

Two parallel diagonal lines, one gold and one dark blue, extend from the top left towards the center of the slide.

Jordan's Principle: Assessing substantive equality

October 2023

What is IFSD?

- The Institute of Fiscal Studies and Democracy (IFSD) is an independent self-funded research-based consulting practice hosted at the University of Ottawa.
- IFSD was established by Kevin Page, Canada's first Parliamentary Budget Officer.
- IFSD specializes in solving complex problems and providing decision-support in Canada and other countries, with a public finance tool set.
- Since 2018, IFSD has been working at the request of the Assembly of First Nations (AFN) and Caring Society on First Nations Child and Family Services reform (FNCFS).
 - As a research-based consulting practice, IFSD does not have decision-making authority on long-term reform.

IFSD's findings from Jordan's Principle Part 1

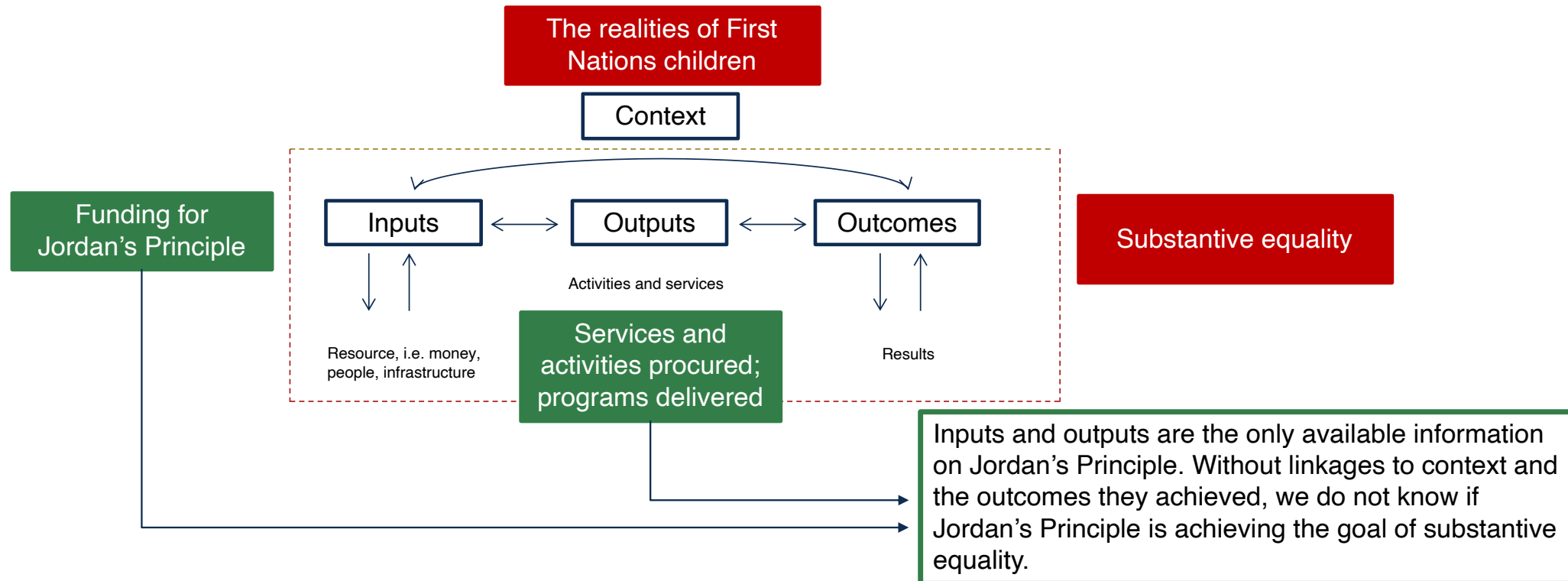
- IFSD's 2022 report, [*Data assessment and framing of an analysis of substantive equality through the application of Jordan's Principle*](#) found that while Jordan's Principle is addressing unmet needs on the ground, data suggest it is addressing gaps in other service areas.
- Neither ISC's public reporting nor its internal data enable IFSD to observe if substantive equality is being achieved by Jordan's Principle.

IFSD's findings from Jordan's Principle Part 1

What we know	Jordan's Principle is addressing needs.
What we don't know	The root causes of requests to Jordan's Principle...why are children in need? We know inequalities exist, but what are they? How are they affecting children?
Why this matters	Jordan's Principle is concealing gaps in existing program areas. Understanding the root causes of need is critical to developing informed policy and funding decisions to support well-being over the long-term.

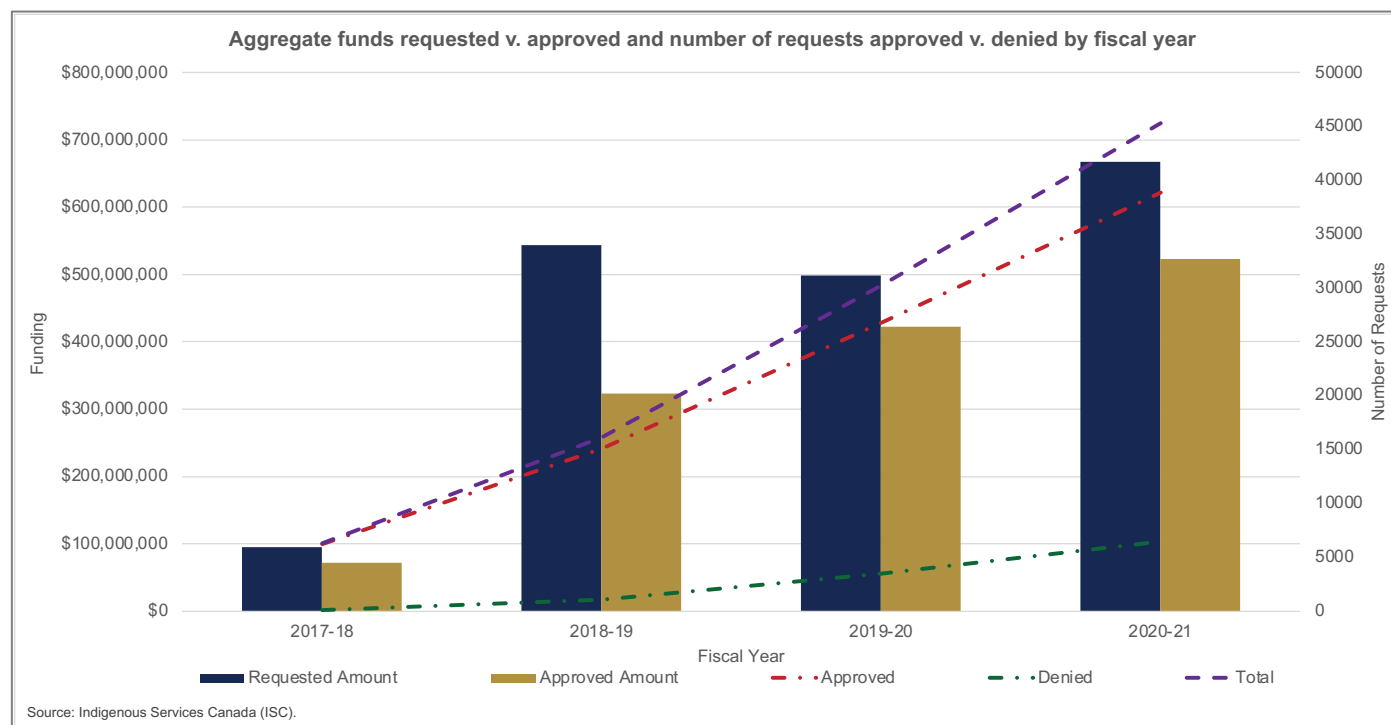
Current reporting practices and gaps

- There is no way of knowing if the funding from Jordan's Principle is addressing gaps in substantive equality. This would require linking *why* the claim was being made, i.e., the shortfall being addressed, and *what* happened to the child's/group's wellness after the claim.



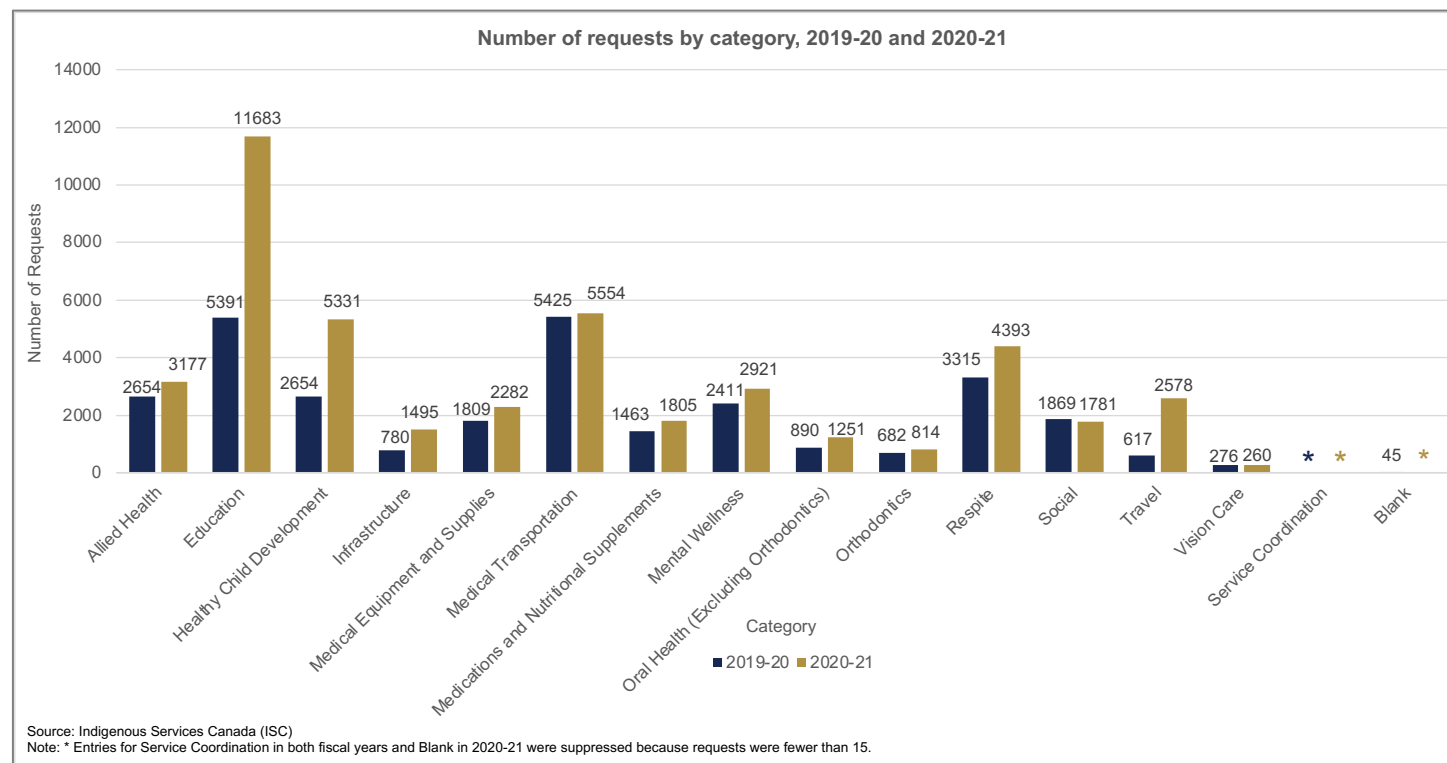
Analysis of data from ISC

- The number of requests, approvals, and expenditures has increased through Jordan's Principle. Between 2019-20 and 2020-21, there was approximately a 50% change in the number of requests.



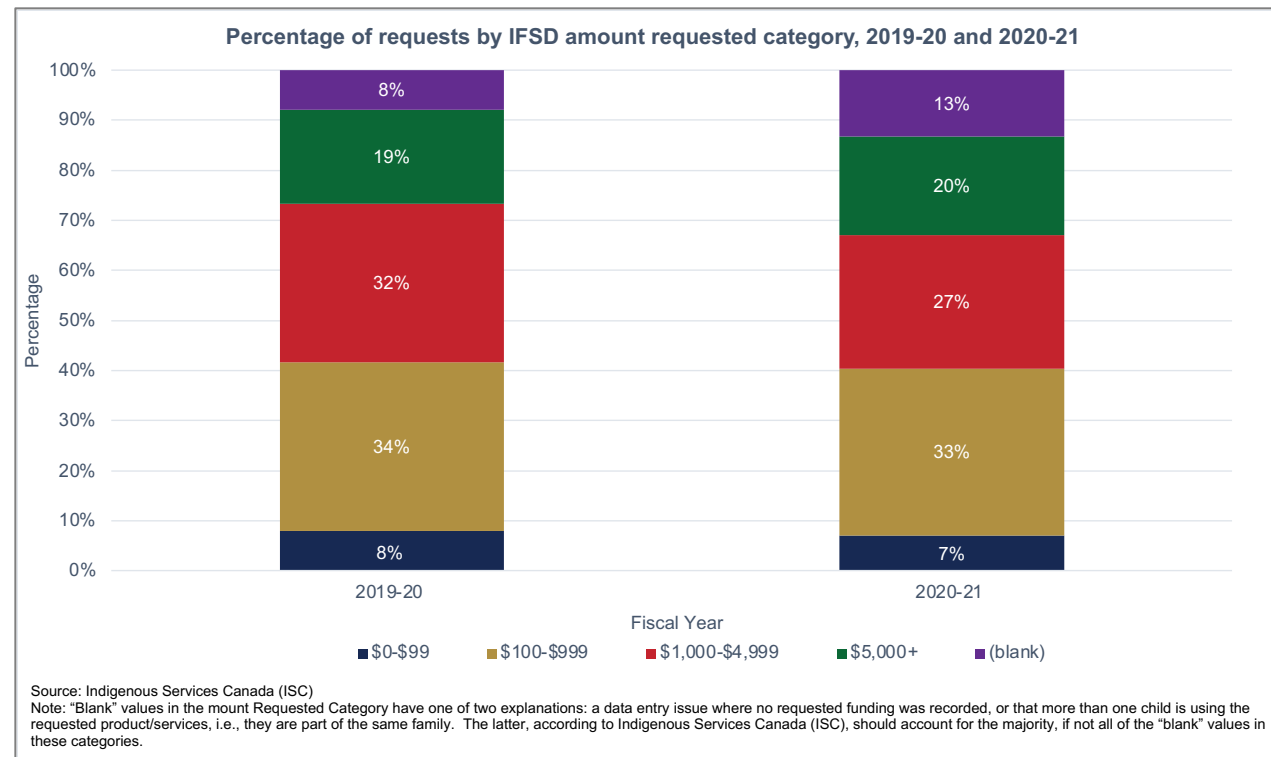
Requests by category, 2019-20 and 2020-21

- Most requests in fiscal year 2019-20 came from education and medical transportation. In 2020-21, the request categories remained consistent, with healthy child development following closely behind medical transportation.



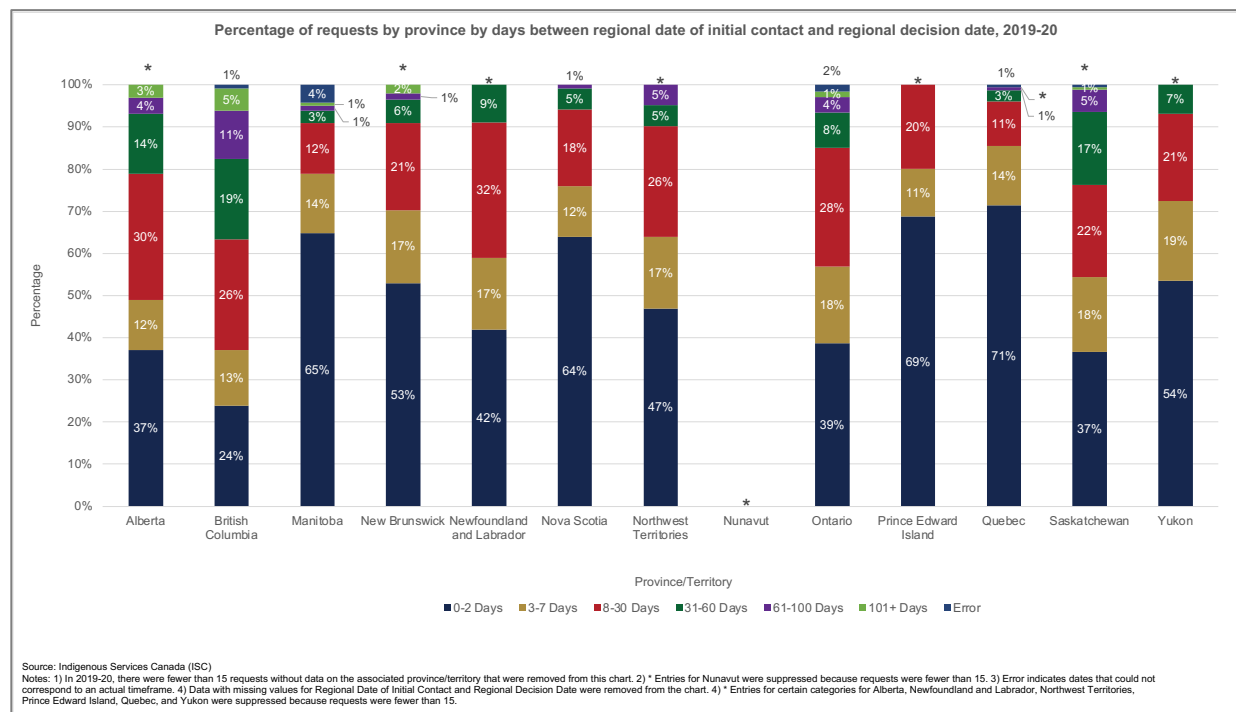
Amounts requested

- Most requests were for products and services < \$5,000 (the trend is consistent for approved requests).
- No matter how big or small the request, they go through the same review and adjudication process.



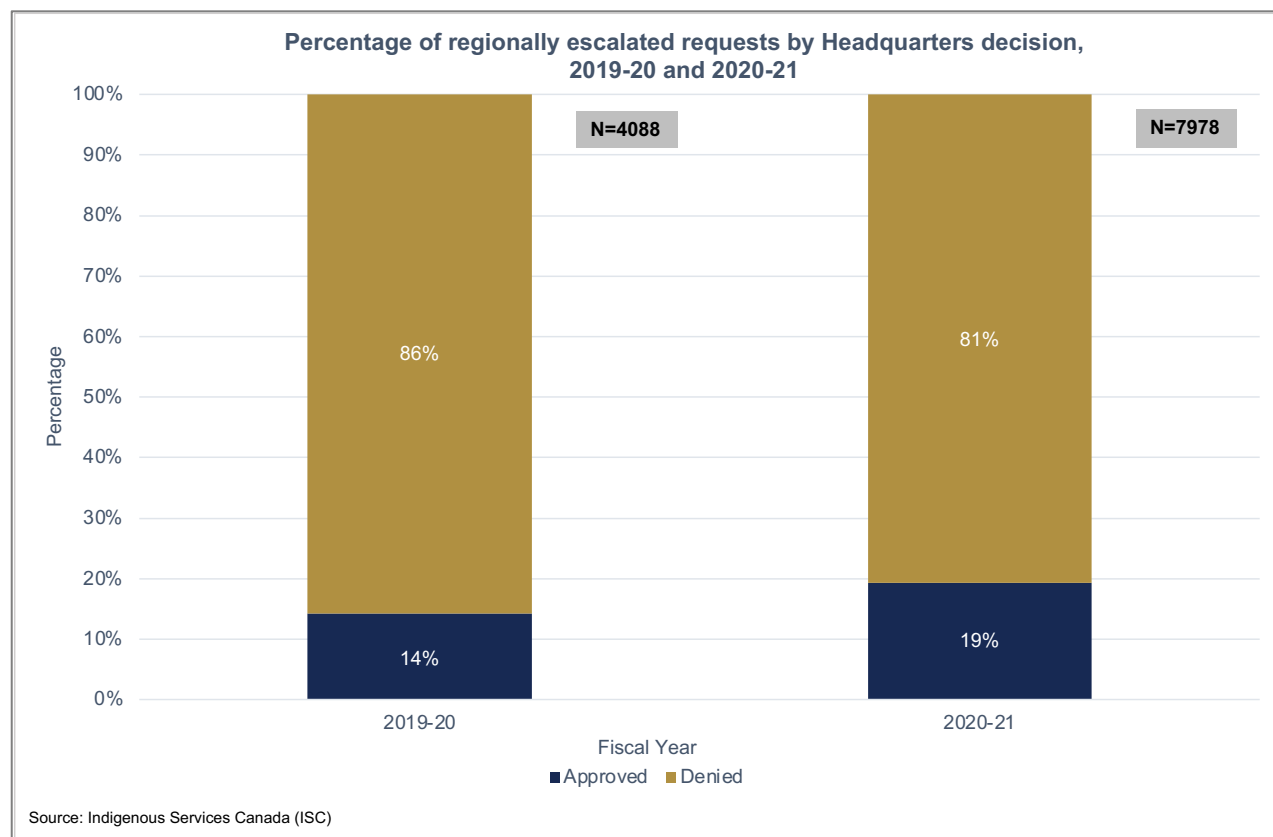
Provincial-territorial timelines for approval

- There is variability across provinces and territories in approval timelines. Across both fiscal years, Quebec and Manitoba appear to render most of their regional decisions in 0-2 days, making them the fastest of the provinces and territories.



Escalated requests with Headquarters decision

- Requests escalated by the region to headquarters for a decision are mostly denied with less than 20% approved for fiscal years 2019-20 and 2020-21.



IFSD's mandate for Jordan's Principle Part 2

- Respond (in part) to the recommendations made in Part 1, and propose options for the long-term sustainability of Jordan's Principle through the:
 - 1) Development of a policy framework (e.g., approach to measuring/monitoring outcomes for children, evaluating Jordan's Principle, etc.);
 - 2) Review of existing programs and services;
 - 3) Definition of options and considerations for reforming the operationalization of Jordan's Principle;
 - 4) Financial analysis and costing of the baseline and any proposed reforms.

IFSD's approach

- The approach will be bottom-up with a focus on engagement with those working in capacities related to Jordan's Principle. Other primary data sources and secondary data sources will also be used.
- A regionally-representative working group has been assembled to provide practitioner input on operating realities, successes/challenges, and considerations for refining/improving matters associated to Jordan's Principle.
- Part 2 of Jordan's Principle is expected to be completed by December 2024.

This work has four parts:	Guiding questions/considerations
1) Development of a policy framework	<p>What is the problem Jordan's Principle is intended to address?</p> <p>How should Jordan's Principle be evaluated?</p> <p>What indicators can be used to monitor changes in outcomes of children? How can formal equality and substantive equality be measured for children?</p>
2) Review of existing programs and services	<p>What do we know about the current state for First Nations children and families?</p> <p>Cost analysis of program activity areas including, but not limited to, education, health, water, child and family services, housing (on-reserve) and community infrastructure, and other social services</p>
3) Options and considerations for reforming the operationalization of Jordan's Principle	<p>How is Jordan's Principle operationalized?</p> <p>Lessons from: those working in related fields, e.g., maternal health, early childhood, etc.</p> <p>Alignment of structure and the goal of substantive equality</p> <p>Approaches for the delivery of Jordan's Principle</p> <p>Lessons from First Nations-based Jordan's Principle administrators on recipient needs and operating considerations</p> <p>Changes to provincial services and impacts on Jordan's Principle</p> <p>Lessons on the provision of Jordan's Principle on- and off-reserve</p>
4) Financial analysis and costing of the baseline and any proposed reforms	<p>Current and estimated short-, medium-, and long-term costs of delivery</p> <p>Estimated costs to close gaps in formal and substantive equality, with consideration of estimated costs over the short-, medium-, and long-term (with consideration of standard program growth drivers, population + inflation)</p>

We need your help

- IFSD welcomes suggestions of practitioners and other experts that may wish to share their professional experiences/work experiences with Jordan's Principle.
- There are different ways to contribute these experiences:
 - Share reports/publications, research etc.
 - One-on-one discussions with IFSD
 - Group discussions with IFSD
 - Written Q&A
- We hope you will refer or introduce colleagues from government, health, education, and other services related to Jordan's Principle.

Get in touch

Helaina Gaspard, Ph.D.

Email: helaina.gaspard@ifsd.ca

Institute of Fiscal Studies and Democracy (IFSD)

University of Ottawa

www.ifsd.ca/fncfs



Appendix A

Summary of findings – Jordan’s Principle Part 1

IFSD's mandate (Jordan's Principle Part 1)

- 1) Assess available data on the application of Jordan's Principle.
- 2) Assess the utility of the data in evaluating responses to matters of substantive equality and equality.
- 3) Use the findings to inform future assessments of the application of Jordan's Principle and its costs.

Approach

- To assess if Jordan's Principle was achieving the goal of substantive equality, IFSD proceeded in three steps:
 - 1) Defining substantive equality versus formal equality;
 - 2) Assessing ISC's public reporting, i.e., reporting to Parliament on Jordan's Principle;
 - 3) Reviewing ISC's internal data on Jordan's Principle.
- To propose an approach to cost-estimating Jordan's Principle, IFSD used the Spirit Bear Plan and Measuring to Thrive.

Context and observations

- The number and modest size of individual requests suggest that funding for Jordan's Principle is addressing needs on the ground. Reducing the funding could pose a hardship for access to basic needs/services.
- Addressing needs – as real as they are – does not mean that you are making progress on substantive equality. You are more likely closing gaps from existing program areas.

Lessons from Jordan's Principle

- **What we know:** Jordan's Principle is addressing needs.
- **What we don't know:** the root causes of requests to Jordan's Principle...why are children in need? We know inequalities exist, but what are they? How are they affecting children?
- **Why does this matter?** Jordan's Principle is concealing gaps in existing program areas. Understanding the root causes of need is critical to developing informed policy and funding decisions to support well-being over the long-term.

Principal findings

- Jordan's Principle is delivering funding where there is need. However, it is also funding what appear to be gaps in other program areas, i.e., large numbers of small disbursements.
- GC Case (ISC's current data collection system) is collecting a lot of information, but not the right information.
 - Focus on inputs, i.e., amount disbursed, and outputs, i.e., products/services purchased, rather than outcomes, i.e., substantive equality.
- The implementation of Jordan's Principle conceals gaps rather than identifying and addressing gaps in related program areas.
- Defining and costing a long-term approach to Jordan's Principle will take time.

Formal equality v. substantive equality

- **Formal Equality**, also known as “equality of application” or “equality in treatment”; that every individual or group should be treated the same.
 - While foundational, formal equality is insufficient to capture personal characteristics, social realities, or historical disadvantage faced by certain individuals or groups that impact the ‘facially neutral’ elements of law.
- **Substantive equality** requires accounting for the actual impact of law, practice, standard or service, recognizing that impacts on protected groups of people may be adverse or unintended if it ignores their characteristics.

Substantive equality and Jordan's Principle

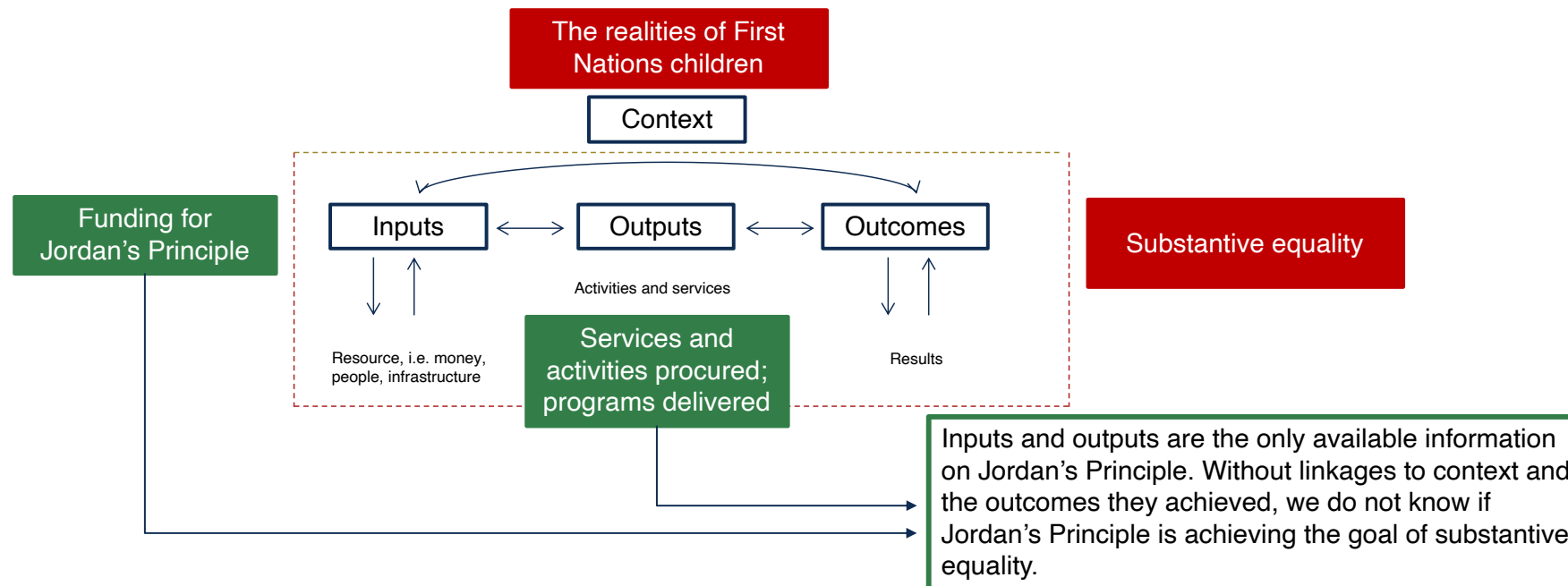
- Proposed definition of substantive equality:

Substantive equality is a legal principle that demands equitable points of departure. It recognizes that differential treatment may be necessary to respond to the contextual needs of a certain individual or group. To achieve equal points of departure the full context of the individual or group, including cultural, economic, social, and historical disadvantages should be examined and considered.

- To operationalize substantive equality with consideration of the best interests of the child, program outcomes must be defined through a results framework that treats substantive equality as the default rather than the exception.

ISC's public reporting

- The current operationalization of Jordan's Principle does not link information to outcomes for the child/group recipients (no linkages between context, input, output, outcome, i.e., Treasury Board of Canada policy).
- There is no way of knowing if the funding from Jordan's Principle is addressing gaps in substantive equality. This would require linking *why* the claim was being made, i.e., the shortfall being addressed, and *what* happened to the child's/group's wellness after the claim.





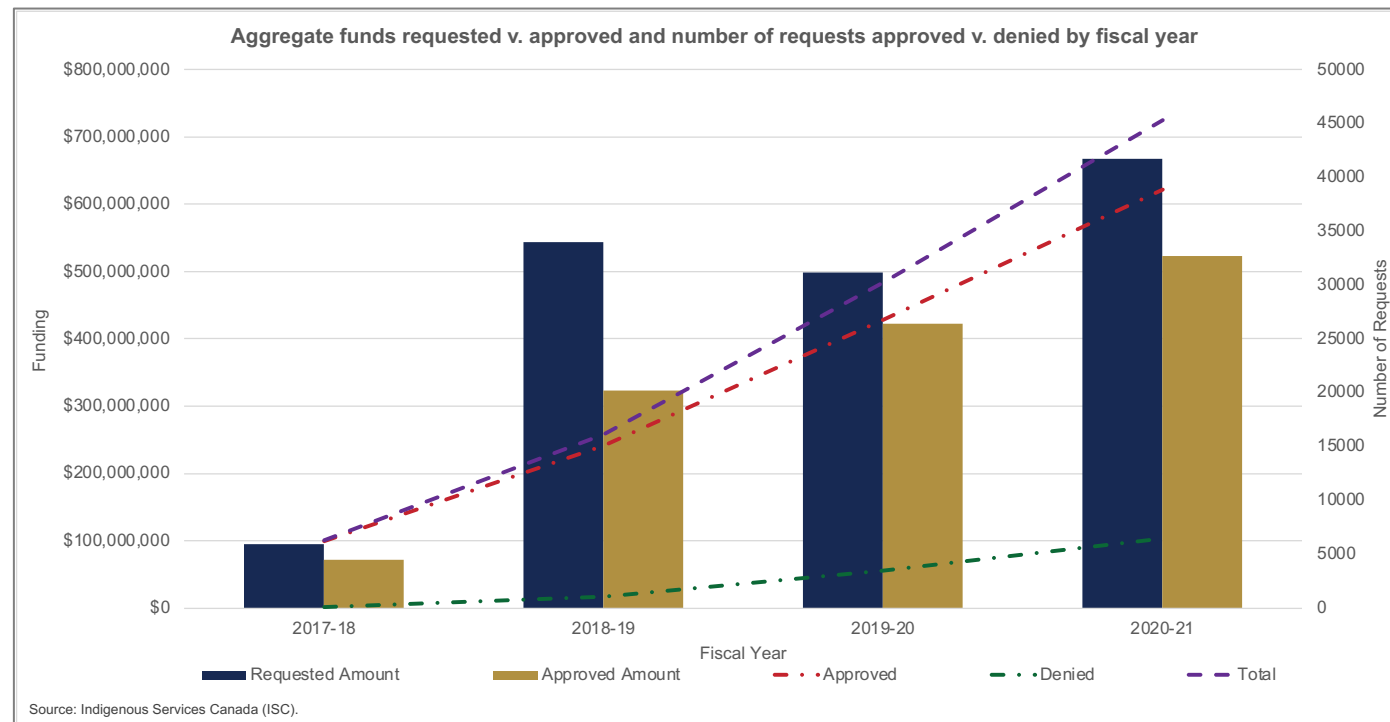
Analysis of data from Indigenous Services Canada (ISC)

ISC's data

- ISC has changed its approach to data collection on Jordan's Principle since 2016-17, increasing the number of variables and overall quality of the information captured.
- Information provided to IFSD was input-based, i.e., quantifies and describes requests with variables such as, number of recipients, categories of requested/approved products and services, age categories, cost categories, etc.
 - Most analysis is from fiscal years 2019-20 and 2020-21, as the most reliable and complete data sets are available.
 - 30% random samples for fiscal years 2016-17 to 2018-19 were used to assess past trends.
- While there is a great deal of information collected, it is insufficient for assessing whether Jordan's Principle is meeting the goal of substantive equality.

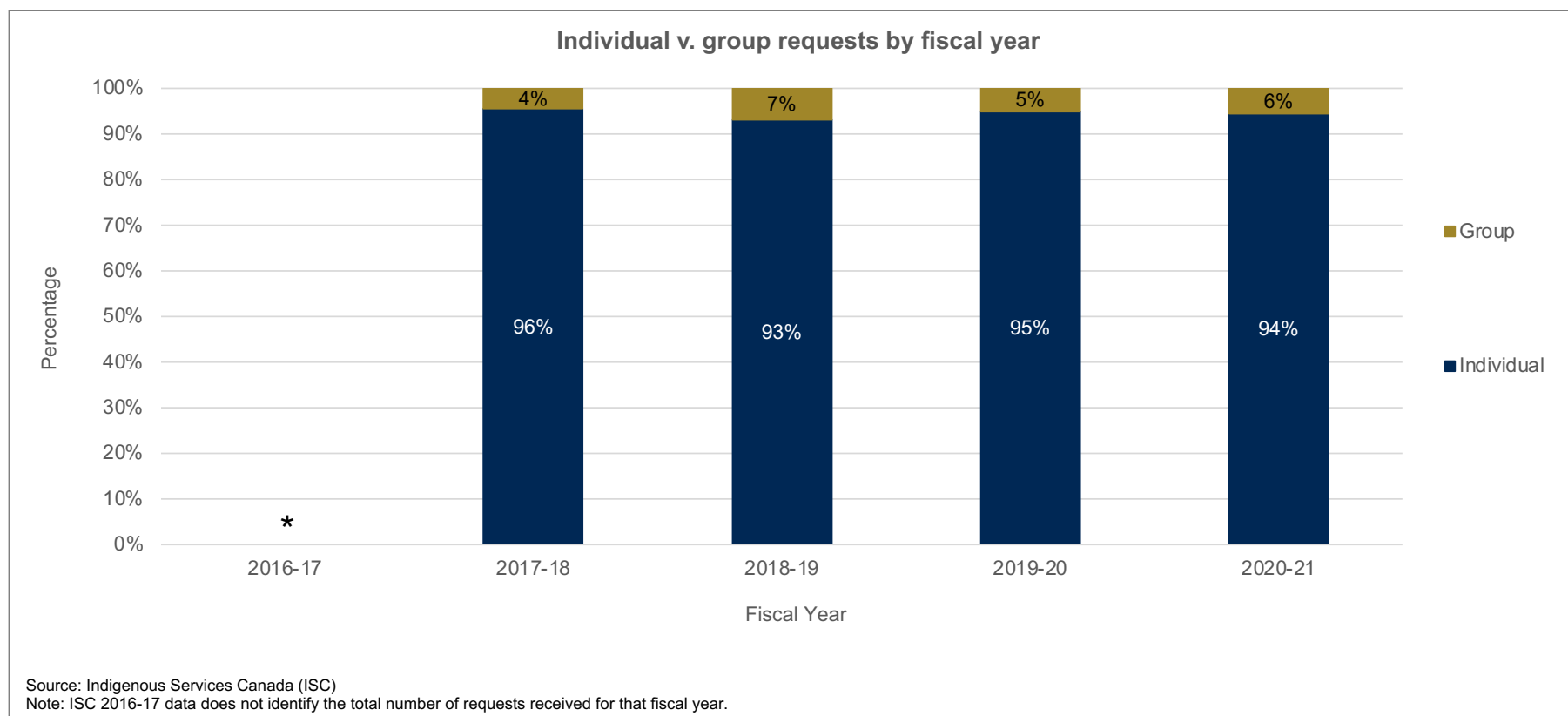
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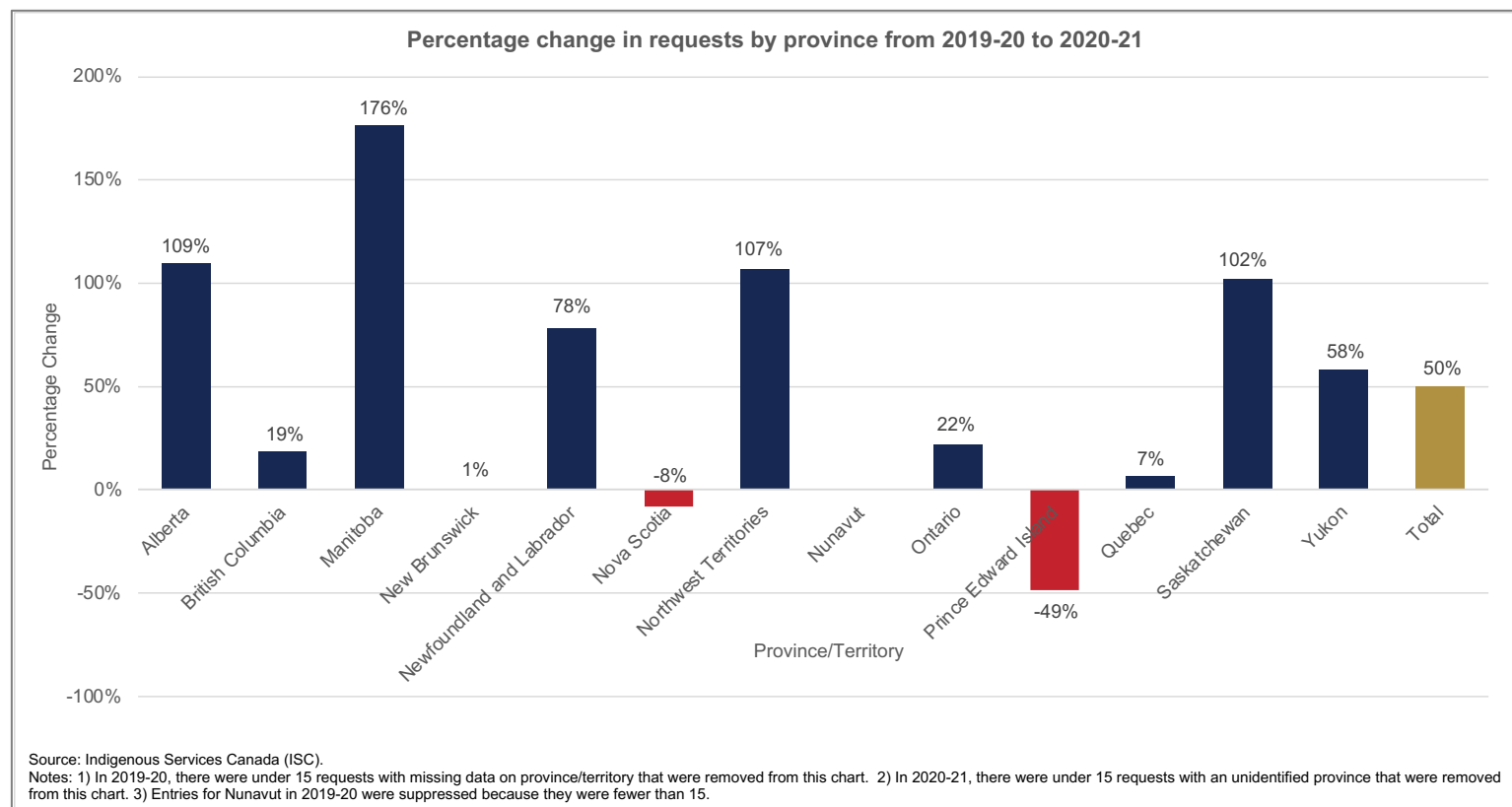
Request types individual v. group

- Most requests are for individuals. Less than 10% of requests every fiscal year were for groups.



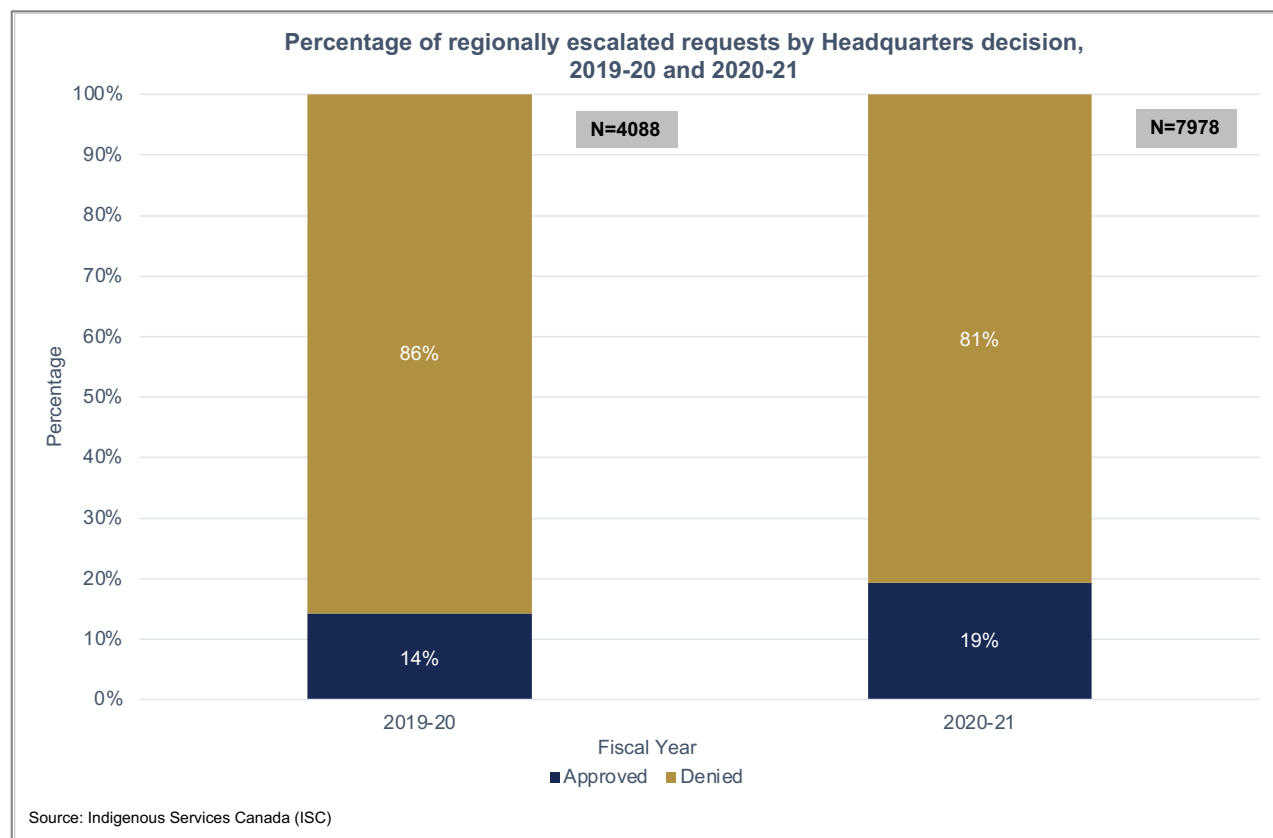
Percentage change 2019-20 to 2020-21 by province/territory

- The most significant increases in requests were in Manitoba, followed by Alberta, Northwest Territories, and Saskatchewan. Requests from Nova Scotia and Prince Edward Island decreased.



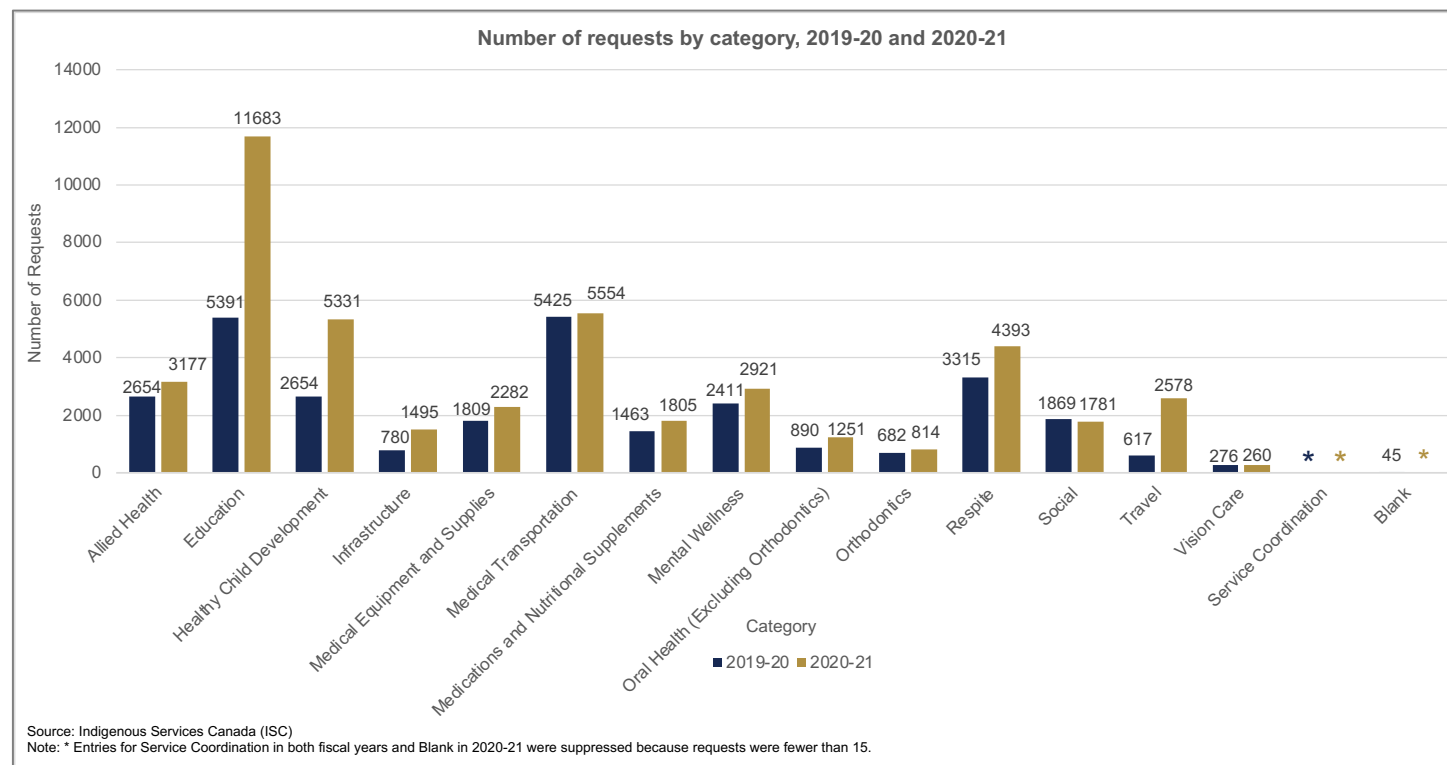
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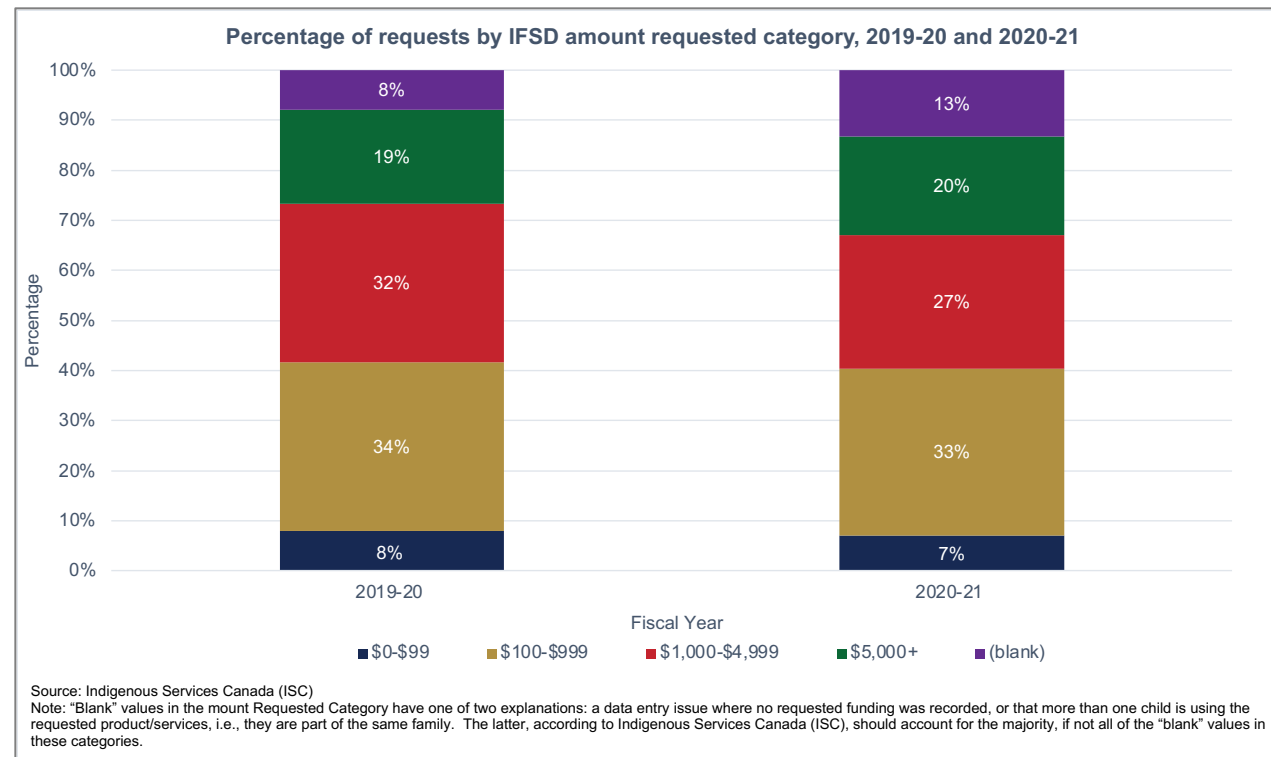
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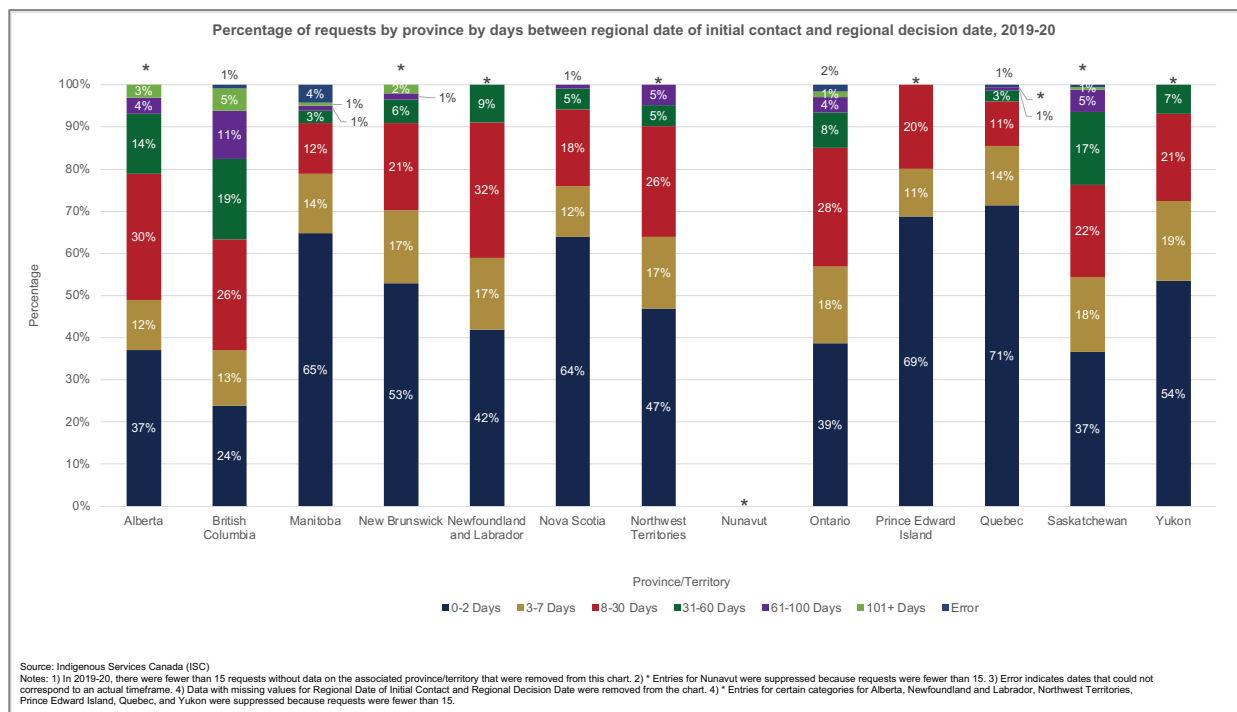
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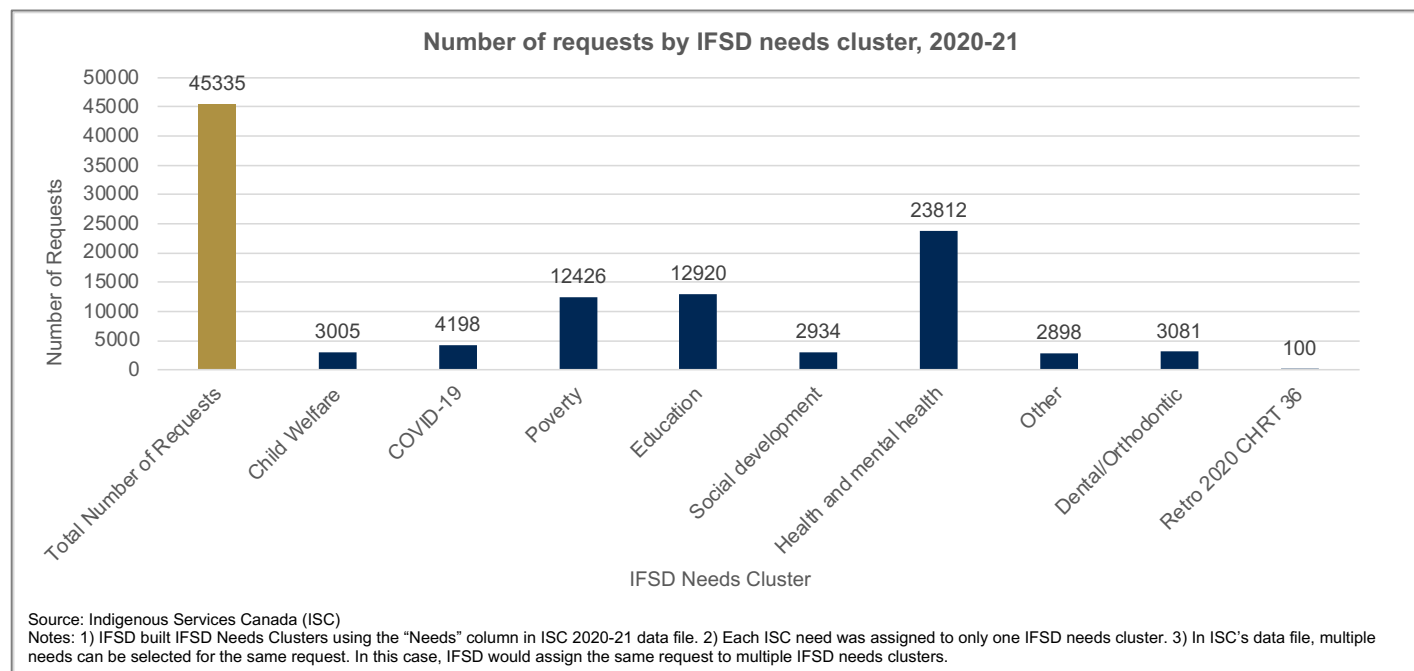


Analysis by 'need'

- IFSD developed a set of needs-based categories from the GC Case 'need' variable only available for fiscal year 2020-21.
- While issues or services were identified in the GC Case needs category, they were insufficient to confirm the root cause of the request. The only IFSD cluster that could potentially identify root causes of need was poverty.
- Refinements to data collection and analysis on Jordan's Principle should capture the root cause of need to better understand gaps in other program areas.

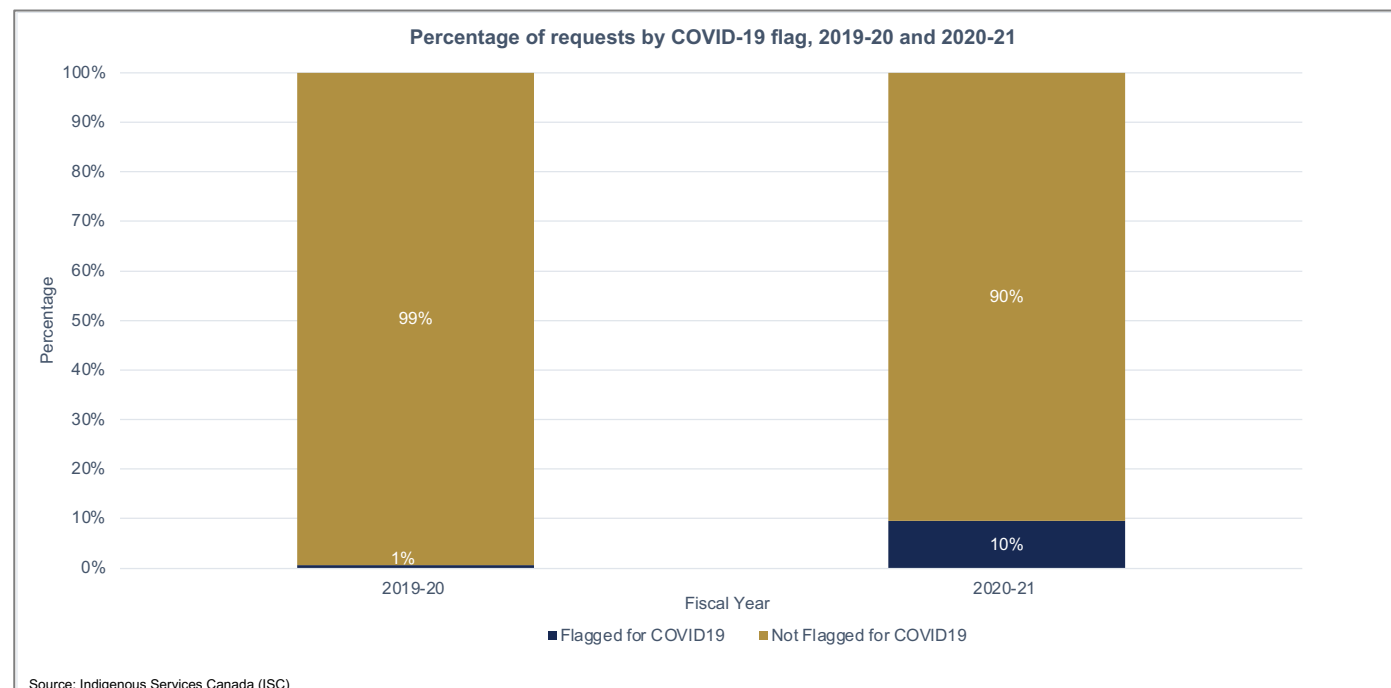
IFSD needs-cluster analysis

- Among the IFSD needs clusters, health and mental health had the largest number of requests (nearly 24,000), followed by education (nearly 13,000), and poverty (nearly 12,500).
- While most requests were approved, the highest instances of denial were in the health and mental health and poverty clusters.



COVID-19 related requests

- In 2019-20, roughly 1% of requests were flagged for COVID-19, which grew to approximately 10% in 2020-21.
- Over half of the COVID-19 related requests in 2020-21 were for products and services with costs between \$100-\$999.



Lessons from Jordan's Principle

- GC Case (ISC's current data collection system) is collecting a lot of information, but not the right information.
 - Focus on inputs, i.e., amount disbursed, and outputs, i.e., products/services purchased, rather than outcomes, i.e., substantive equality.
- The implementation of Jordan's Principle conceals gaps rather than identifying and addressing gaps in related program areas.

ISC data considerations

- Current requests through Jordan's Principle reflect perceived gaps in available products and services by requestors. ISC's approval of the expenditures is tacit recognition of these gaps.
- ISC collects a significant amount of information through the GC Case system. The information is useful for descriptive analytics, e.g., the category of service or product need defined, age, sex, province/territory of residence, etc.
- However, the information is insufficient to understand if substantive equality is being achieved or to identify gaps in related program areas.
- For ISC to demonstrate that it is fulfilling its declared objectives relative to substantive equality, a baseline of the current state and information that captures the root causes of requests are necessary starting points.

Measuring and monitoring change

- To cost Jordan's Principle:
 - 1) Use policy areas linked to a vision of substantive equality to define existing gaps, e.g., Spirit Bear Plan, cluster of relevant program areas.
 - 2) Monitor change in overall outcomes, e.g., Measuring to Thrive, or a similar set of indicators.
- Linking measures to well-being means having an early warning system to identify challenges and the relevant information to highlight successes. This is an essential component to the long-term reform of Jordan's Principle by defining how substantive equality will be measured and monitored.

Conclusions

- Supporting the holistic well-being of children requires:
 - 1) Understanding and quantifying the root causes of need
 - 2) Defining gaps in existing programs
 - 3) Recognizing that no single program or service will address all challenges
- Measuring to monitor change is about care and control of delivery
 - Collect your own relevant information
 - Build your evidence base
 - Make decisions and advocate with greater effectiveness