

Meeting Note
Intergovernmental and Indigenous Affairs Secretariat
Meeting of Premiers and National Indigenous Organization Leaders
July 17, 2017
2nd Floor, Federal Building
Edmonton, AB

Attendees: As outlined in Meeting Overview Note

Purpose of Meeting:

- Premiers and National Indigenous Organization (NIO) Leaders meet annually the day prior to the Summer Council of the Federation meeting to discuss issues of mutual interest.

Issue: Indigenous Children in Care:

- The overrepresentation of Indigenous children and youth in care has been the subject of significant recent attention:
 - On January 31, 2014, a report into the death of a 5 year old Indigenous girl, Phoenix Sinclair, in Manitoba was released (the "Sinclair Report") examining how MB's child welfare system failed the girl before she was murdered by her mother and stepfather, and making 62 recommendations for improving MB's child welfare system. Among the Sinclair Report's recommendation, Judge Ted Hughes (the author of the Report), recommended that Premiers address the need for a national Indigenous child welfare policy at the August 2014 meeting of the COF in PEI. At that meeting, the Premiers directed a report be prepared which was approved as set out in the next bullet.
 - The *Aboriginal Children in Care: Report to Canada's Premiers*, approved by Premiers at their July 2015 meeting, profiles best and promising practices in three themes: (i) Root Causes; (ii) Prevention and Early Intervention; and (iii) Supporting the System.
 - The "Sixties Scoop" refers to a period in the 1960s, '70s and '80s when, after the Federal Government began to discontinue the use of residential schools, child welfare authorities apprehended an estimated 20,000 Indigenous children from their homes across Canada, and adopted or fostered them into non-Indigenous families. Adoptees from across the country have called for reconciliation and an apology from PT governments and the Federal Government. Some adoptees have initiated class action lawsuits in Ontario, British Columbia and Saskatchewan. On June 18, 2015 the Premier of MB issued an apology in the MB legislature. In June 2015 the Premier of SK also promised a formal apology, however no formal apology has been made. On February 14, 2017, an Ontario Superior Court judge ruled in favour of Indigenous plaintiffs, and found the Federal Government breached its "duty of care" to the children. Damages have not yet been determined.
 - The Truth and Reconciliation Commission (TRC) of Canada's 94 Calls to Action include several related to reducing the number of Indigenous children in care, and ensuring social workers have appropriate cultural training. **For further information about the TRC, please see Meeting Note – Truth and Reconciliation Commission at TAB 6.**
 - In January 2016, the Canadian Human Rights Tribunal (CHRT) ruled the Federal Government discriminates against First Nations children on Reserve by failing to provide the same level of child welfare services that are available to children off Reserve.
- Given the absence of federal Indigenous legislation in this area, CSSD provides child protection services to all children, youth and families in NL, including in Indigenous communities and on Reserve. The *Children and Youth Care and Protection Act* provides legislative authority for this delivery of child protection services. The Act underwent statutory

review in 2016-17 and the House of Assembly is expected to debate proposed amendments to this legislation in Fall 2018, some of which could support further improvements in service delivery in Indigenous communities.

- There are two Innu First Nations Reserves in NL, the Mushuau Innu First Nation (MIFN) located in Natuashish and the Sheshatshiu Innu First Nation (SIFN) located in Sheshatshiu. CSSD provides child protection services for these two Reserves, and is reimbursed for the majority of these costs by INAC. The annual agreement with INAC includes two components: a fixed amount for operations (recently increased to \$3M), as well as a variable amount to cover the costs of Innu children/youth in care (\$7.0M in 2015/16).
- The Miawpukek First Nation (MFN) located on Reserve in Conne River, receives block funding directly from the Federal Government for social programs and services, including child protection services. MFN has long contracted with Government for a dedicated CSSD social worker to provide child protection services in the community.
- Unlike the Labrador Innu children primarily resident on Reserve in Sheshatshiu and Natuashish where the Federal Government has significant responsibility for children in care, the Provincial Government has primary responsibility for Inuit children in care including those residents in the Inuit communities of Nain, Hopedale, Makkovik, Postville and Rigolet. In relation to this, the Labrador Inuit Land Claims Agreement provides that the Nunatsiavut Government (NG) may make laws in Labrador Inuit Lands (LIL) and Inuit communities respecting social, family, youth and children's programs, services and facilities for Inuit. These include programs and services for the protection, assistance, well-being and development of children; recruitment, approval, support and monitoring of residential services for children including caregivers; placement of children in approved residential services; and child care services including the licensing and monitoring of child care facilities and persons providing child care in private residences. The NG may also make laws in LIL and the Inuit communities in relation to children in need of protective intervention; the removal of Inuit children from the parental home; the duty to report situations where child may be in need of protective intervention; and the appointment of individuals to protect and promote the rights of Inuit children. Depending upon the specific law making authority where Inuit laws conflict with laws of general application, the Inuit law or the law of general application prevails. To date, the NG has not enacted Inuit laws respecting any of the above noted law-making authorities.
- Also, the Provincial Government has agreed, pursuant to the NG Fiscal Financing Agreement, to provide funding to NG to deliver to all residents of Inuit communities programs and services the Province makes available to all residents of the Province including child, youth and family services. The NG has, to date, not expressed an interest in negotiating an agreement to take over delivery of these programs and services.
- When Indigenous children and youth are removed from the care of their parents, CSSD makes every effort to keep them in their communities and connected to their culture. CSSD is committed to working with the NG, MIFN, and SIFN to increase availability of out of home placements within Indigenous communities. However, there are times when children must be placed outside their community due to a lack of appropriate placements or treatment options. Both the NG and Innu Nation have identified that the placement of children and youth outside of their communities for foster care or treatment is a significant concern.

- As of December 31, 2016 there were 1,035 children and youth in care/custody of CSSD; 335 (32%) were Indigenous.
 - 175 (52%) were Innu, 155 of whom were from Natuashish or Sheshatshiu. Of these 155 children/youth, 45 (29%) were placed outside Natuashish or Sheshatshiu, including 25 outside of Labrador (10 of the 25 were residing in out of province treatment programs in Ontario or Saskatchewan).
 - 135 (40%) were Inuit, 85 of whom were from one of the five Inuit Communities. Of these 85 children/youth, 50 (59%) were placed outside the Inuit Communities, including 35 who were placed outside of Labrador.
- In 2012, CSSD signed Memoranda of Understanding (MOUs) with MIFN, SIFN and the NG to improve planning and enhance service coordination and delivery in the two Innu communities and the five Inuit communities.
- Building on the MOU signed in 2012, in October 2015, CSSD signed a new Working Relationship Agreement (WRA) with MIFN and SIFN in an effort to further improve service coordination and information sharing pertaining to child protection in Sheshatshiu and Natuashish. Efforts are ongoing to develop a revised agreement with the NG. There has been progress made under these agreements, and generally, there is an increasing trend of securing less intrusive care arrangements.
- In August 2016, the Innu submitted two proposals to INAC regarding funding to support the Innu led residential services in the communities of Sheshatshiu and Natuashish:
 - *A Proposal to Provide Group Home Residential Care for Innu Children and Youth with Unique and Challenging Needs*, which would re-profile the Sheshatshiu group home as a 6-bed Level 4 group home. This proposal requires funding to provide staff training and develop child/youth programming, and monitoring and reporting standards.
 - *Keeping Innu Children Closer to Home: A Framework to Create New Placement Opportunities in the Labrador Innu Communities*. This proposal included a framework to increase all placement resources in Innu communities.
- In 2016-17, the Innu received \$452,253 from INAC to support these proposals, with a focus on Sheshatshiu. The Innu submitted proposals for funding continuation of this work in 2017-18, and requested federal funding of the full multi-year initiative, in both Natuashish and Sheshatshiu. The combined request for funding is \$3.7M, and would fund capacity building and development, and support the development of five placement resources: a group home and two emergency placement homes (EPHs) in Sheshatshiu and a group home and one EPH in Natuashish (combined placement capacity: 27 children and youth).
- INAC has responded to commit \$600,000 of the required \$3.7M, despite CSSD advocated to INAC for their full approval and funding.
- Innu leadership encountered the INAC Minister in Toronto on June 30, 2017 at a public event, seeking a commitment of the required \$3.7M. Although the Minister committed to change, INAC has not yet committed any additional funding.
- On June 27, 2017, the four Innu Chiefs jointly wrote to Premier Ball outlining concerns with the treatment of Innu in the province's child welfare system, and setting out a case for an inquiry into that treatment, including: the quality of child protection services available to Innu families; and the experiences of children and youth in care and placed out of community.

- In response, Premier Ball and Minister Gambin-Walsh met with the Innu Leaders on July 5, 2017. At that meeting, a Memorandum of Understanding was signed between Innu Leadership and Premier Ball, agreeing to call an inquiry into the treatment, experiences and outcomes of Innu in the child protection system, and identify recommendations for change. The participation of the Federal Government will be requested by Premier Ball and Grand Chief Qupee, and the MOU aims for an inquiry to be initiated by September 30, 2017.
- There will be a meeting between the Premier and the Nunatsiavut Government on Inuit children in care on July 14, 2007 in light of the above noted MOU for an Innu "inquiry."
- In addition, in response to recent tragedies in Natuashish, CSSD worked collaboratively with MIFN and the Aboriginal Sport and Recreation Circle to enhance recreational programming for youth in Natuashish, supported by \$15,000 under the Community Health Living Fund. As well, in response to increased concern by parents for the safety and health of their children, CSSD social workers have assisting parents in accessing available resources.
- In February 2017, CSSD met with the NG to develop a joint work plan that would address areas of concern, particularly in relation to sharing of information, collaborative cultural continuity planning and registration of children as beneficiaries of the NG. This has led to improved collaboration and relations between the governments, with senior CSSD and NG officials now consulting directly on adoption plans for Inuit children on a case by case basis.
- Minister Sherry Gambin-Walsh met with FPT Ministers Responsible for Social Services in February 2016 and discussed the overrepresentation of Indigenous Child and Youth in Care. Following this meeting, the Indigenous Children and Youth in Care Working Group was established with representatives from INAC and most PTs. A Terms of Reference has been established and development of a work plan is ongoing, with a goal to finalize the Work Plan this fall.

Analysis:

- In recent years, CSSD has worked ever more closely with the NG and Labrador Innu to enhance the number of placements within their communities, and has made significant progress in this area. However, given the lack of available placement resources for children and youth in Labrador, there are still incidences of children being placed out of their communities and culture, including in the Roddickton/St. Anthony area.
- Innu Leadership and the NG have each indicated that the standard application of Newfoundland and Labrador policy negatively impacts or creates barriers for children and families in their respective communities. CSSD has expressed its commitment to working with the Innu and Inuit to address any gaps or barriers in policy which negatively affect Indigenous families, or identify appropriate enhancements or adaptations.

Potential Speaking Points:

- My Government is encouraged by INAC's recent commitment to reform the First Nations Child and Family Services Program, and looks forward to working closely with our federal and First Nations partners in enhancing the suite of services available to children, youth and families on Reserve.
- The Government of Newfoundland and Labrador supports Indigenous communities in their efforts to build community capacity and develop services to prevent children, youth and

families from requiring child protection intervention and prevent those children/youth who do require child protection intervention from having to leave their communities for placement. Government continues to encourage the Federal Government to provide funding for such initiatives.

- The Government of Newfoundland and Labrador is committed to further improvement in the area of child welfare and to working closely and building positive working relationships with Indigenous governments and organizations. CSSD strives to keep Indigenous families together where it is safe to do so, and to keep children in culturally appropriate environments.
- The Government of Newfoundland and Labrador has conducted a review of the *Child and Youth Care and Protection Act* and will be introducing amendments to the Act in the House of Assembly this Fall. This demonstrates Government's commitment to improving and strengthening services for Indigenous children, youth and families.
- The Government of Newfoundland and Labrador has been working closely with the Federal Government and its Indigenous partners to enhance early intervention and prevention services for Indigenous children and youth
- The Government of Newfoundland and Labrador is encouraged by INAC's commitments to expand Jordan's Principle to ensure more cases meet the previously stringent criteria. My government looks forward to engagement in this area and how this might impact GNL's efforts to ensure that Indigenous children/youth receive timely programs and services.
- The Government of Newfoundland and Labrador provides programs and services in a manner consistent with Jordan's Principle by providing services to Indigenous children/youth irrespective of a dispute as to whether the provincial or federal government is responsible, it has not implemented the jurisdictional dispute mechanism of the Jordan's Principle. My Government is committed to ensuring that Indigenous children/youth do not experience delay, denial, or disruption of services because of jurisdictional disputes.

Proposed Actions:

- N/A – this Note is for the information of the Premier.

Prepared/Reviewed by: C. Bustin/B. Harvey
Reviewed by: C. Osmond/K. Stone, Cabinet Secretariat
Approved by: A. Gover

July 13, 2017

Indigenous Children in Care

- As of December 31, 2016 there were 3050 families receiving services through the Protective Intervention Program.
- When a child cannot remain safely in the family home they may enter the care/custody of a manager of CSSD. As of December 31, 2016 there were 1035 children and youth in the In Care Program, including:
 - 175 Innu children/youth;
 - 135 Inuit children/youth; and
 - 25 Other Indigenous children/youth (including Mi'kmaq and Metis);
- The 335 Indigenous children/youth in care as of December 31, 2016 is 32 per cent of the 1035 children/youth in care. According to the 2011 National Household Survey, 11 per cent of the population 19 years of age and younger identified as Indigenous.
 - The overrepresentation of Indigenous children/youth in care across Canada, and the multitude of social, economic and historical factors which contribute to the overrepresentation has been a significant issue across Canada in recent years.
 - While Indigenous children/youth are overrepresented in care across Canada, direct statistical comparisons across provinces/territories is challenging due to the definition of "In Care," as well as the different child protection standards, policies and legislation.