

First Nations Child and Family
Services, Jordan's Principle, and Trout
Class Settlement

Incarcerated Class Member Claims
Process and Notice Plan

1. General

1.1 This Incarcerated Class Member Claims Process and Notice Plan (“Incarcerated Claims Process & Notice Plan” or “ICPNP”) document must be read and interpreted in conjunction with the First Nations Child and Family Services, Jordan’s Principle, and Trout Class Settlement Agreement dated April 19, 2023, as amended by way of Addendum dated October 10, 2023 and Second Addendum dated November 26, 2024, and approved by the Federal Court on **October 24, 2023** (“Settlement Agreement” or “SA”), as well as the Claims Process for the Removed Child Class and Removed Child Family Class approved by the Federal Court on **June 20, 2024**, and all future claims processes for the other Classes contemplated by the SA (“Claims Process”). All referenced documents can be found on the settlement website <https://fnchildclaims.ca/documents/>.

1.2 The definition of Incarcerated Class Members and Incarcerated Claimants (“Incarcerated Individuals”) includes “individuals in federal penitentiaries, provincial prisons, and other penal and correctional institutions or institutions where individuals are held involuntarily due to matters such as a lack of criminal responsibility due to a mental disorder” (SA. S 1.01).

1.3 This document outlines the claims process and notice plan for Incarcerated Individuals participating in the First Nations Child and Family Services, Jordan’s Principle, and Trout Class Settlement (“Settlement”), specifically for the Removed Child Class and the Removed Child Family Class of the SA at this time, and all other Classes as they are implemented at a future date (“Claimants”).

1.4 The ICPNP takes into account certain identified issues, considerations and statistics based on the current operational, legal and regulatory landscape of correctional facilities located within Canada, which may vary amongst the federal, provincial and territorial correctional systems and may change over time. The Administrator will monitor and may adjust processes and supports periodically as necessary to accommodate where such changes impact the Claims Process and Noticing tactics outlined in this document. At the discretion of the Administrator, such adjustments will be proposed for implementation with approval by the Settlement Implementation Committee (“SIC”), and no further approvals by any other Party or the Court, unless the SIC determines it requires such additional approvals.

2. Summary of services for Incarcerated Individuals

2.1 Claims Helper Support Plan for Incarcerated Individuals

Claimants participating in the Settlement are supported by Claims Helpers in navigating the Claims Process as provided for in the Settlement Agreement, specifically SA.3.02(1)(j) and consistent with Schedule I Framework for Supports for Claimants in Compensation Process.

Incarcerated Individuals may have limited access to assistance with completing their Claim Forms, and therefore may be more likely to require enhanced supports.

To address the need for enhanced supports for some Incarcerated Individuals, a team of Special Populations Claims Helpers has been established who have received training to provide Claim Form support to Incarcerated Claimants.

Although in-person visits from Claims Helpers are not feasible due to restrictive visitation policies in most facilities, in order to assist Incarcerated Claimants, a dedicated, toll-free Incarcerated Claimant Support Line has been set up and staffed by the Special Populations Claims Helpers, to provide support in both English and French, reserved solely for Incarcerated Individuals. This dedicated phone number has been added to the Common Access List for federal facilities overseen by Correctional Service Canada (CSC), as well as most provincial/territorial facilities.

2.2 Claims Process & Support Plan for Incarcerated Individuals

Incarcerated Claimants are subject to the terms of the SA and the Claims Process; however, some challenges may be present due to systemic issues and barriers to a culturally-sensitive and trauma-informed participation in the Settlement. As a result, certain approaches have been developed to support Incarcerated Claimants by addressing barriers and limitations they may face. These approaches are detailed in **Schedule I**, and relate to the following:

- a. Access to Claim Forms
- b. Claim Form Documentation Requirements
- c. Administrator's Communication with Claimants
- d. Payment of Compensation
- e. Adjudication and Eligibility Determination: Deadlines

2.3 Notice Plan for Incarcerated Individuals

The Notice Plan for Incarcerated Individuals is included in **Schedule II** of this document.

The Notice Plan contains enhanced communications strategies and tactics designed for the greatest practicable number of Incarcerated Individuals to have opportunities to see, read or hear about the Settlement, understand their entitlements, and learn how to access support.

Schedule I – Claims Process Support Plan for Incarcerated Individuals

a. Access to Claim Forms

Policies in effect at federal and provincial/territorial correctional facilities permit Incarcerated Individuals to receive and send mail via Canada Post (albeit incoming and outgoing mail is monitored by correctional facility administrators); however, access to email and the internet is strictly limited and monitored. For this reason, the Administrator expects that most Incarcerated Claimants will submit hard copy, handwritten Claim Forms via Canada Post, versus submitting an Online Claim Form or electronic fillable PDF, which require a computer/mobile device and internet access.

In order to support and encourage Incarcerated Class Members to participate in the Settlement Claims Process, the following additional approaches will be implemented to facilitate access to Claim Forms:

- i. The Administrator will provide correctional facilities in Canada with printed, paper copies of Claim Forms and postage-paid envelopes by mail. Quantities of Claim Forms to be provided will be determined with reference to the estimated First Nations populations in each federal and provincial/territorial correctional facility and assessed on a case-by-case basis, in consultation with these facilities.
- ii. The Administrator will monitor volumes of Claims received from Incarcerated Claimants during the administration of the Claims Process, to determine appropriate cadence for re-supplying facilities with additional Claim Forms if necessary.
- iii. Upon request, the Administrator will mail paper copies of Claim Forms and postage-paid envelopes directly to Incarcerated Individuals.

b. Claim Form Documentation Requirements

- i. **Government Identification:** Under the Claims Process, all Removed Child Class and Removed Child Family Class Claimants must provide a copy of an acceptable form of government-issued personal identification with their Claim Form. Similar identification requirements are likely to be included in the Claims Process for the remaining Classes of the SA. Incarcerated Claimants may not have access to common forms of personal government-issued identification because their personal effects are not readily available/accessible. To accommodate this limitation to access, the Administrator will accept the following additional personal identification documents from Incarcerated Claimants:
 - **Prisoner identification cards:** CSC issues prisoner identification cards that meet the Administrator's requirements for acceptable forms of identification. Prisoner identification cards are also issued by some provincial and territorial correctional facilities.
 - **Letter / Proof of Incarceration:** For Incarcerated Claimants who do not have a prisoner identification card, the Administrator will accept a Letter of Incarceration, Proof of Incarceration Form, or similar document as a valid form of government-issued

identification. The document must be issued by the facility where the Incarcerated Claimant is currently being held, signed by a Correctional Officer or other official from the facility (e.g., Indigenous Liaison Officer, Program Manager, Case Manager etc.), and include sufficient information to permit identification of the Incarcerated Claimant (e.g., date of birth, address of the correctional facility and, where possible, photograph). The Administrator has communicated these requirements, in writing, to correctional authorities across Canada.

- ii. **Documents to support Family Class relationship:** Claimants under the Removed Child Family Class may be required under the Claims Process to provide supporting documentation that verifies their relationship to the Removed Child (e.g., long-form birth certificate, adoption record, marriage certificate, or evidence of a common-law relationship). Similar proof of relationship requirements are likely to be included (where relevant) in the Claims Process for the remaining Classes of the SA.

Incarcerated Claimants who do not have access to this type of supporting documentation will be able to receive assistance from Special Populations Claims Helpers who may provide enhanced support to help facilitate obtaining these documents. This additional support may include, at the request of the Incarcerated Individual:

- Making inquiries on behalf of the Incarcerated Claimant to determine any required steps and processes for obtaining documentation, where possible, without representing or requesting/providing personal information about the Incarcerated Claimant.
- Mailing to Incarcerated Individuals hard copies of forms required for them to request documentation (e.g., birth/death/marriage certificates) from federal/provincial/territorial authorities.
- Providing information to friends or family of the Incarcerated Claimant about how to obtain these documents.

- iii. **Documents to support role of legal representative or heir:** Special Populations Claims Helpers will make efforts to provide enhanced support for Incarcerated Claimants who are Personal Representatives for a Person Under Disability or the Representative of a Deceased Class Member.

c. Administrator's Communication with Claimants

In accordance with the Claim Process, the Administrator will primarily communicate with Claimants by mail, including requests for Missing Information, Eligibility Decisions, and Notification of Compensation. In certain cases, direct communication (e.g., by phone or email) with a Claimant is undertaken to move the adjudication process forward; however, Incarcerated Claimants are not able to accept incoming phone calls and have limited access to email and the internet. To accommodate this limitation of communication options, the Administrator may implement the following approaches:

- i. Where direct communication is required, the Administrator will send a letter asking the Incarcerated Claimant to call the Incarcerated Claimant Support Line. When a letter requesting a phone call is issued, the Administrator will ensure that the Special Populations Claims Helpers have access to notes on the issues that require discussion or clarification.

- ii. If mail is returned to the Administrator as undeliverable (e.g., due to transfer to another facility or release), the Administrator will make efforts to contact the Claimant based on information that was provided in their Claim Form, to determine current contact details for the Claimant. This includes outreach (e.g., mail, call, email) to a third party if listed in the Claim Form. In anticipation of such events, informational material provided to correctional facilities and correspondence to Incarcerated Claimants will emphasize the importance of advising the Administrator of transfers to a new facility or release.
- iii. Correctional facility administrators may read, search, and confiscate incoming and outgoing mail, except for privileged communication from legal representatives. Inmates are aware that their correspondence is monitored and subject to review. The Administrator will provide federal and provincial/territorial correctional authorities with an informational toolkit to familiarize them with the Settlement such that they are aware that Incarcerated Claimants may receive correspondence from the Administrator with respect to their Claim.
- iv. Correctional facilities require mail to be free of certain prohibited materials (e.g., staples, paperclips, or other prohibited items) under security requirements. Correctional facilities may return or withhold materials that contains prohibited items. The Administrator will ensure that mailed items (e.g., Claim Forms, Companion Guides, letters, and other correspondence) sent to Incarcerated Claimants will conform to correctional facility security requirements.

d. Payment of Compensation

- i. Individuals incarcerated in federal and provincial/territorial correctional facilities have limited access to public banking services. Inmates are permitted to have trust accounts within some correctional facilities where funds can be deposited and withdrawn according to the policies of the jurisdiction or the individual correctional facility. The Administrator will make efforts to work with correctional authorities and facilities to address limitations on trust account deposit amounts and assess other options that may be made available to Incarcerated Class Members.
- ii. Incarcerated Claimants who are eligible for compensation will be provided with payment options (cheque or direct deposit) in accordance with the Claims Process. The Administrator will issue compensation payment in the format selected by the Incarcerated Class Member, having regard for known restrictions or limitations in place at their correctional facility.

e. Adjudication and Eligibility Determination: Deadlines

The Administrator will determine eligibility for Incarcerated Claimants in accordance with the Claims Process, which includes timelines for responses / submission of documents, whereby failure to meet associated deadlines impacts the outcome of adjudication of the Claim.

In consideration of the expected challenges and barriers faced by Incarcerated Claimants, the Administrator may consider recommending certain accommodations as part of this ICPNP, to permit additional time for Incarcerated Claimants to submit information required to process their Claims, subject to the following. If the Administrator comes to the conclusion that a number of Incarcerated

Claimants face challenges due to the deadlines within the Claims Process, the Administrator will identify and report the issue to the Settlement Implementation Committee as a systemic issue pursuant to Article 3.02(1)(h) of the SA, at which point the Settlement Implementation Committee may decide that such deadlines may be amended for Incarcerated Claimants.

An illustrative example of deadlines that exist in the Removed Child and Removed Child Family Class Claims Process, along with proposed ICPNP deadlines is included below. For greater clarity, any proposed deadline amendments will only come in effect if the Administrator recommends and the SIC approves such amendments once a systemic issue with existing process is identified.

Claims Process Reference	Information/ Action Required	Claims Process Deadline	ICPNP Deadline for Incarcerated Claimants
2.5	Missing Information	Later of: Six (6) months from the Claims Deadline; or Six (6) months from the date of the Request for Missing Information	Later of: Nine (9) months from the Claims Deadline; or Nine (9) months from the date of the Request for Missing Information
2.7	Final Notice for Missing Information	Six (6) months from the date of the Final Notice for Missing Information Letter	Nine (9) months from the date of the Final Notice for Missing Information Letter
6.1	Request for Appeal	Within sixty (60) days of receiving the Administrator's decision letter	Within ninety (90) days of receiving the Administrator's decision letter

Schedule II - Notice Plan for Incarcerated Individuals

0. Introduction

This Notice Plan for Incarcerated Individuals (Notice Plan) is an addendum to the [Court-approved Phase II Notice Plan](#) for the First Nations Child and Family Services, Jordan’s Principle and Trout Settlement (Phase II Notice Plan). It specifically fulfills the requirement in Section III.1(n) of the Phase II Notice Plan to:

“Develop a communications approach specifically for incarcerated Class Members to ensure all class members are aware of the Claims Process and eligibility criteria and have an opportunity to submit a claim.”

All communications are guided by the Phase II Notice Plan and further enhanced through the requirements of this Notice Plan.

1. Objective

The objective of this Notice Plan is to notify and engage the greatest practicable number of Incarcerated Claimants, and provide them with opportunities to see, read, or hear the notice, understand their rights, participate, and how to receive support with:

- a) the Settlement Agreement and their rights to receive compensation;
- b) the Claims Process and timeline; and
- c) Claim Form and resources and supports available.

2. Situational analysis

The following factors guide dissemination methods needed to achieve an effective Notice Plan:

- a) The Class is defined as individual members of the:
 - i. Removed Child Class
 - ii. Removed Child Family Class
 - iii. Kith Child Class
 - iv. Kith Family Class
 - v. Jordan’s Principle Class
 - vi. Jordan’s Principle Family Class
 - vii. Trout Child Class
 - viii. Trout Family Class
 - ix. Essential Services Class
- b) According to the Office of the Correctional Investigator, Indigenous Peoples in Federal Custody in Canada account for 32% of the total incarcerated population. Of this incarcerated Indigenous population, the majority, or 70%, are First Nations individuals.¹
- c) According to Statistics Canada, in 2020/2021:

¹ Office of the Correctional Investigator. (2023, June 30). Annual Report 2022-2023. Government of Canada. <https://oci-bec.gc.ca/en/content/office-correctional-investigator-annual-report-2022-2023#fn2-rf>

- i. Indigenous peoples in Canada were significantly over-represented in provincial custody. On an average day, there were 42.6 Indigenous peoples in provincial custody per 10,000 Indigenous adults.²
 - ii. Indigenous women have lower incarceration rates than Indigenous men, but their over-representation compared to non-Indigenous women is much higher. Indigenous women were 15.4 times more likely to be incarcerated than non-Indigenous women, while for men, the over-representation was 8.4 times.²
- d) Indigenous youth are significantly over-represented in the Canadian correctional system. Specifically, Indigenous youth made up 46% of admissions to youth correctional services.³
- e) Due to factors including but not limited to the complexity of the eligibility requirements and number of Classes under the Settlement including Age of Majority requirements, along with multiple other ongoing different Indigenous settlements by Canada, the Claims Process under the Settlement is likely to be challenging for Class Members to understand. This increases the likelihood for confusion and misinformation.
- f) Limitations in the way Incarcerated Claimants can access communications as well as access Claims support services, call for a specialized approach to noticing.
- g) Around 45% (45.2) of the Indigenous population is between the ages of 25 and 54 and have completed some high school education. Still, it is important to note that education levels of Class Members vary widely, from members who have not completed high school to members with graduate or professional level university education.⁴ Sixty-five percent (65%) of people entering prisons have less than a Grade 8 education or level of literacy.⁵
- h) Class Members will be able to submit Claims up to two years before reaching the Age of Majority and may be accessing communications as minors, calling for specific attention to trauma-informed approaches and ensuring mental health supports highlighted that serve both adult and minor Class Members.

² Statistics Canada. (2023, January 25). Police-reported crime statistics in Canada, 2021. Government of Canada. <https://www150.statcan.gc.ca/n1/pub/85-002-x/2023001/article/00004-eng.htm>

³ CBA, 2023. [Incarcerated Indigenous Peoples in Canada – Current Statistics](#). General Statistics of Incarcerated Indigenous Peoples in Canada, Canadian Bar Association. Canada.

⁴ Statistics Canada. (2021). *Table 14-10-0359-01. Labour force characteristics by Indigenous groups and education attainment*. <https://doi.org/10.25318/1410035901-eng>

⁵ Decoda Literacy Solutions, "Literacy in Canadian Prisons," accessed March 19, 2025, <https://decoda.ca/literacy-in-canadian-prisons/>.

- i) Incarcerated Class Members are more likely to have experienced at least one and typically more Adverse Childhood Experiences (ACEs), which are traumatic events that occur in childhood, between the ages of 0 and 17. Experiencing adversity during childhood can disrupt typical developmental pathways and consequently affect health outcomes throughout the lifespan. These experiences can last for decades and have an impact on subsequent generations in a family. This is expected to be particularly pronounced for Incarcerated Class Members, noting that approximately 70% of incarcerated Indigenous men and 82% of incarcerated Indigenous women reported experiencing childhood abuse or neglect, including removal from home by child welfare authorities.⁶
- j) Incarcerated Claimants have restricted or no access to the internet and electronic devices, which will impact how they can participate in the Claims Process. Communications and outreach will need to focus on printed materials and emphasize calling the Administrator's dedicated Incarcerated Claimant Support Line as the main Call-to-Action to receive more information about the Settlement. The Administrator Contact Centre and the Incarcerated Claimant Support Line have been added to the "Common Access List" for federal and most provincial/territorial facilities. Clear messaging and calls to action will be included in the communications materials, informing Incarcerated Claimants that they can book private phone appointments through the case management team members at their facility. This ensures they have the necessary privacy and time to discuss their claims thoroughly.
- k) Incarcerated Claimants may be transferred to other facilities or transition back to the community during the Claims Process. Communications and outreach will need to emphasize reaching out to the Administrator if their location / residence changed after submitting their Claim Form to ensure their contact information is updated.
- l) Incarcerated Claimants face challenges such as the cost of making phone calls, limited time permitted for phone calls, and lack of privacy.

3. Noticing Strategies

- a) Aligning with the timing of Settlement communications, notice will be provided to Incarcerated Claimants with clear, concise, accessible, plain-language information that helps raise awareness, understanding and participation.
- b) In addition to planned campaigns under the Phase II Notice Plan, the Claims Administrator will promote awareness of and engagement with the Claims Process and access to supports and resources for Incarcerated Claimants through a combination of specific tactics:
 - 1. **Direct Notice:** Toolkits with customized messaging for Incarcerated Claimants will be developed and shared. Clear messaging about the

⁶ Correctional Service Canada, "The adverse childhood experiences of Canadian federal offenders: available information and correctional outcomes," p.13, Chelsea Sheahan & Kaitlyn Wardrop, 2023, <https://publications.gc.ca/site/eng/9.921557/publication.html>.

importance of keeping mailing addresses up-to-date and reaching out to the Administrator with any questions will be included in the materials. Toolkits will be sent to Federal and Provincial facilities (including youth facilities) and will have copies of the following in French and English:

- i. Posters (also available in Cree, Mi'kmaq, Dene and Ojibway if preferred);
- ii. Flyer outlining eligibility, how to submit a Claim, deadline, and supports available;
- iii. "How to Submit a Claim for Incarcerated Claimants" booklet;
- iv. Bound Settlement booklet that includes all the materials, as well as Fact Sheet and Claim Form Companion Guides;
- v. Claim Form packages, including business reply envelopes;
- vi. CD-ROMs or USBs with digital versions of all the materials to be made available in common areas where computers are available (e.g., libraries)

Additional materials will be mailed by regular post to each of the following:

- i. Organizations and Communities (e.g., Band Councils, Friendship Centres, Assembly of First Nations ("AFN"), John Howard Society, Elizabeth Fry Society, West Coast and East Coast Prisons Justice Society, St. Leonard's Society, Gladue Writers)
- ii. Individual Incarcerated Class Members who request information from the Administrator or Claims Helpers
- iii. Family and friends within the community that reach out to the Administrator and/or Claims Helpers requesting communication materials such as Claim Forms, or informational materials regarding the Settlement.

2. **Community outreach:** A direct outreach communications plan will be implemented to provide communications toolkits to communities and cultural hubs where trusted information is shared (e.g., Indigenous health centres, and additional community organizations that support incarcerated individuals, etc.) and where family and friends of Incarcerated Claimants may go to learn about the Settlement.

This Notice Plan is intended to expand reach and ensure awareness of the Settlement and is in addition to the Navigational supports available to Claimants in accordance with Schedule I of the Settlement Agreement.

- i. To connect with Incarcerated Claimants, outreach efforts will focus on collaborating with community and grassroots organizations that specialize in supporting this population. This includes partnering with communities and organizations tailored for Indigenous

peoples in correctional facilities (e.g., Band Councils, Friendship Centres, AFN, John Howard Society, Elizabeth Fry Society, West Coast and East Coast Prisons Justice Society, St. Leonard's Society, Gladue Writers, etc.).

- ii. To effectively reach incarcerated First Nations youth, outreach to community organizations that specialize in supporting this population. This includes partnering with centres dedicated to working with incarcerated youth, as well as other grassroots organizations focused on providing resources and support to young individuals in the justice system (e.g., John Howard Society, Turning Point).
3. **Educational videos and interactive modules:** Educational videos and interactive modules will support all Claimants by providing information about the settlement, the specific Claims Process, the Claim Forms and supports and resources available. These resources will be put on a data stick or a CD-ROM, to be shared with correctional facilities to be able to broadcast or have available in the library.
4. **Additional outreach/communications efforts as identified by the Administrator:** Opportunities to further provide Claimants with information about the Settlement Agreement and the Claims Process(es) may arise throughout the implementation of the Notice Plan. The Settlement Implementation Committee and the Claims Administrator may evolve strategies, tactics, and distribution methods to meet the information needs of the Class Members, reduce message fatigue and keep Class Members engaged.
5. **Annual reporting, with recommendations:** The Phase II Notice Plan calls for annual reporting and monitoring of the performance of communications efforts. Measurement of the Incarcerated Class Members Notice Plan will be included as part of that regular reporting.