



## Inquiry Respecting the Treatment, Experiences and Outcomes of Innu in the Child Protection System

James J. Igloliorte  
Commissioner

Dr. Michael Devine  
Commissioner

Anastasia Qupee  
Commissioner

### DECISION: STANDING APPLICATION FOR THE CHILD AND YOUTH ADVOCATE

December 23, 2022

Commissioners Igloliorte, Qupee, and Devine:

#### **Background**

- [1] The Applicant, the Child and Youth Advocate (“the Advocate”) is an independent statutory officer of the House of Assembly established pursuant to the *Child and Youth Advocate Act*, SNL 2001, c. C-12.01. The Applicant provides public oversight of government programs and services for children and youth, assists individual young people in navigating child and youth serving systems, and investigates matters affecting the rights and interests of children and youth.
- [2] The Advocate has interacted with Innu children and youth in various ways since its inception in 2002, including conducting investigations with respect serious incidents and deaths of Innu with involvement in the child protection system, and drawing attention to complaints concerning the treatment and experiences of Innu children and youth in the child protection system.
- [3] The Child and Youth Advocate have applied for full standing to participate in all aspects of the Inquiry Respecting the Treatment, Experiences, and Outcomes of Innu in the Child Protection System (“the Inquiry”).

#### **Decision**

- [4] Section 5 of the *Public Inquiries Act*, 2006 sets out the considerations that the Commissioners must take into account in determining an application for standing.

5. (1) A commission shall give those persons who believe they have an interest in the subject of the inquiry an opportunity to apply to participate.

(2) A commission shall determine whether a person may participate in an inquiry, and how he or she may participate, after considering

(a) whether the person's interests may be adversely affected by the findings of the commission;

(b) whether the person's participation would further the conduct of the inquiry; and

(c) whether the person's participation would contribute to the openness and fairness of the inquiry.

[5] The factors set out in s. 5(2) can be grouped into two different types of considerations. Firstly, the Commissioners must determine whether the applicant's interests may be adversely affected by the findings of the commission. Secondly, the Commissioners must consider what contribution the applicant may make to the Inquiry, whether it be in furthering its work or increasing the transparency and fairness of the process.

[6] The Commissioners grant the Child Youth Advocate standing to participate in the following parts of the Inquiry:

- i. Formal Hearings on the history of the Innu;
  - a. Access to relevant documents; and
  - b. Cross examination with leave.
- ii. The Formal Hearings on the history of child protection in relation to the Innu;
  - a. Access to relevant documents; and
  - b. Cross examination with leave.
- iii. The Formal Hearings on legislation, policies and practices of the child protection system in relation to the Innu;
  - a. Access to relevant documents; and
  - b. Cross examination with leave.
- iv. Each Formal Hearing in relation to the six investigations to be undertaken pursuant to s. 4(2) of the Terms of Reference;
  - a. Access to relevant documents; and
  - b. Cross examination with leave.

In the event that the conduct of the Child and Youth Advocate is in issue in a particular death investigation, the Applicant shall be granted:

- a. access to all documents;

- b. right to cross examine witnesses;
- c. right to request that Commission Counsel call particular evidence;  
and
- d. right to make written and oral submissions.

ii. Written and oral submissions with respect to findings of fact and recommendations at the conclusion of the Inquiry.

- [7] Based upon the Advocate's application and oral submissions, the Commissioners are satisfied that the Advocate will contribute to the work of the Inquiry and has granted its application, in part, for standing to participate. The Advocate's standing will be limited as set out in paragraph 6 where the conduct of the Advocate is not in question.
- [8] The Commissioners grant the Advocate full participation rights in Death Investigations where the Advocate's interests may be adversely affected by the findings of the commission. The Commissioners have determined that the Advocate's interests may only be adversely affected where the conduct of the Child and Youth Advocate is at issue at one or more Formal Hearings in relation to the investigations undertaken pursuant to s. 4(2) of the Terms of Reference.
- [9] Further, the Commissioners note that pursuant to section 5 (4) of the *Act*, the Inquiry is required to provide reasonable notice prior to any finding against a person.
- [10] The Commissioners expect the Advocate to identify the investigations, if any, in which its conduct may be in issue. Commission counsel shall advise the Advocate, through counsel, should they conclude that the conduct of the Advocate may be in issue during an investigation.
- [11] The Advocate has applied for standing to participate at Community Events and Roundtables. The Commissioners deny the Advocate's request in relation to these parts of the Inquiry.
- [12] Community Meetings will be held in public in each community, providing Innu with an opportunity to share about their experiences and treatment in the child protection system with the Commissioners and the community. The role of counsel at these meeting will be restricted to observer status and will only be granted to the Province of Newfoundland and Labrador, the Government of Canada and the Innu Representative Organizations.
- [13] The Commissioners will, at a later date, determine the subject matter of each Roundtable that the Inquiry will conduct. Once the subject matter of the Roundtables is determined, the Commissioners will invite participants with the experience and knowledge that is required. The role of counsel will be limited at the Roundtable. The Advocate may be invited to participate in a Roundtable. The

Roundtables will be open to the public. Therefore, the Commissioners deny the Applicant's request for standing to participate in the Roundtables at this time.

**Funding**

- [14] The Commissioners have recommend that funding be provided by the Province of Newfoundland and Labrador to the applicant for the retention of one legal counsel as well as reasonable expenses, associated with participation