Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File #: CSSD/23/2018)

On August 17, 2018, the Department of Children, Seniors and Social Development received your request for access to the following records/information:

“We are writing to request information within possession or control of the Department of Children, Seniors and Social Development relating to non-citizen children in state care. Specifically, we request any government policies, practices, and statistics regarding citizenship/immigration applications and procedures for non-citizen children in state care. This request is made in accordance with the Access to Information and Protection of Privacy Act. Without limiting the generality of our request, we are seeking all information between January 1, 2013 and December 31, 2017, relating to: Provincial policies designed to facilitate citizenship applications for non-citizen children in state care, including: The contents of that policy; The state actors involved in facilitating citizenship applications for non-citizen children in state care, and their corresponding obligations and responsibilities under the policies; The roles and responsibilities of family members in facilitating citizenship applications for their non-citizen children in state care; Any delegation of state responsibilities to quasi-public or private bodies, and the details of that delegation (including Memoranda of Understanding, where applicable); Roles and responsibilities of provincial offices and agencies for addressing the immigration and citizenship issues of children in state care, and for facilitating and overseeing citizenship applications. Any information or reports on the procedure that is to be taken should a non-citizen child enter the care of the Department of Children, Seniors and Social Development regarding immigration and citizenship status, including any Regulations, guidelines, or policy documents that inform this process. Any information or reports on the educational services provided to non-citizen children in the care of the Department of Children, Seniors and Social Development regarding their immigration and citizenship status, including any Regulations, guidelines, or policy documents that inform this process. For each year in this period, the budgetary amount, if any, allocated for addressing immigration and citizenship issues of non-citizen children in the care of the Department of Children,
Seniors and Social Development. For each year in this period, broken down by sex, age, age at time of arrival, and country of origin, and the number of years in state care, the number and percentage of children in the care of the Department of Children, Seniors and Social Development, who are non-citizens. For each year in this period, the number and percentage of non-citizen children in the care of the Department of Children, Seniors and Social Development, for whom the province has applied for citizenship. Please include statistics broken down by sex, age, year of arrival in Canada, country of origin, immigration status upon entering state care, accompanying family members, number of years in state care. The number and percentage of non-citizen children in the care of the Department of Children, Seniors and Social Development, between January 1, 2013 and December 31, 2017, who were adopted.

We require production of this information within 20 business days, as stipulated by the legislation. Please send information as it becomes available, even if it is not available at once. If you have any questions or concerns relating to this request, please do not hesitate to contact me directly.”

Please be advised that the Minister for CSSD has reviewed this request and CSSD has no records responsive to your request. The Department of Children, Seniors and Social Development becomes involved with families based on the definitions for a child being in need of protective intervention, as found in the Children and Youth Care and Protection Act (CYCP Act). Examples include a child being physically, emotionally or sexually harmed or at risk of same, or a child left with inadequate supervision. In regards to non-citizen children where CSSD may intervene, non-citizen concerns, when present, is recorded in individual case files. Those concerns would be considered in relation to a range of issues facing families and not as a specific or exclusive factor requiring protective intervention. Data related to non-citizen children in care is not recorded in a form that can be aggregated for reporting purposes. In addition, CSSD does not have specific polices in relation to non-citizen children in care.

The Access to Information and Protection of Privacy Act requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act (the Act). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500
You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that this letter will be published following a 72 hour period after it is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the letter posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at (709) 729-6370 or e-mail at michellemurray@gov.nl.ca.

Sincerely,

Kind Regards,
Michelle

Michelle Murray  B.A., B.S.W., M.S.W.
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**Access to Information and Protection of Privacy Act**

**Access or correction complaint**

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

   (2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

   (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

   (b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

   (3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.
(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).