHRT Parties</li> <li>First Nations in Assembly must approve</li> <li>Tribunal</li> </ol>

# 4 Key Decisions for 7 Generations

How to best stop Canada's Discrimination in Child and Family and prevent recurrence

- Negotiated by Canada, AFN, Chiefs of Ontario, Nishnawbe Aski Nation
- Public reports of it being shared with First Nations at upcoming AFN SCA
- Intended to end the CHRT case on child and family and replace it with the terms of the FSA
- Key questions- can it be changed and to what extent?

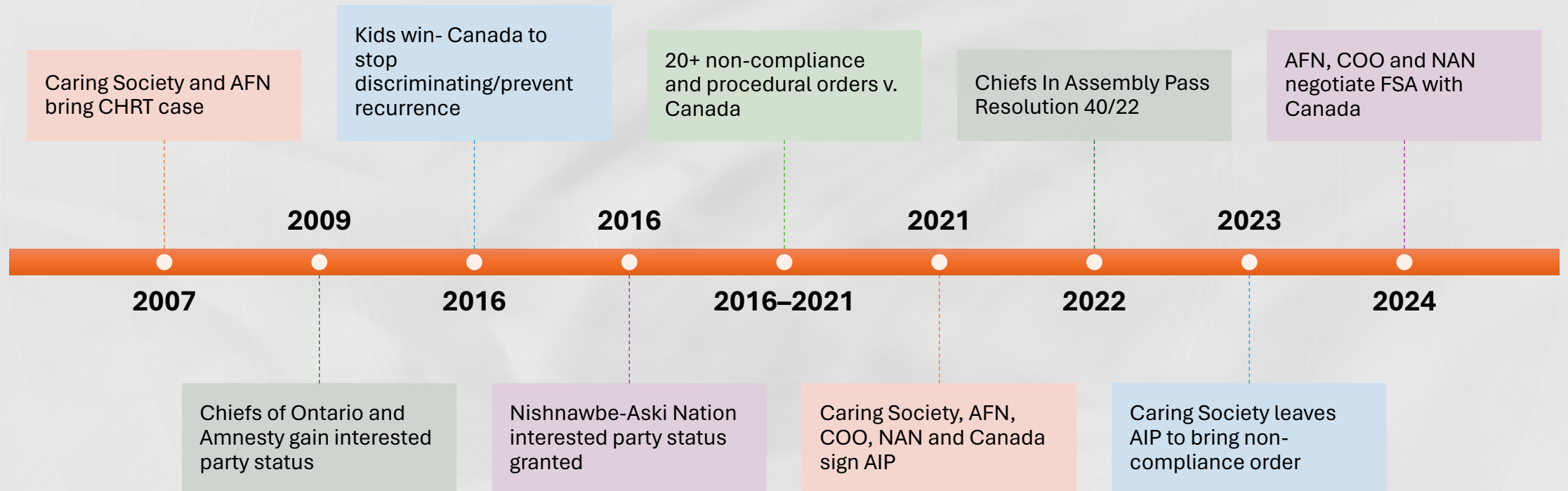
How to best stop Canada's active discrimination in Jordan's Principle now and over the longer term

- Should Ontario support the Jordan's Principle non-compliance motion?
- What does the non-compliance mean for Canada's readiness to stop discriminating?

Compensation rolling out for children in care starting December 2024 – what is the plan for supports?

- Federal Court approved the Claims Process as developed by the AFN/Class Action lawyers
- Class Action Counsel Diane Corbiere testified that the supports plan was being developed by the Settlement Implementation Committee but was not complete
- Federal Court did not agree with the Caring Society request that the class action lawyers return to the court with the completed support plan for approval.

# First Nations Child and Family Caring Society et al v. Attorney General of Canada T1340/7008



# FSA Negotiation Timetable

## CFS

- FSA (March 2024?)
- AFN, COO, NAN and Canada at table
- Confidential process
- Approval by Chiefs at AFN
- Approval by Tribunal
- Caring Society recommends CHRT hold jurisdiction until Canada implements agreement
- Caring Society recommends Leadership get copies and reviews draft agreements/submissions with regional experts carefully

## Jordan's Principle

- FSA – late 2024 or early 2025
- Approval by Chiefs at AFN
- Approval by Tribunal
- Recommend open negotiations
- Based on evidence
- Caution with ending Tribunal jurisdiction due to non-compliance



# FSA Distribution Status



CANADA HAS COPIES AND  
WAS AT THE NEGOTIATING  
TABLE



CARING SOCIETY DOES NOT  
HAVE A COPY



LEADERSHIP IN NAN AND  
COO HAVE BEEN BRIEFED  
ON FSA CONTENT



UNCLEAR WHAT THE AFN  
PLAN IS TO SHARE WITH  
FIRST NATIONS LEADERSHIP  
IN OTHER REGIONS



RECOMMEND LEADERSHIP  
NOT VOTE ON THE  
AGREEMENT UNTIL HAVING  
AT LEAST 90 DAYS TO  
REVIEW WITH LEGAL  
COUNSEL AND FIRST  
NATIONS CHILD AND FAMILY  
SERVICE EXPERTS

# Outside the AIP: Caring Society role in CFS

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- ✓ Caring Society maintains full party status at the CHRT
- ✓ End Canada's discrimination & prevent recurrence
- ✓ Committed to First Nations driven evidence (via IFSD)
- ✓ **Always willing to work with AIP parties (Canada, AFN, COO, NAN) and non-AIP parties who are a part of the CHRT (Canadian Human Rights Commission, Amnesty International) on FSA**
- ✓ **Publicly post Caring Society negotiation approach/positions (New version coming soon)**
- ✓ Respect confidentiality requests of other parties
- ✓ Welcoming advice from Leadership, regional experts, NAC and EAC
- ✓ Respond to information requests



## Caring Society positions on CFS posted on fnwitness.ca

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- Transparency
- Accountability
- Respect for FPIC
- Focus on ending Canada's discrimination and preventing it from happening again
- Feedback encouraged
- New edition coming soon including First Nations not affiliated to a First Nations Agency

# Reformed Approach to Child and Family Services

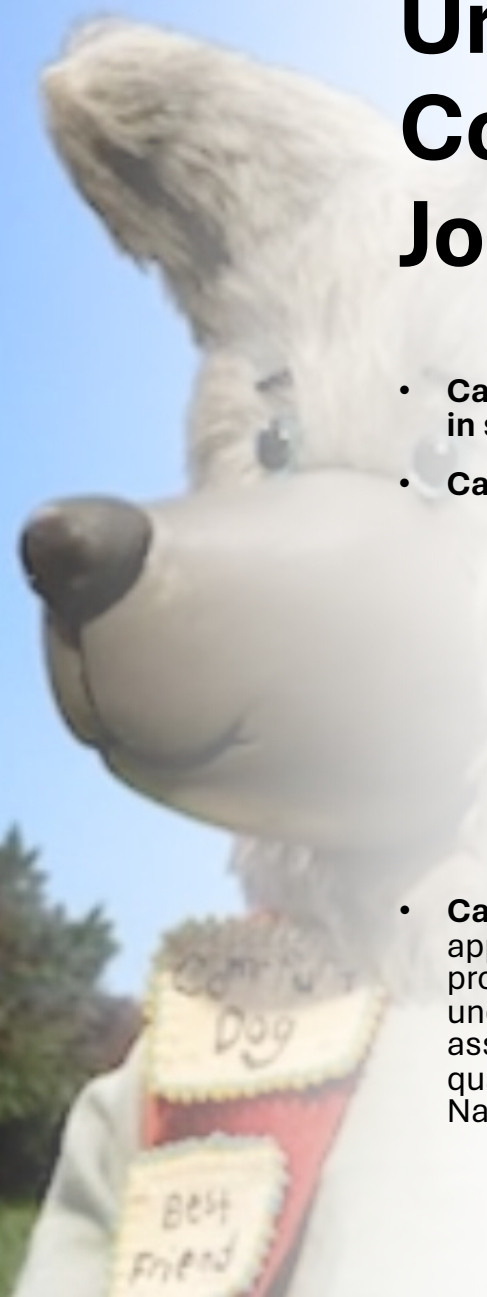
May 2024





# Jordan's Principle

- Sacred: named after Jordan River Anderson
- Child first: kids before governments
- Covers: health, education & social services
- Legal: Canada must implement
- Requires: guardian consent & supporting letter



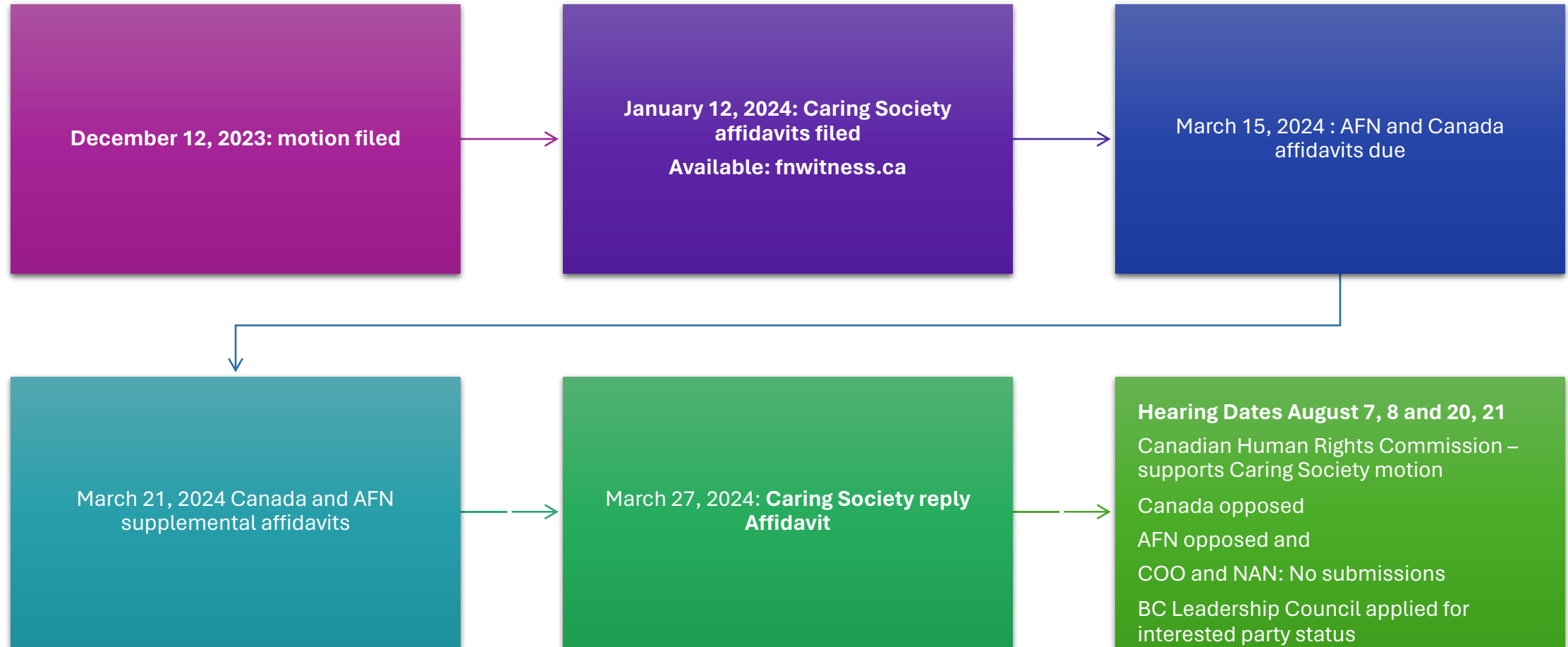
# Urgent Non-Compliance re: Jordan's Principle

- **Canada breached the AIP workplan resulting in serious non-compliance**
- **Canada's Non-compliance includes**
  - Unopened – delayed processing requests
  - Backlog of approved payments
  - 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, liability protection for First Nations and Coordinators

# ISC Jordan's Principle request backlog estimates by region (March 27, 2024)

Regional	Lowest Estimate	High Estimate
Alberta	4,385	8,279
Atlantic	1,873	4,805
BC	4,511	5,340
Manitoba	8,443	16,353
Northern	5,271	11,820
<b>Ontario</b>	<b>9,565</b>	<b>13,692</b>
Quebec	156	638
Saskatchewan	9,575	24,133
TOTAL	49,445	81,723

# Key legal dates: Jordan's Principle Non-Compliance Motion (fnwitness.ca)



# Key facts emerging from cross examination testimony on compensation

## **Supports**

- The plan for supports is not complete
- First Nations and service providers have not been notified of higher need due to upcoming compensation
- A technical wellness committee has been replaced with a Settlement Implementation Committee group. Unclear if there are experts in mental health, addictions etc. on that committee.

## **Child in Care Eligibility**

- Clear reliance on ISC data base to determine eligibility for children in care
- Unclear what will happen for eligible children who are not on the ISC database
- The status of the transfer of the database from ISC to Deloitte is also unclear (ie. What regions or years of data have been processed)



# Caring Society Compensation Submissions (fnwitness.ca)

- **Preserving eligibility:** Ensure eligible children in care who are not on the indigenous Services Canada database are eligible for compensation
- **Supports:** Ensure First Nations have adequate supports for beneficiaries per unpublished AFN resolution on supports (2024)
- **Youth voice:** Ensure youth in and from care can be informed on the process to identify parents who have abused their children (sexual abuse and severe physical abuse) who are not eligible for compensation
- **Federal Court approved the Claims Process- waiting for final order to determine if Court provides any direction on above.**



# Save the Dates!



**Loving Justice: Breathing Life Into Our Own Laws**

## 2024 Loving Justice

**September 8-11, 2024**  
**Vancouver Convention Centre**

Join us for the inaugural Loving Justice: Breathing Life Into Our Own Laws conference taking place on the unceded and ancestral territories of the sḵwxwú7mesh, xʷməθkʷəy̓əm and salilwataʔ Nations September 8 – 11, 2024. You won't want to miss this exciting opportunity to witness, share and mobilize modern and inherent Indigenous knowledge as it relates to the changing landscape of Indigenous child and family jurisdiction.

The groundbreaking conference will explore jurisdictional questions and emerging issues through presentations and workshops from community experts and legal scholars, shaping a community of practice for ongoing learning.



October 27-30, 2024

OUR CHILDREN  
OUR WAY

A National Forum for Indigenous  
Child & Family Well-being

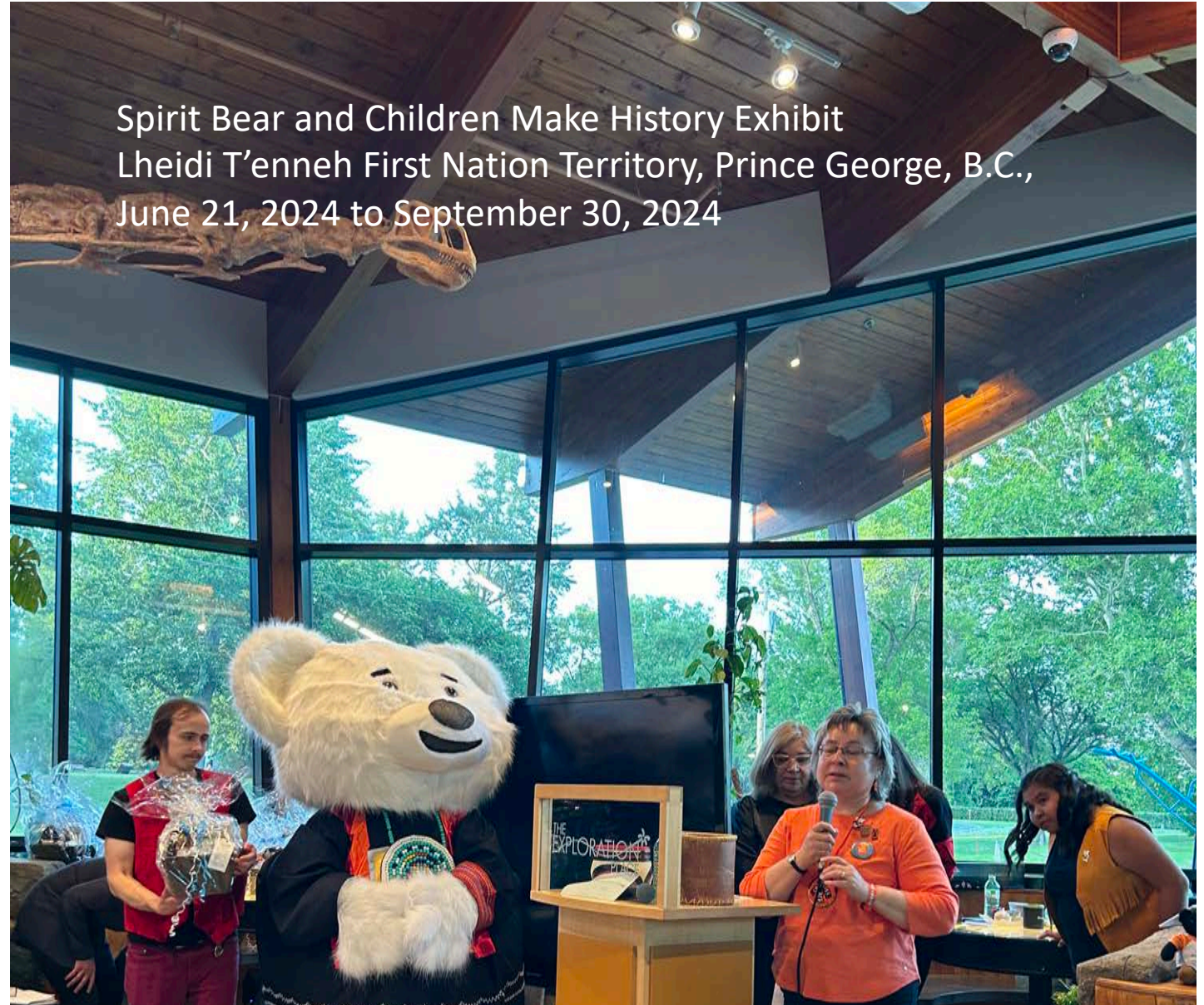
Vancouver Convention Centre, BC

hosted by  
Our Children Our Way Society



Spotted Fawn  
Productions and Spirit  
Bear: Sharing  
reconciliation stories of  
children in action!

- Four animated films based on true stories of how children of all diversities stood together to create positive change
- Films feature the voices of the children and youth who were a part of the events in real life!



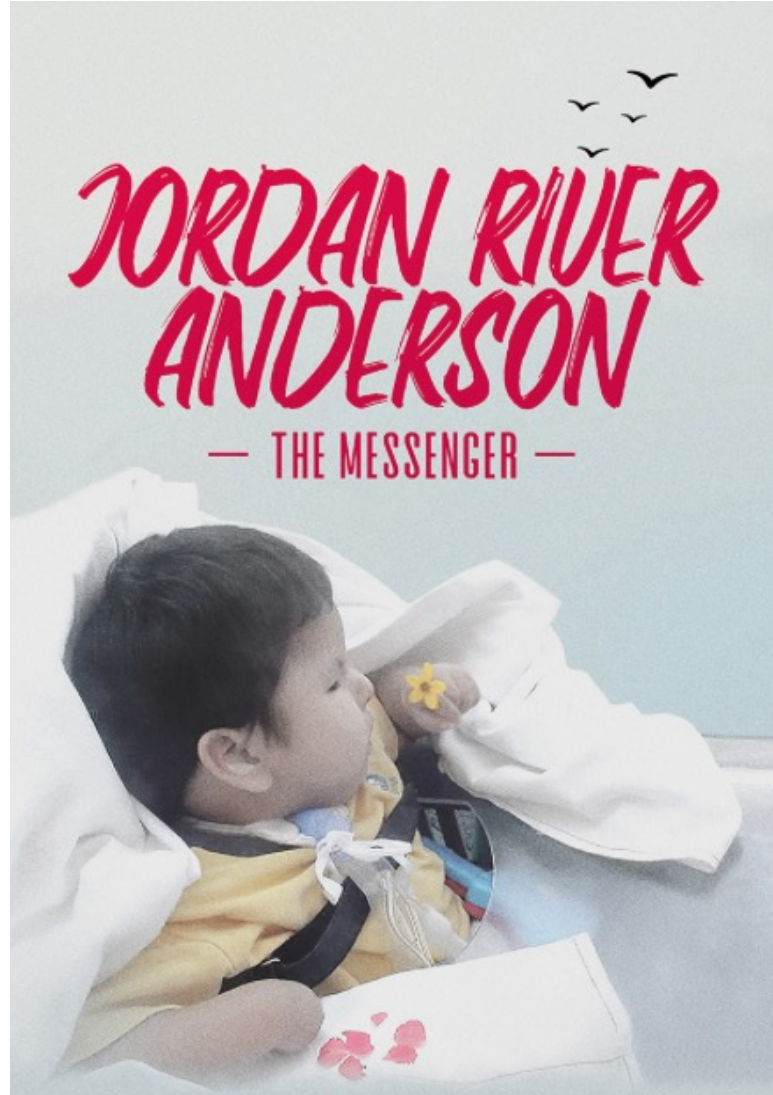
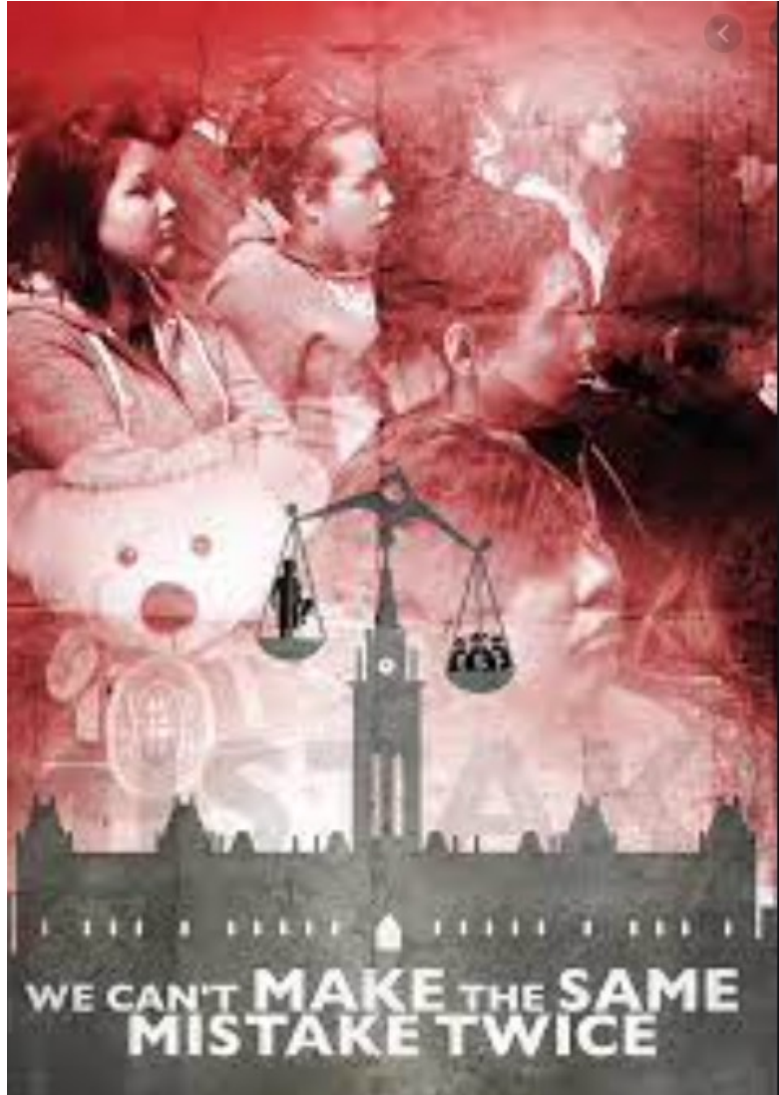
Spirit Bear and Children Make History Exhibit  
Lheidi T'enneh First Nation Territory, Prince George, B.C.,  
June 21, 2024 to September 30, 2024





# Spirit Bear and Children Make History Exhibit Honours Shannen's Dream





[www.nfb.ca](http://www.nfb.ca)

# How You Can Help

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- It is of utmost importance that we support the non-compliance motion on Jordan's Principle and ensure it is heard without delay, as this will ensure timely action and compliance.
- Request a copy of the FSA and supporting materials and review by technical experts (NAC, EAC and Regions) who have adequate time and information to review any proposed agreements to **inform** First Nations Leadership decision-making
- Review and provide feedback on the **Caring Society positions on CFS**





# Take Aways



FSA SHOULD BE READ CAREFULLY PRIOR TO FPIC



FSA ONLY IS ONE OPTION TO ACHIEVE NON-DISCRIMINATION IN CFS AND JORDAN'S PRINCIPLE



FINE PRINT MATTERS: FUNDING PURPOSE, DEFINITIONS AND STRUCTURE, GOVERNANCE AND ENFORCEMENT ARE MOST IMPORTANT



COMPENSATION SUPPORTS NEED CLARITY WITH ADEQUATE LEAD TIME AND RESOURCES TO PREPARE



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