



# INQUIRY RESPECTING THE TREATMENT, EXPERIENCES AND OUTCOMES OF INNU IN THE CHILD PROTECTION SYSTEM

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Commissioner

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## RULES OF PROCEDURE

### Part I: Introduction

1. The Inquiry Respecting the Treatment, Experiences and Outcomes of Innu in the Child Protection System (“the Inquiry”) is an independent inquiry set up by the Government of Newfoundland and Labrador (“the Province”) pursuant to an Order-in-Council (O.C. 2022-103). Hereinafter, this Order will be referred to as the “Terms of Reference”. The Province issued a second Order-in-Council in relation to the Inquiry (O.C. 2022-104). Hereinafter, this Order will be referred to as the “Funding Order”. A copy of each of these Orders can be found on the Inquiry webpage. The Inquiry operates under the authority of the Public Inquiries Act, 2006 (SNL 2006 c. P-38.1) (“the Act”).
2. The Commissioners will prepare a final report (“the Report”) that will be based upon the information gathered during the Inquiry. The Terms of Reference require the Report to be delivered to the Minister by September 30, 2024.
3. The Commissioners appointed to conduct the Inquiry are:
  - i. James Igloliorte as Chair;
  - ii. Anastasia Qupee; and,
  - iii. Dr. Michael Devine.
- 3A. Notwithstanding anything in these Rules, any powers assigned to the Chair or to three Commissioners may be exercised by a Quorum of Commissioners.
4. The Commissioners understand that the Terms of Reference are based upon negotiations between the Innu Representative Organizations and the Province.
5. These Rules of Procedure are based upon the Commissioners’ interpretation of the Terms of Reference and also, in part, based upon proposed rules that were provided to the Commissioners by the Innu Representative Organizations and the Province and the Funding Order.

## **Part II: Definitions**

### 6. In these Rules

- i. **Investigation** means an investigation of the death of a child, youth or adult conducted pursuant to s. 4(2) of the Terms of Reference;
- ii. **Investigation Standing** means standing that is granted to a parent or next of kin whose family member's death is the subject of an Investigation pursuant to s. 4(2) of the Terms of Reference and Part XI of these Rules;
- iii. **Formal Hearing** means a hearing described in Part IX;
- iv. **General Standing** means standing granted to a Party to participate in some or all parts of the Inquiry but it does not include Investigation Standing which is standing granted to a parent or next of kin whose family member's death is being investigated pursuant to s. 4(2) of the Terms of Reference;
- v. **Informal Sessions** means events that are conducted by the Inquiry in which witnesses do not testify under oath or solemn affirmation;
- vi. **Innu Communities** means Natuashish and Sheshatshiu;
- vii. **Innu** means the Innu of Labrador;
- viii. **Innu of Labrador** means anyone registered or eligible to be registered as a member of Sheshatshiu Innu First Nation or of Mushuau Innu First Nation, or who is otherwise a member of the Innu Nation of Labrador;
- ix. **Innu Representative Organizations** means the Innu Nation, Mushuau Innu First Nation and Sheshatshiu Innu First Nation;
- x. **Inquiry** means the Commissioners;
- xi. **Party** means an individual or entity who has been granted standing in relation to some or all parts of the Inquiry; and,
- xii. **Quorum** means a majority of the Commissioners as defined in the *Interpretation Act*, RSNL 1990, c I-19.

### **Part III: Guiding Principles**

7. The Inquiry acknowledges that the Innu and Innu Communities in the Province are suffering from intergenerational trauma related to racism and colonialism.
8. The Inquiry will operate under a guiding principle of “do no further harm”. The Inquiry will therefore conduct all parts of the Inquiry in a manner which is trauma informed. The Inquiry will also consult whenever necessary with Innu Elders, leaders and Innu Communities regarding scheduling and other significant matters.
9. The Inquiry will retain a Healing Services Coordinator. The Healing Services Coordinator will assist the Inquiry in developing a protocol to address trauma during the Inquiry. The protocol will be developed in consultation with the Innu Representative Organizations and other Parties. The protocol will identify the supports that may be required during hearings and meetings and throughout the course of the Inquiry.
10. The Inquiry will work with the Innu Representative Organizations to ensure that supports identified in the protocol are available during the course of the Inquiry in order to reduce the risk of harm to the mental health of participants and others who may be impacted by the Inquiry.
11. The media and participants will be advised throughout the course of the Inquiry that s. 55 of the Children, Youth and Families Act, SNL 2018 C-12.3 prohibits the publishing or making public of information that has the effect of identifying:
  - (a) a child who is a witness at or a participant in a proceeding or who is the subject of a proceeding;
  - (b) a parent or foster parent; or
  - (c) a member of the child's family.

The Inquiry will provide guidance to Parties and participants regarding the operation of s. 55 during the course of the Inquiry.

12. The Inquiry will provide opportunities for children, youth, parents, grandparents and other Innu to share their experiences in the child protection system. These opportunities will generally take place in Natuashish and Sheshatshiu unless another appropriate location is identified by the Inquiry in consultation with the Innu Representative Organizations and other Parties.

13. The Inquiry will conduct itself in an open and transparent manner. Formal Hearings and other events will be broadcast live whenever it is feasible and appropriate given the subject matter of the hearing or event. Formal Hearings and other events will be recorded and made available for viewing on the Inquiry webpage when it is appropriate to do so.
14. The Inquiry will take reasonable steps to translate into Innu-aimun, whenever possible, the significant documents relied upon in the Inquiry such as the Terms of Reference and these Rules of Procedure. Furthermore, interpretation will be available whenever the Inquiry conducts interviews, meetings or hearings.
15. In events other than Formal Hearings, a single Commissioner may act on behalf of the Inquiry. Where one Commissioner acts on behalf of the Inquiry at an event the proceedings of the event shall be recorded whenever possible.
16. A tentative plan outlining the sequence of hearings, meetings and other events is attached hereto as Schedule A. This plan does not currently provide dates and these dates will be determined by the Inquiry in consultation with the Healing Services Coordinator, the Innu Representative Organizations and other Parties. The Commissioners acknowledge that the Inquiry will be addressing matters which may impact the emotional and psychological well-being of individuals, families and the Innu Communities. The Commissioners will therefore create a schedule which will provide the Commissioners with flexibility to delay or reschedule events in order to minimize the risk of harm to the mental health of participants and other Innu.
17. The Inquiry intends to hire community liaison workers in Natuashish and Sheshatshiu to assist the Inquiry with its work in each community. Throughout the course of the Inquiry, information will be made available which will describe the steps that people can take to participate in the different parts of the Inquiry. This information will be distributed in several ways including publication on the Inquiry website, distribution through the community liaison workers and distribution through the Innu Representative Organizations. The community liaison workers will also assist people who are interested in participating in the Inquiry.
18. The Commissioners recognize that the COVID-19 pandemic is not over. The Commissioners will adopt an approach to COVID-19 protocols based upon guidance from Public Health Officials and the Innu Representative Organizations and health officials. The Inquiry intends to conduct its activities in person and remote meetings will generally be limited to meetings which address procedure or scheduling matters. This Rule may be amended in the event that the Inquiry schedule may be significantly impacted by a COVID-19 outbreak.

## **Part IV: Methods of Truth Seeking**

19. The Inquiry will rely upon a diversity of methods of truth seeking. Some of these methods will be methods usually associated with public inquiries such as Formal Hearings, interviews and roundtables. However, the Inquiry will also engage in methods of truth seeking such as community meetings, and private meetings with families, small groups and individuals. In particular, the Inquiry will rely upon the following methods of truth seeking during the Inquiry:
  - i. Community meetings;
  - ii. Private meetings with family or small groups including meetings with incarcerated people;
  - iii. Formal Hearings and/or other truth-seeking proceedings in relation to the Investigations pursuant to s. 4(2) of the Terms of Reference;
  - iv. Formal Hearings on the history of child protection in relation to the Innu;
  - v. Formal Hearings on legislation, policies and practices of the child protection system in relation to the Innu;
  - vi. Roundtables on current policy and future directions of child protection in relation to the Innu; and,
  - vii. Written and oral submissions with respect to findings of fact and recommendations.
  
20. In preparation for the Formal Hearings and Informal Sessions, the Inquiry will conduct interviews with individuals, including interviews with:
  - i. Innu Elders;
  - ii. Innu affected by the child protection system; and,
  - iii. Innu and non-Innu officials with governments, agencies, departments and with officials from other organizations.

## **Part V: Commemoration, Ceremonies and Celebrations**

21. Prior to the commencement of the public parts of the Inquiry, the Commissioners plan to hold a cultural event in Natuashish and Sheshatshiu that will give Innu Elders, Innu leaders and members of each community an opportunity to honour the Innu children, youth, and adults who have passed away tragically and it will not be limited to the children and youth who were impacted by the child protection system. These commemorations will likely take place in the Fall of 2022 on a date that is acceptable to each community.
  
22. The Commissioners will conduct brief cultural ceremonies at the start of each week in which community meetings, Formal Hearings or roundtables are taking place. The Commissioners will also conduct celebrations at the end of each such week.
  
23. The Commissioners will conduct brief cultural ceremonies at the start and end of each day in which community meetings, Formal Hearings or roundtables are taking place.

## **Part VI: Community Meetings**

24. The Commissioners will facilitate a number of community meetings that will take place in both Natuashish and Sheshatshiu. The community meetings will take place at various times during the course of the Inquiry and the number of community meetings conducted will be determined by the Inquiry in consultation with the Innu Representative Organizations and other Parties. The purpose of these community meetings is to provide the Commissioners with an opportunity to listen to the Innu share, as a community, the impact that the child protection system has had on them as children, parents, families, and communities. The purpose is to provide the Innu with an opportunity to share their experiences, treatment and outcomes in the child protection system with the Inquiry. The purpose is not to review actions taken in particular cases such as the removal of a child from a home or from a community.
25. The community meetings will be public and the media will be permitted to attend. These meetings will not be broadcast live but they will be recorded and the recordings will be posted with edits where appropriate on the Inquiry webpage.
26. Participation in the community meetings will be generally limited to Innu. The Commissioners may grant Parties who have General Standing pursuant to Part XII of these Rules of Procedure the opportunity to have observers at the community meetings. The Commissioners will limit the manner and level of participation of those observers. Conduct at a community meeting which is not consistent with reconciliation principles or is otherwise not respectful of other participants will not be tolerated.
27. The Commissioners and Inquiry staff will be in attendance at the community meetings. The people who may participate in the community meetings include the following:
  - i. Innu children, youth or adults who are or have been involved in the child protection system;
  - ii. Innu whose families have been involved in the child protection system;
  - iii. Innu foster parents;
  - iv. Innu whose lives have been affected by the child protection system;
  - v. Observers of Parties;
  - vi. Media and the public; and,
  - vii. Innu who are incarcerated who may participate remotely.

## **Part VII: Meetings with Families, Small Groups or Individuals**

28. The Commissioners will conduct private meetings with families or small groups. The number of meetings will depend on the number of people who want to participate in this manner. These meetings will be private and they will provide an opportunity for people who are not comfortable sharing in a more public way. Meetings with families and small groups will provide opportunities for people who wish to share their experiences of the child protection system with the Commissioners. The confidentiality of a participant's identity will be protected unless the participant grants the Inquiry the authority to disclose identifying information. The Commissioners may rely upon the information shared in these meetings in the Report; however, the Commissioners will not release information which will reveal the identity of a participant without their consent.
  
29. The Inquiry acknowledges that some people who wish to share may have difficulty sharing their experiences in the presence of others. The Inquiry will provide opportunities for some people to share their experiences in the presence of just one or more Commissioners with no one else present. The Commissioners may rely upon the information shared in the private interviews in the Report. But the Commissioners will not release information which will reveal the identity of a participant without their consent.
  
30. The people who may participate in the private meetings or interviews include:
  - i. Innu children, youth or adults who are or have been involved in the child protection system;
  - ii. Innu whose families have been involved in the child protection system;
  - iii. Innu foster parents;
  - iv. Innu whose lives have been affected by the child protection system;
  - v. Innu who are incarcerated who may participate remotely;
  - vi. non-Innu who are or have been service providers serving Innu, including without limiting social workers, child and youth workers, clinical program supervisors; and
  - vii. non-Innu foster parents or other placement providers or caregivers who are or have worked with Innu.

30A. Closed Sessions: The Commissioners may conduct focus groups and/or confidential interviews with Innu and non-Innu who they believe have information which is relevant to the mandate of the Inquiry. These may include:

- i. Current and former Community Support Workers, Social Workers, or others interacting with the child welfare system;
- ii. Foster parents, kinship care guardians and other placement providers who care for or have cared for Innu children and/or youth;
- iii. Other services providers with experience working with Innu involved in the child protection system

The Commissioners may conduct closed sessions privately, without Parties or Counsel for Parties present. Media and outside observers will not be permitted. Commission Counsel will circulate to the General Standing Parties an anonymized summary of closed sessions, unless the participant(s) have requested that their names be shared. The information in the summary will form part of the record of the Inquiry and may be referred to in the report as long as confidentiality (subject to any waivers of confidentiality) is maintained.

30B. Facilitated sessions: The Commissioners may retain one or more facilitators to gather information from target groups, in particular those who may not feel comfortable speaking directly with the Commissioners, such as youth and young parents. The facilitator will produce a report summarizing the information gathered during facilitated sessions, which will be provided to the Commissioners and General Standing Parties. The information contained in the report will be part of the record of the Inquiry and may be referred to in the report as long as confidentiality (subject to any waivers of confidentiality) is maintained.

30C. In relation to the summaries and reports of closed or facilitated sessions, Parties will be provided and with an opportunity to:

- i. Lead evidence to contradict, qualify or contextualize the substance of any submission, statement or of any part thereof; and
- ii. Make any argument it sees fit as to the reliability, weight, or materiality of any submission, statement or of any part thereof.

## **Part VIII: Other Methods of Truth Telling and Sharing**

31. The Inquiry will encourage Innu impacted by the child protection system to use other methods of sharing their experiences of the child protection system with the Inquiry. An Innu who wishes to share their experiences may send any of the following to the Inquiry:
- i. Letters;
  - ii. Notes;
  - iii. Emails;
  - iv. Art;
  - v. Stories;
  - vi. Recorded video statements;
  - vii. Other videos;
  - viii. Recorded audio statements; and,
  - ix. Music or songs.

The Inquiry will post what is shared with the Inquiry on its webpage.

32. The Inquiry may conduct research with respect to the impact that the child protection system has had on the Innu children, youth and communities. Some of this research may rely upon interviews that will be conducted by researchers who are retained by the Inquiry to assist with the gathering of information to be relied upon in the Report. This research may also take the form of surveys. Where applicable, research conducted on behalf of the Inquiry will abide by the requirements in *Conducting Research in Innu Territory, 2017* which are guidelines created by the Innu Representative Organizations.

## **Part IX: Formal Hearings**

33. The Inquiry will conduct three types of Formal Hearings:
  - i. Formal Hearings in relation to the Investigations pursuant to s. 4(2) of the Terms of Reference;
  - ii. Formal Hearings on the history of child protection in relation to the Innu; and,
  - iii. Formal Hearings on legislation, policies and practices of the child protection system in relation to the Innu.
  
34. Witnesses who are called to testify at a Formal Hearing will be sworn or affirmed.
  
35. The Inquiry will hold Formal Hearings under r. 33(ii) and 33(iii) in Natuashish and Sheshatshiu unless it is impractical to conduct them in those Communities and alternative sites for Formal Hearings have been identified in consultation with the Innu Representative Organizations and other Parties.
  
36. Witnesses called during the Formal Hearings may include the following:
  - i. Innu Elders;
  - ii. Other Innu knowledge keepers;
  - iii. Children, youth and adults who are or have been involved in the child protection system;
  - iv. Family members of people who are or have been in care;
  - v. Innu impacted by the child protection system;
  - vi. Experts in social work practice and policy;
  - vii. Experts in child protection legislation, policy and practice;
  - viii. Doctors;
  - ix. Government Officials including Social workers;
  - x. Foster parents;
  - xi. Police officers; and,
  - xii. Researchers.
  
37. A Quorum of Commissioners shall sit when witnesses testify at a Formal Hearing; however, the Chair may sit alone at a Formal Hearing to hear matters relating to procedure and scheduling.

38. The Commissioners will direct Commission Counsel to identify and call the witnesses that the Inquiry shall hear. A Party has the right to identify a witness and request that the Commissioners direct Commission Counsel to call that witness. In considering a request, the Commissioners may consider the relevance and distinctness of their evidence, any trauma or inconvenience to the witness, the Inquiry's schedule, and proportionality.
39. Commission Counsel will conduct the direct examination of witnesses at Formal Hearings unless the Commissioners determine that it is more appropriate that Counsel for a witness or Counsel for a Party conduct the direct examination. Counsel for witnesses and Counsel for Parties will have an opportunity to cross examine each witness, subject to direction by the Commissioners, having considered the implications on thoroughness, fairness, transparency and expediency. The Commissioners may limit the time for cross-examination, or may direct questions to be made by interrogatory. The order of cross examination will be determined by the Commissioners in consultation with the Parties. An opportunity to re-examine a witness may be granted by the Commissioners.
40. Witnesses are entitled to have their Counsel present while they testify. Counsel for a witness is entitled to receive documents that the Inquiry will rely upon during the testimony of their client.
41. A document relied upon during a Formal Hearing shall be given a number and entered as an exhibit.
42. The rules of evidence will not be strictly applied during Formal Hearings.
- 42A. Commission Counsel may, after notifying the Parties, examine witnesses in advance of a Formal Hearing. These witnesses may be subpoenaed and their evidence will be taken under oath or affirmation, video recorded, and transcribed, in the presence of the witness's counsel. The transcript will be provided to the Parties with standing without delay, and video recording will be made available upon request.
- 42B. The Commissioners may permit Commission Counsel to pose written questions in the form of interrogatories to a witness or party to be answered in writing under oath or affirmation. Commission Counsel will provide at least seven (7) days' notice of the proposed questions, and any Party may object to the questions within five (5) days of receiving notice. Any witness or Party receiving written questions may, within the deadline set by the Commissioners, object in writing to answering the questions. The Commissioners may provide appropriate directions and may modify the seven (7) and five (5) day periods.

- 42C. Commission Counsel may, at least ten (10) days before any hearing day, notify the parties that they intend to introduce as evidence the video recording and transcript of prerecorded evidence, affidavit evidence, or interrogatory answers. Any Party may, at least five (5) days before the hearing day, object in writing that the evidence or any part of it ought not to be admitted or ought not to be admitted in a prerecorded or affidavit form. The Commissioners may provide appropriate directions and may abridge the ten (10) and five (5) day periods.
- 42D Subject to the Commissioners' directions, any witness whose prerecorded or affidavit evidence or interrogatory answers will be introduced at a Formal Hearing will be available for cross-examination as the parties may agree or as the Commissioners may direct, including by prerecorded examination or interrogatory.
43. Commission Counsel shall disclose all documents to Parties at least seven (7) days prior to the hearing day when the document will be admitted. Counsel for Parties or witnesses who intend to rely upon a document during the examination of a witness must advise the Inquiry of their intention to enter a document as an exhibit at least two (2) days before the witness is scheduled to testify. The Commissioners may abridge the seven (7) and two (2) day periods.
44. All activities of the Inquiry, including the Formal Hearings, will be trauma informed. Examinations by Counsel must be conducted in a respectful manner. In the event that the Commissioners conclude that Counsel for a Party or Counsel for a witness is not conducting an examination in a respectful manner and is thereby jeopardizing the health of the witness, the Commissioners may end the examination. Counsel for the Party may be given alternate means of eliciting information from a witness.
45. Formal Hearings will be broadcast live whenever possible and also will be recorded. The recordings and all exhibits or other evidence admitted at the Formal Hearings will be posted on the Inquiry webpage as soon as reasonably possible.
46. Pursuant to s. 6(2) of the Act, the Commissioners may exclude the public from a Formal Hearing where the interest in openness and transparency is outweighed by other considerations such as privacy concerns or the impact of testimony upon the mental health of participants or other Innu.
- 46A. The Commissioners may, after consultation with the Parties, issue an order outlining the procedure and parameters of any Formal Hearing in relation to an Investigation, including how information received during that Formal Hearing can be used in the preparation of the Final Report. To the extent that any such order conflicts with these rules, the order will prevail.

## **Part X: Roundtables and Submissions**

47. The Inquiry may conduct roundtables on legislation, policy and practice of child protection in relation to the Innu. As part of the Roundtable, the Inquiry may invite Innu Elders, leaders, scholars, practitioners and government officials to participate.
  
48. At the conclusion of the Inquiry, the Commissioners will invite Parties and interested persons to submit written submissions with respect to findings of fact and recommendations. The findings of fact made by the Commissioners will be based solely upon the evidence tendered at the Formal Hearings, including evidence given in oral examinations; written evidence given by affidavit or in response to interrogatories; exhibits; and any alternative mode of information gathering that the Commissioners may direct. The Commissioners will also invite Parties and interested persons to make oral submissions. The Commissioners will provide an opportunity to make oral submissions in each Community.
  
49. Roundtables and submissions will be broadcast live unless it is not feasible to do so. Roundtables and submissions will be recorded and the recordings of these events will be posted to the Inquiry webpage.

## **Part XI: Applications for Investigations**

50. Pursuant to s. 4(2) of the Terms of Reference, the Inquiry shall investigate the death of an Innu child, youth or adult who experienced time in care or custody and who meet the following criteria:
- (a) The child, youth or adult was under the age of 25 at the time of death;
  - (b) The child, youth or adult died on or after September 30<sup>th</sup>, 2007; and,
  - (c) A parent, or where appropriate, other next of kin of the child, youth or adult consents to the investigation and attests to the belief the time in care or custody contributed to their death.
51. A parent or other next of kin may apply to the Inquiry asking the Commissioners to order that an Investigation be conducted into the death of an Innu child, youth or adult. A parent or other next of kin must submit an Application for Investigation using the form attached to these Rules as Schedule B. An Application for Investigation must be filed by October 31<sup>st</sup>, 2022. The Commissioners may accept an Application for Investigation later than October 31<sup>st</sup>, 2022 in exceptional circumstances.
52. The Inquiry understands that some parents or next of kin may not be represented by Counsel. A parent or other next of kin who are not represented by Counsel may contact the Inquiry and ask for assistance from Inquiry staff in drafting an Application for Investigation.
53. The Inquiry may invite an Applicant and/or family member to appear before the Commissioners and make oral submissions in relation to an Application for Investigation.
54. Where the Commissioners order an Investigation into the death of an Innu child, youth or adult, the Commissioners will grant Investigation Standing to the Applicant who applied for the Investigation. An Applicant who has been granted Investigation Standing shall have the right to participate in all aspects of the Formal Hearing or other truth-seeking proceeding. In the event that a Formal Hearing is held, that right to participate includes but is not limited to the following:
- i. The right to cross examine witnesses;
  - ii. The right to request that the Commissioners direct Commission Counsel to call particular witnesses;

- iii. The right to make closing written and/or oral Submissions at the conclusion of a Formal Hearing and at the conclusion of the Inquiry;
  - iv. Access to documents relevant to the Investigation subject to an undertaking of confidentiality; and,
  - v. Any other rights to participate as may be granted by the Commissioners.
- 54.1 Any person whose actions are the focus of an investigation may apply for Limited Investigation Standing.
- 54.2 An application for Limited Investigation Standing must be made within thirty days of either the initial publication of the nature and scope of the Investigation or the person receiving either a subpoena, a request to be interviewed, or notice under s. 5(4) of the Act in respect of the Investigation.
- 54.3 An application for Limited Investigation Standing must provide the person's reasons for their request further to s. 5(2) of the Act and, where the application is made more than thirty days after the initial publication of the investigation's nature and scope, an explanation for the delay.
- 54.4 An application made more than thirty days after the initial publication of the investigation's nature and scope will be dismissed unless there is a reasonable explanation for the delay.
- 54.5 When the Commissioners grant a person Limited Investigation Standing, they may give them the right to participate in a specified Investigation and define the scope of the person's participation rights.
- 54.6 The Commissioners may modify from time to time the participation rights of a Party with Limited Investigation Standing.
- 54.7 The Commissioners may recommend that the Province provide funding for a Party granted Limited Investigative Standing to participate in the investigation, including funding for Legal Counsel.
55. An Applicant who is granted Investigation Standing will be entitled to funding including funding for legal counsel. This funding is granted pursuant to the Funding Order. Legal Counsel for the Party with Investigation Standing must make funding arrangements with officials of the Department of Justice and Public Safety.
56. Investigation Standing grants the parent or other next of kin the right to participate in the Formal Hearing or other proceedings in relation to the Investigation of the death of the child, youth or adult identified in the Application. A Party granted Investigation Standing is not thereby granted General Standing to all other parts of the Inquiry including other Formal Hearings in relation to other Investigations. A Party who is granted Investigation Standing must apply for General Standing, pursuant to Part XII

of these Rules, if that Party wishes to have General Standing at other parts of the Inquiry.

57. At any time, a Party with Investigation Standing may withdraw their consent to the conduct of the Investigation. Where a Party withdraws its consent, the Inquiry will cease conducting the Investigation into the death of the child, youth or adult named in the Application for Investigation.
  
58. Where the Commissioners heard evidence at a Formal Hearing or other proceeding prior to the decision to cease conducting an Investigation, the Commissioners will not make findings of fact about the care of the child, youth or adult whose death was the subject of an Investigation; however, the Commissioners may rely upon the evidence that is of a systemic nature to make findings of fact regarding the child protection system in general.

## **Part XII: General Standing**

59. Individuals, organizations or families who want to have General Standing at the Inquiry shall apply for General Standing pursuant to this Part.
60. The Inquiry has granted General Standing to the following organizations:
- i. Innu Representative Organizations;
  - ii. The Province; and,
  - iii. The Government of Canada (“Canada”).

These organizations have the right to fully participate in each part of the Inquiry including the Formal Hearings in relation to the Investigations.

61. Applications for General Standing must be in writing and filed with the Inquiry by October 31<sup>st</sup>, 2022. The Applications for General Standing must identify:
- i. the parts of the Inquiry within which a Party wishes to participate; and,
  - ii. the manner in which they wish to participate.
62. The Commissioners may grant General Standing to Parties based solely upon the written application. The Commissioners may also invite Parties to make oral submissions in support of their applications for General Standing where necessary.
63. Pursuant to section 5(2) of the Act, a person may be granted General Standing by the Commissioners, after considering:
- i. whether the person’s interest may be adversely affected by the findings of the Inquiry;
  - ii. whether the person’s participation would further the conduct of the Inquiry; and,
  - iii. whether the person’s participation would contribute to the openness and fairness of the Inquiry.
64. The Commissioners may grant General Standing to participate in one, some or all of the following methods of truth seeking:
- i. Formal Hearings or other proceedings in relation to the Investigations pursuant to s. 4(2) of the Terms of Reference;

- ii. Formal Hearings on the history of child protection in relation to the Innu;
  - iii. Formal Hearings on legislation, policies and practices of the child protection system in relation to the Innu;
  - iv. Roundtables on current policy and future directions of child protection in relation to the Innu;
  - v. Written and oral Submissions with respect to findings of fact and recommendations; and,
  - vi. Community meetings as observers.
65. Individuals who have been given the opportunity to participate in the community meetings and other meetings will not automatically be granted General Standing.
66. In the Order granting General Standing, the Commissioners will specify the parts of the Inquiry in which the Applicants have been granted the right to participate and the Order will also specify the manner of each Party's participation. A Party granted General Standing at a Formal Hearing will be granted the right to participate in some or all of the following:
- i. The right to cross examine witnesses;
  - ii. The right to request that Commission Counsel call particular evidence;
  - iii. The right to make written and/or oral Submissions;
  - iv. Access to documents relevant to the Formal Hearings to which they have been granted Standing; and,
  - v. Any other rights of participation as may be granted by the Commissioners.
67. Counsel for Parties must sign a confidentiality undertaking as an ongoing condition of General Standing.
68. Subject to any Act of Parliament or House of Assembly or regulation made thereunder, Parties who are granted General Standing thereby accept the jurisdiction of the Inquiry and agree to be bound by these Rules. In the event of any conflict or inconsistency between an Act of Parliament or House of Assembly or regulation made thereunder and the Inquiry's Rules, the provisions of the Act of Parliament or House of Assembly or regulation shall prevail and be paramount.

69. The Commissioners have the discretion to amend an order granting a Party General Standing. A Party with either Investigation or General Standing must conduct themselves in a manner which is consistent with a trauma-informed process and is also culturally appropriate and acknowledges, respects and honours the diverse cultural, linguistic and spiritual traditions of the Innu.
  
70. The Commissioners may recommend that the Province provide funding for a Party granted General Standing including funding for Legal Counsel.

### **Part XIII: Production and Disclosure of Documents**

71. Pursuant to s. 9 of the Act and paragraph 7(c) of the Terms of Reference, the Inquiry has the authority to summons the production of relevant documents.
72. The terms “document” or “documents” are intended to have a broad meaning and include, without limitation, the following media: written, electronic, text, cellular or social media messaging, audiotape, videotape, digital recording and reproductions, photographs, films, slides, maps, graphs, microfiche, metadata, and any data and information recorded or stored by means of any device.
73. Any person or entity who receives a summons to produce documents shall provide all relevant documents within that person’s or entity’s possession, control or power and must do so within the time period prescribed by the summons.
74. A person or Party who objects to the production of information, document or thing on the basis of solicitor-client privilege shall identify and describe in writing to Commission Counsel the information, document or thing that they intend to withhold from the Inquiry. The person or Party shall also provide to Commission Counsel a written objection outlining the basis of their objection to the production. Commission Counsel will review the objection and provide an opinion as to the validity of the objection. In the event that Commission Counsel concludes that the information, document or thing should not be withheld on the basis of solicitor-client privilege, Commission Counsel may apply to the Supreme Court of Newfoundland and Labrador for a declaration regarding the assertion of solicitor- client privilege made by the person or Party.
75. A person or Party who objects to the production of information, document or thing on a basis other than solicitor-client privilege, shall produce the information, document or thing in its original, unedited form to Commission Counsel. The person or Party shall also provide to Commission Counsel a written objection outlining the basis of their objection to the production. Commission Counsel will review the information, document or thing and the written objection and provide an opinion as to the validity of the objection. In the event that Commission Counsel accepts the basis of the objection, the information, document or thing shall be returned by Commission Counsel in the form it was received, without duplication, to the person or Party and the information, document or thing shall not be used in any manner by Commission Counsel or the Inquiry. In the event that Commission Counsel does not accept the basis of the objection regarding the production sought, Commission Counsel may make an application to the Supreme Court of Newfoundland and Labrador for a declaration on the objection to the production of the information, document or thing made by the person or Party.

76. Counsel for Parties will be provided with documents, including statements or transcripts of anticipated evidence only upon giving an undertaking that all such documents will be used solely for the purpose of the Inquiry. The Inquiry may require that some documents provided, and all copies thereof, to be returned to the Inquiry upon the conclusion of the Inquiry. Counsel are entitled to provide such documents, records or information to their respective clients but only on terms consistent with the undertakings given. These undertakings will be of no force and effect in relation to any document that has become part of the public record.
77. Information, document or thing received by the Inquiry from a Party, or any other person or entity shall be treated as confidential by the Inquiry unless and until the Inquiry discloses the information, document or thing to Counsel for witnesses and Counsel for other Parties or admits a document as an exhibit. This does not preclude the Inquiry from providing a document to an expert or consultant retained by the Inquiry.
78. During the course of the Inquiry, the Inquiry will disclose to Counsel for Parties and Counsel for witnesses information, document or thing that the Inquiry believes are relevant to the conduct of a Formal Hearing. However, the Inquiry will notify the person or Party who produced the information, document or thing of its intention to disclose the information, document or thing prior to their disclosure. The person or Party who produced the information, document, or thing will thereby be given an opportunity to suggest redactions that they believe are necessary based upon privacy or other relevant considerations. Other persons or other Parties who have an interest in the information contained in the documents may be given notice and an opportunity to suggest redactions whenever it is appropriate and practical to do so.
79. Prior to the admission of a document as an exhibit at a Formal Hearing, the Inquiry will notify the person or Party who produced the information, document or thing of its intention to admit the information, document or thing as an exhibit. The person or Party who produced the information, document, or thing will thereby be given an opportunity to suggest redactions that they believe are necessary based upon privacy or other relevant considerations. Other persons or other Parties whose interests may be affected by the release of the information, document or thing may be given notice and an opportunity to suggest redactions whenever it is appropriate and practical to do so.
80. Originals, or certified true copies, of relevant documents are to be provided to Commission Counsel upon request. Where available, original documents must be produced to Commission Counsel upon request for inspection.
- 80.1 The Inquiry has or will acquire copies of records which are believed to be true copies of original historic, modern and electronic documents. The authenticity of records entered as Exhibits is assumed and agreed to by the Parties unless notice of dispute is provided to Inquiry counsel and all Parties with Standing within fourteen days of

receiving notice of the proposed Exhibit or, if notice of the proposed Exhibit is received less than fourteen days before the hearing, without delay upon discovering an issue relating to authenticity.

80.1A The Inquiry may provide recordings or prepare summaries of Community Meetings, Roundtables, or other meetings or documents to be entered as Exhibits. The accuracy of these recordings or summaries is assumed and agreed to by the Parties unless notice of dispute is provided to Inquiry counsel and all Parties with Standing within fourteen days of receiving notice of the proposed Exhibit or, if notice of the proposed Exhibit is received less than fourteen days before the hearing, without delay upon discovering an issue relating to authenticity.

80.2 Records tendered as Exhibits and admitted into evidence and may be relied upon for the following purposes:

- i. As proof that the document was created by the indicated author on or about the date indicated and, where appropriate, that it was sent by the author and received by the intended recipient or recipients, on or about the dates indicated;
- ii. As proof of the state of mind of the author; and
- iii. As evidence of the truth of its contents, recognizing that the Commissioners will often be obliged to consider and weigh the contents of a document in the context of other relevant evidence.

80.2A Summaries tendered as Exhibits and admitted into evidence may be relied upon as evidence of the information summarized or as evidence of the truth of any statement or evidence reported to have been made, recognizing that the Commissioners will often be obliged to consider and weigh the contents of a document in the context of other relevant evidence.

80.3 Any Party may, nevertheless:

- i. Lead evidence to contradict, qualify or contextualize the substance of any exhibit, or of any part thereof; and
- ii. Make any argument it sees fit as to the reliability, weight, or materiality of any exhibit.

80.4 The Commission Chair and/or Commissioners will consider a challenge to the authenticity of an exhibit and may exclude any exhibit at their discretion.

## **Part XIV: Orders and Notices**

81. The Commissioners intend for the meetings and hearings to be public except in rare cases. The Commissioners have concluded that some information should not be published, broadcast or transmitted as the release of information may negatively affect the mental health of children, families and others in the community. Therefore, pursuant to ss. 7(2) of the Public Inquiries Act, 2006, SNL 2006 c. P-38.1, the Commissioners issue the following orders:

Order #1: The Commissioners hereby order that any information that could identify a participant in or a person referred to in a Community Meeting shall not be published, broadcast or transmitted unless the participant or the person referred to consents to the publishing, broadcasting or transmitting of that information.

Order #2: The Commissioners hereby order that any information that could identify an Innu youth whose death is the subject of an Investigation shall not be published, broadcast or transmitted unless the Commissioners issue an order that such information can be published, broadcast or transmitted.

Order #3: The Commissioners hereby order that any information that could identify a family member of an Innu youth whose death is the subject of an Investigation shall not be published, broadcast or transmitted unless the Commissioners issue an order that such information can be published, broadcast or transmitted.

82. The Inquiry shall post Order #1, Order #2 and Order #3 in the following places when the Order is applicable to a hearing or a meeting:
- i. on the Inquiry webpage,
  - ii. at the entrance of every room in which the Inquiry is conducting a hearing or meeting,
  - iii. inside each room in which the Inquiry is conducting a hearing or meeting,
  - iv. on every video recording of a meeting or a hearing, and,
  - v. where a hearing or meeting is being livestreamed, periodically on the livestream or broadcast.
83. The Inquiry is bound by s. 55 of the Children, Youth, and Families Act, SNL2018 c. C-12.3 which states that “A person shall not, with respect to a proceeding under this Act, publish or make public information that has the effect of identifying

- (a) a child who is a witness at or a participant in a proceeding or who is the subject of a proceeding;
- (b) a parent or foster parent; or
- (c) a member of the child's family.”

84. The Inquiry shall post a copy of this section in the following places:
- i. on the Inquiry webpage,
  - ii. at the entrance of every room in which the Inquiry is conducting a hearing or meeting,
  - iii. inside each room in which the Inquiry is conducting a hearing or meeting,
  - iv. on every video recording of a meeting or a hearing, and,
  - v. where a hearing or meeting is being livestreamed, periodically post it on the livestream or broadcast.
85. The Community Meetings will be open to the public. In the event there are not enough seats for everyone who wishes to attend, priority will be given to the Innu.
86. Community Meetings will be video recorded but they will not be broadcast live or live streamed. The video recordings will, however, be made public. Prior to release to the public, the Inquiry will remove parts of the recording that may contain information that could identify a participant or a person referred to in the Community Meeting, unless the participant or person referred to consents to the publishing, broadcast or transmitting of that information. At the end of each day, the Inquiry will prepare a list of participants and others who have provided consent to the release of information that could identify the participant or person referred to in the Community Meeting.

### **Investigation Hearings**

87. Formal Hearings or other truth-seeking proceedings in relation to investigations may be open to the public or at the discretion of the Commissioners, some or all of the proceedings may be held in camera. The Commissioners may decide to hold proceedings in camera on their own initiative or on the request of a party or witness, after providing such notice to the Parties or other persons and hearing such submissions as the Commissioners consider appropriate in the circumstances. In the event that proceedings are public and there are not enough seats for everyone who wishes to attend, priority will be given to Parties with Investigative Standing and other Innu.

88. Investigation proceedings will be video recorded and may be broadcast live or live streamed with appropriate content warnings and contact information for available mental health supports. Video recordings may be made public, subject to removal of portions of the video required to comply with Inquiry policy and/or the applicable legislation.
89. The Commissioners have ordered that any information that could identify an Innu Youth who is the subject of the Investigation shall not be published, broadcast or transmitted unless the Commissioners order otherwise. Release of identifying information will only be ordered if the Party with Investigative Standing consents to its release.
90. The Commissioners have ordered that any information that could identify a family member of an Innu Youth who is the subject of an Investigation shall not be published, broadcast or transmitted unless the Commissioners order otherwise. The Inquiry will make best efforts to obtain consent from all family members it reasonably believes will be identified in the course of a public proceeding regarding an Investigation.
91. If a Party with Investigative Standing does not consent to the release of the name and identifying information of the subject of the Investigation, the Inquiry will use a pseudonym and remove their name from all Exhibits, recordings and transcripts, and endeavour to redact identifying information while maintaining readability and a cohesive narrative.
92. If a Party with Investigative Standing or another family member does not consent to the release of their name, the Inquiry will use a pseudonym and remove their name from Exhibits, recordings and transcripts.

[93-95. – Removed by Amendment of November 25, 2024]

### **Non-Investigative Formal Hearings and Roundtables**

96. The non-Investigative Formal Hearings and the Roundtables will be open to the public. In the event that there are not enough seats for everyone who wishes to attend, priority will be given to the Innu. The non-investigative Formal Hearings and the Roundtables will be live streamed and recorded on video. The Inquiry will remove parts of a video recording of a Roundtable before it is released to the public if the recording contains information that raises privacy concerns and/or the disclosure of the information is prohibited by law.

## **Final Report**

97. The Final Report and Executive Summary of the Final Report will not name any Innu person who participates or people referred to in community meetings, private meetings or roundtables unless they consent to the use of that information and the disclosure of the information is not prohibited by law.
  
98. The Final Report and the Executive Summary will not identify the children, youth or adults who are the subjects of the Investigations of Death and/or not identify by the name their family members unless the Party with Investigative Standing consents to the use of the names and the publication of the information is not prohibited by law.
  
99. The Final Report and the Executive Summary will not name the subject of an Investigation or their family members unless the Party with Investigative Standing consents and the publication is not prohibited by law.

## **Part XV: Dispute Resolution Mechanism**

100. The Commissioners expect considerable cooperation between Inquiry Counsel, the Parties and their Counsel in all matters relating to the Inquiry. All Parties and Counsel are expected to conduct themselves in a manner that conforms to the Inquiry's Guiding Principles and seek to make decisions by consensus wherever possible, including matters such as determining the nature and scope of an investigation, the redaction of documents, the identification of witnesses, and the treatment of exhibits.
101. Where consensus cannot be achieved, the Commissioners or a Commissioner will determine whether the matter is substantive or procedural in nature. Procedural disputes may be heard by the Chair alone. Disputes relating to the redaction of documents, the identification of witnesses, and the treatment of exhibits shall be considered procedural.
102. Where the dispute is in relation to a substantive matter, a Quorum of Commissioners shall determine the matter.
103. The Commissioner(s) will determine whether a dispute may be addressed at the next sitting of a Formal Hearing or whether the dispute should be determined in advance of a Formal Hearing.
104. The Commissioner(s) will determine the manner of submissions (i.e. in writing, orally, in camera, etc.) from Inquiry Counsel and the Parties with standing on the subject matter in dispute. The most expeditious and practical process for hearing a dispute, while ensuring procedural fairness, will be adopted. Many disputes may be resolved by the Commissioners without a formal process. A process requiring both written and oral submissions will be the exception, and not the rule.
105. The Commissioner(s) shall make a ruling, which may be delivered orally or in writing, the substance of which shall be circulated to all relevant Parties.

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

28 Pippy Place  
St. John's, NL  
A1B 3X4  
(709) 729-7592  
infoiccinquiry@inniuna.ca

**SCHEDULE A**

THIS SCHEDULE HAS BEEN  
REMOVED

## SCHEDULE B



### INQUIRY RESPECTING THE TREATMENT, EXPERIENCES AND OUTCOMES OF INNU IN THE CHILD PROTECTION SYSTEM

The Hon. James Igloliorte  
Commissioner

Ms. Anastasia Qupee  
Commissioner

Dr. Michael Devine  
Commissioner

### Application for Investigation

The *Inquiry Respecting the Treatment, Experiences and Outcomes of Innu in the Child Protection System* shall investigate the deaths of a child, youth or adult where the Commissioners are satisfied that the following criteria are met:

- a) The child, youth or adult experienced time in care or custody in the Child Protection System;
- b) The child, youth or adult was under the age of 25 at the time of death;
- c) The child, youth or adult died on or after September 30, 2007;
- d) A parent or, where appropriate, other next of kin of the child, youth or adult consents to the investigation; and
- e) a parent or, where appropriate, other next of kin of the child, youth or adult attests to the belief that the child's, youth's or adult's time in care or custody contributed to their death.

The contents of the *Application for Investigation* will remain confidential; however, the Inquiry may provide some of the information contained herein to the Department of Children, Seniors and Social Development in order to confirm its accuracy.

A parent or next of kin of a child whose death will be the subject of an Investigation shall be granted Investigation Standing and, therefore, will be entitled to funding to participate. However, anyone granted Investigation Standing and who wishes to have standing for any other part of the Inquiry including other Investigations must apply for General Standing pursuant to Rule XII of the Rules of Procedure.

**Part I: The Application of the Applicant(s) states that:**

1. The name of the Applicant is \_\_\_\_\_. The Applicant's email address and telephone numbers are:\_\_\_\_\_

2. Does the Applicant have legal representation? Yes\_\_\_ No \_\_\_

3. If yes, please provide name and contact information below:

Name:\_\_\_\_\_

Firm:\_\_\_\_\_

Address:\_\_\_\_\_

Telephone:\_\_\_\_\_

Email:\_\_\_\_\_

4. The Applicant seeks an order that the Inquiry will investigate the death of \_\_\_\_\_.

5. \_\_\_\_\_ was born on \_\_\_\_\_.

6. \_\_\_\_\_ died on \_\_\_\_\_.

7. The Mother of \_\_\_\_\_ is \_\_\_\_\_ and she resides at \_\_\_\_\_.

8. The Father of \_\_\_\_\_ is \_\_\_\_\_ and he resides at \_\_\_\_\_.

9. Where the Applicant is not the father or the mother, please describe the relationship between the Applicant and the deceased.

\_\_\_\_\_

\_\_\_\_\_

10. The Applicant believes that \_\_\_\_\_ experienced time in care or custody in the child protection system of Newfoundland and Labrador. The time in care or custody was on or about \_\_\_\_\_.

11. The Applicant believes that the time that \_\_\_\_\_ spent in care or custody in the child protection system of Newfoundland and Labrador contributed to their death.

12. The Applicant believes that the time that \_\_\_\_\_ spent in care or custody contributed to their death because: (Please keep this very brief)

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**Part II: The Consent of the Applicant:**

13. The Applicant understands that the Inquiry will gather information about the experience and treatment of \_\_\_\_\_ while they were in care or custody. The information will be gathered through interviews and the production of documents.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

14. The Applicant understands that the Inquiry may also gather information about the life of \_\_\_\_\_ before and after \_\_\_\_\_ was in care or custody. The information will be gathered through interviews and the production of documents.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

15. The Applicant understands that some of the information gathered by the Inquiry about the experience and treatment of \_\_\_\_\_ while in care and custody will be released to Parties who have been granted standing.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

16. The Applicant understands that some of the information gathered by the Inquiry about the life of \_\_\_\_\_ before and after \_\_\_\_\_ was in care or custody may be released to Parties who have been granted standing.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

17. The Applicant understands that some of the information gathered by the Inquiry about the experience and treatment of \_\_\_\_\_ while in care and custody may become public through testimony at a Formal Hearing or become public as an exhibit at a Formal Hearing.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

18. The Applicant understands that some of the information gathered by the Inquiry about the life of \_\_\_\_\_ before and after \_\_\_\_\_ was in care or custody may become public through testimony at a Formal Hearing or become public as an exhibit at a Formal Hearing.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

**Part III: Acknowledgements**

19. Where necessary, the contents of this Application and Consent were translated into Innu-aimun by \_\_\_\_\_.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

20. Where necessary, the contents of this Application and Consent were explained to me by \_\_\_\_\_ who is \_\_\_\_\_.

Initial \_\_\_\_\_ Witness \_\_\_\_\_

**Part IV: Supports**

21. The Applicant believes that the Applicant and other may need support during the course of the Investigation Hearing and Formal Hearing and the Applicant believes that they may need the following types of support:

Elder support \_\_\_\_\_

Mental Health and/or Emotional Support \_\_\_\_\_

Community Support \_\_\_\_\_

Religious Support \_\_\_\_\_

Professional Support \_\_\_\_\_ (Please specify the type \_\_\_\_\_)

Other Types of Support \_\_\_\_\_ (Please specify the type \_\_\_\_\_)

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel for the Applicant

\_\_\_\_\_  
Date