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Newfoundland and Labrador Regulation 2022

NEWFOUNDLAND AND LABRADOR REGULATION 27/22

*Inquiry Respecting the Treatment, Experiences and Outcomes of Innu in the Child Protection System
Order*
under the
Public Inquiries Act, 2006
(O.C.2022-103)

(Filed April 28, 2022)

Under the authority of section 16 of the *Public Inquiries Act, 2006*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, April 27, 2022.

Krista Quinlan
Clerk of the Executive Council

ORDER

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Short title

1. This Order may be cited as the *Inquiry Respecting the Treatment, Experiences and Outcomes of Innu in the Child Protection System Order*.

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Definitions

2. (1) In this Order

- (a) "Act" means, unless the context indicates otherwise, the *Public Inquiries Act, 2006*;
- (b) "in care or custody" means circumstances where an Innu child or youth is or was in the care or custody of a manager under sections 20 or 21 of the *Children, Youth and Families Act*, and includes
 - (i) custody orders to place or continue an Innu child or youth in the custody of a manager under Part IV of that Act,
 - (ii) protective care agreements entered into with the parents of an Innu child or youth under section 12 of that Act, and
 - (iii) youth services agreements under Part IX of that Act;
- (c) "Innu representative organizations" means the Innu Nation, Mushuau Innu First Nation and Sheshatshiu Innu First Nation;
- (d) "inquiry panel" means the persons appointed under section 3 to conduct the inquiry;
- (e) "minister" means the minister appointed under the *Executive Council Act* to administer this Act; and
- (f) "parent" means
 - (i) a biological parent of a child or youth,
 - (ii) an extended family member who stood in the place of a parent and who was a primary caregiver of a child or youth, or
 - (iii) an adoptive parent of a child or youth, where the child or youth was legally adopted.

(2) For the purpose of paragraph (1)(b), where prior legislation applied to the circumstances of an Innu child or youth, "in care or custody" shall include references to the equivalent provisions of that prior legislation.

(3) For greater certainty, references to "Innu" in this Order are to the Innu of Labrador.

Inquiry established

3. (1) There is established an inquiry respecting the treatment, experiences and outcomes of Innu children, youth and families in the child protection system.

(2) The following individuals are appointed to conduct the inquiry established under subsection (1):

- (a) retired Provincial Court Judge James Igloliorte, as chair;
- (b) Anastasia Qupee; and
- (c) Dr. Michael Devine.

Terms of reference

4. (1) The inquiry panel shall inquire into

- (a) the history of the child protection system in the province as applied to the Innu;

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- (b) the roles of the federal, provincial and Innu governments in the history referred to in paragraph (a) and in the current child protection system;
- (c) the main reasons for child protection involvement for Innu;
- (d) the availability and quality of specialized services to Innu children and youth within the Innu communities, including placements, mental health and addiction services and medical services;
- (e) the impact of the availability of the specialized services referenced in paragraph (d) on Innu children and youth coming into care or custody or being placed outside of Innu communities and how that availability can be improved;
- (f) access to Innu culture, language and community contact for Innu children and youth in care or custody, particularly those placed outside of Innu communities;
- (g) any impacts, including long-term impacts, of the loss of language, culture and family and community connection where Innu children and youth are placed outside of Innu communities;
- (h) access to outpost programs and other Innu land-based activities for Innu children and youth in the child protection system, particularly those placed outside of Innu communities;
- (i) the diagnosis for, prescription of and use of medication on Innu children and youth in care or custody, the reasons for the use of medication and related concerns;
- (j) the cultural fit of the provincial standardized tools and assessment models used in the child protection system within Innu communities, including risk assessments and home assessments;
- (k) the reintegration and support of Innu children and youth exiting care or custody and related concerns;
- (l) the health and well-being of Innu children and youth while in care or custody and after exiting care or custody and related concerns;
- (m) outcomes for Innu children, youth and adults who are, or were, in care or custody and a comparison, to the greatest extent possible, to the outcomes for other Innu and other citizens of the province, including
 - (i) educational achievement,
 - (ii) employment and income,
 - (iii) housing and homelessness,
 - (iv) physical and mental health and addictions,
 - (v) suicide and attempted suicide,
 - (vi) other causes of mortality and serious injury,
 - (vii) criminalization and incarceration, and
 - (viii) involvement as a parent with the child protection system;
- (n) effects on parents and grandparents in families of origin when Innu children and youth become involved with child protection services, particularly where a child or youth is removed from home outside traditional kinship arrangements, including

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- (i) impacts on physical and mental health and addictions,
- (ii) criminalization and incarceration, and
- (iii) access to job opportunities;
- (o) availability and quality of legal representation for parents of Innu children and youth involved in the child protection system and barriers to effective legal representation;
- (p) access to court time for Innu child protection cases, the effects of court delay and difficulties for Innu with the child protection court process and alternative decision-making processes outside of court;
- (q) the way in which the child protection system interacts with Innu, the role of Innu versus non-Innu employment and direction and control of the system, and the role of differences in language, culture, race and income;
- (r) where an Innu child or youth is in need of protective intervention, the barriers to the ability of that child or youth to be supported and supervised within their own home or in traditional kinship arrangements, and how those barriers could be reduced;
- (s) the non-Innu communities in which Innu children and youth are placed in care or custody, what causes or contributes to Innu children and youth being placed outside of Innu communities and how the number of Innu children and youth placed outside of Innu communities can be reduced;
- (t) the availability and nature of the opportunities for family contact and relationships to Innu children and youth in care or custody, particularly those placed outside of their home community; and
- (u) implications for funding and resourcing arrangements.

(2) In addition to those matters referred to in subsection (1), 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, 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 that the child's, youth's or adult's time in care or custody contributed to their death.

Conduct of inquiry

5. (1) The mechanisms by which the inquiry is to be conducted shall include

- (a) formal and informal hearings;
- (b) research studies;
- (c) inspections and investigations;
- (d) interviews and surveys; and
- (e) written submissions.

(2) The inquiry shall, to the greatest extent possible

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- (a) be guided by a shared commitment of the Innu representative organizations and the Government of Newfoundland and Labrador to ensure the safety and well-being of, and to act in the best interests of, Innu children and youth;
- (b) be guided by the following principles:
- (i) truth-telling – telling the story of child protection as it has affected Innu children, youth and families, through open exchange, listening and sharing;
 - (ii) acknowledging – learning from the past, seeing one another with a new understanding and embracing the need to move forward on a new path;
 - (iii) restoring – together creating a better path for the future;
 - (iv) relating – working respectfully together to design, implement and monitor a child protection system that supports the safety and well-being of Innu children and youth in order to achieve better outcomes for Innu children and youth;
 - (v) self-determination – that the Innu, the Government of Newfoundland and Labrador and Government of Canada are working in various ways to better partner and better reflect Innu culture and language in the current child protection system, and towards reaching the common objective of the Innu assuming responsibility for child protection;
 - (vi) culture and language – child protection policy and practice need to reflect Innu culture and make every effort for Innu children and youth to maintain their language and culture, as child protection policy and practice are most effective when they reflect, value, preserve and promote the intrinsic and distinct aspects of Indigenous cultures;
 - (vii) holistic approaches – child protection approaches reflect the reality of the whole child, the importance of preserving the continuity of relationships and recognizing the child is shaped by the child's culture, spirituality and social customs, environment, social relationships and specific abilities and traits;
 - (viii) structural interventions – preventative actions which aim to address risks which tend to cause Innu children and youth to be involved in the child protection system with the objective of reducing the number of Innu children and youth that become involved with the child protection system; and
 - (ix) non-discrimination – Innu children and youth receiving child protection services should not receive inferior services because they are Indigenous, and are entitled to, in accordance with the law, receive services substantively equal to services provided to non-Innu children and youth that are responsive to their needs, and the unique cultural context of their experience;
- (c) recognize the ongoing processes in which the Innu representative organizations, the Innu Round Table Secretariat, the Government of Newfoundland and Labrador and the Government of Canada have been working collaboratively towards improvements in the child protection system in Innu communities, and take into account the work achieved and evidence provided by people engaged in those processes when making its recommendations;
- (d) consider that the Government of Newfoundland and Labrador has been operating the child protection system to date, that the Government of Canada has been the primary funder of that system as applied to Innu, and that the Innu Nation has given notice to both of those governments of its intention to create Innu legislation in child and family services further to the exercise of Innu jurisdiction.

(3) The inquiry panel shall ensure that translation to and from Innu-aimun is available at all proceedings of the inquiry.

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Right to participate

6. A person who believes that they have an interest in the terms of reference under section 4 may participate in the inquiry, and the inquiry panel shall have the powers of a commission under section 5 of the Act with respect to that participation.

Powers

7. For the purpose of conducting the inquiry, the inquiry panel

- (a) shall receive evidence both in writing and orally, and where oral hearings are held, subsection 6(2) of the Act shall apply;
- (b) may arrange for the publishing or broadcast of proceedings, and subsection 7(2) of the Act shall apply;
- (c) shall have the powers of a commission under section 9 of the Act to compel the production of testimony and evidence;
- (d) shall have the powers of a commission under section 10 of the Act to conduct inspections, and subsection 10(2) of the Act shall apply;
- (e) shall have the powers of a commission under section 11 of the Act to apply for a warrant to search, and subsection 11(2) shall apply; and
- (f) may apply to the court for direction under section 15 of the Act.

Rules of procedure

8. The inquiry panel may prepare and publish rules of procedure for the inquiry that are not inconsistent with the Act or this Order.

Minister responsible

9. The minister shall be the minister responsible for the inquiry.

Final report

10. (1) The inquiry panel shall deliver a final report containing its findings and recommendations with respect to the matters set out in this Order to the minister on or before October 31, 2023.

(2) The minister shall deliver a copy of the final report referenced in subsection (1) to the Grand Chief of the Innu Nation upon receipt from the inquiry panel.

(3) The final report referenced in subsection (1) shall include

- (a) an executive summary;
- (b) an outline of the inquiry process;
- (c) findings of fact and what was learned during the inquiry; and
- (d) clear recommendations, with each recommendation specifying who is responsible for its implementation.

(4) The inquiry panel shall prepare a plain language summary in English and Innu-aimun, to be delivered to the minister and the Grand Chief of the Innu Nation as soon as possible following the delivery of the final report.

(5) The final report referenced in subsection (1) shall not express any conclusions or recommendations regarding the civil or criminal responsibility of any person or organization.

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