March 13, 2019

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [IIAS 005 2019]

On February 13, 2019, the Intergovernmental and Indigenous Affairs Secretariat (Indigenous Affairs) received your request for access to the following records/information:

"Any messaging or draft messaging prepared for the Department or Minister since January 1st, 2019. In addition, any benchmarks/status updates/lists outlining levels of completion of "The Way Forward" initiatives."

Please be advised that a decision has been made by the Deputy Minister for Indigenous Affairs to provide access to some of the requested information (attached). Access to the remaining records, and/or information contained within the records, has been refused in accordance with Sections 29(1)(a) and 34(1)(a) of the Access to Information and Protection and Privacy Act (the Act). A list of these sections is enclosed.

Please note that on Page 3 (Key Messages Innu Inquiry) the 1st bullet under the Key Messages reads as follows:

"The Innu Nation and the Government of Newfoundland and Labrador have agreed to hold an inquiry into the treatment of Innu children in the foster care system. Budget 2018 allocated $1 million to start this work."

This message has been described incorrectly and should have read as:

"The Innu Nation and the Government of Newfoundland and Labrador have agreed to hold an inquiry into the treatment of Innu children in the child protection system. Budget 2018 allocated $1 million to start this work."

As required by 8(2) of the Act, we have severed information that is exempt from disclosure and have provided you with as much information as possible.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information,
as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). 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. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner 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 (a copy of this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response 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 responsive records 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 require any further questions, please contact me by telephone at (709) 729-1773 or by email at applebyc@gov.nl.ca.

Sincerely,

Christopher Appleby
Senior Policy Analyst / ATIPP Coordinator

Enclosures
Policy advice or recommendations

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

(b) the contents of a formal research report or audit report that in the opinion of the head of the public body is incomplete and in respect of which a request or order for completion has been made by the head within 65 business days of delivery of the report; or

(c) draft legislation or regulations.

(2) The head of a public body shall not refuse to disclose under subsection (1)

(a) factual material;

(b) a public opinion poll;

(c) a statistical survey;

(d) an appraisal;

(e) an environmental impact statement or similar information;

(f) a final report or final audit on the performance or efficiency of a public body or on any of its programs or policies;

(g) a consumer test report or a report of a test carried out on a product to test equipment of the public body;

(h) a feasibility or technical study, including a cost estimate, relating to a policy or project of the public body;

(i) a report on the results of field research undertaken before a policy proposal is formulated;

(j) a report of an external task force, committee, council or similar body that has been established to consider a matter and make a report or recommendations to a public body;

(k) a plan or proposal to establish a new program or to change a program, if the plan or proposal has been approved or rejected by the head of the public body;

(l) information that the head of the public body has cited publicly as the basis for making a decision or formulating a policy; or

(m) a decision, including reasons, that is made in the exercise of a discretionary power or an adjudicative function and that affects the rights of the applicant.

(3) Subsection (1) does not apply to information in a record that has been in existence for 15 years or more.
Disclosure harmful to intergovernmental relations or negotiations

34. (1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

(a) harm the conduct by the government of the province of relations between that government and the following or their agencies:

(i) the government of Canada or a province,

(ii) the council of a local government body,

(iii) the government of a foreign state,

(iv) an international organization of states, or

(v) the Nunatsiavut Government; or

(b) reveal information received in confidence from a government, council or organization listed in paragraph (a) or their agencies.

(2) The head of a public body shall not disclose information referred to in subsection (1) without the consent of

(a) the Attorney General, for law enforcement information; or

(b) the Lieutenant-Governor in Council, for any other type of information.

(3) Subsection (1) does not apply to information that is in a record that has been in existence for 15 years or more unless the information is law enforcement information.

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).
KEY MESSAGES

Executive Council
Intergovernmental and Indigenous Affairs Secretariat
Repatriation of Beothuk Remains
Jan. 21, 2019

Summary:
The National Museums Scotland (NMS) announced on Jan. 21, 2019 that agreement had been reached with the Federal Government and the Canadian Museum of History to arrange the transfer of the remains of two Beothuk people, Nonosabasut and Demasduit, to Canada.

The decision to transfer the remains was made by the Board of Trustees of NMS following a formal request in 2018 from the Canadian government, and legal endorsement was provided by the Scottish Government.

The Federal Government is preparing a statement from Pablo Rodriguez, Minister of Canadian Heritage, in response to the NMS decision. Likewise, a statement has been prepared on behalf of the Hon. Dwight Ball, Premier and Minister of Indigenous Affairs. The Premier is also meeting with representatives of Indigenous Governments and Organizations to apprise them of the most recent developments.

Anticipated Questions:
- What is the province’s response to a decision of NMS to transfer the remains of Beothuk individuals to Canada?
- Are there any plans for a repatriation ceremony in Newfoundland and Labrador?
- What will become of the funerary objects which NMS did not mention in its media release?

Key Messages:
- The Provincial Government welcomes the announcement from National Museums is Scotland as it represents a commitment to repatriate the Beothuk remains to Newfoundland and Labrador.
- Representatives of the Miawpukek First Nation, the Qalipu First Nation, the Nunatsiavut Government, the Innu Nation, and the NunatuKavut Community Council joined the Provincial Government in signing a declaration in 2017 at the Indigenous Leaders to support the Government of Canada’s request for the repatriation of the remains of two Beothuk individuals.
- The Provincial Government acknowledges the partnership with the Federal Government and Indigenous Governments and Organizations on this important topic and commends the advocacy and leadership of Sagamaw Mi’Sel Joe.

Secondary Messages:
- The Canadian Museum of History has agreed to accept the remains.
  The Federal Government, with support from the Provincial Government and
Indigenous Governments and Organizations in Newfoundland and Labrador, have agreed to transfer the remains to The Rooms, the provincial museum and archives.

- Indigenous Affairs will continue to liaise with Indigenous Governments and Organizations on the repatriation of the Beothuk remains.
- When the human remains have been successfully repatriated, the Provincial Government will continue to pursue the recovery of the associated funerary objects from NMS.

**Background**

- In 2015, Sagamaw Mi’sel Joe lobbied National Museums Scotland and the Provincial Government for the return of the remains of Demasdait and Nonosabasut, and the associated funerary objects from Scotland.

- The Provincial Government requested information from National Museums Scotland in 2016 on repatriating the remains and funerary objects. National Museums Scotland refused the request as it was not submitted by a national government or supported by a national museum.

- At the request of the Provincial Government, Canadian Heritage agreed to lead the repatriation efforts and collaborated with the Canadian Museum of History to facilitate discussions with National Museums Scotland.

- In 2017, representatives of Indigenous governments and organizations signed a declaration in support of the repatriation of the Beothuk remains and funerary objects held by National Museums Scotland at the first Indigenous Leaders Roundtable.

- In response to a request from the Canadian Museum of History and the Minister of Canadian Heritage to repatriate the remains and funerary objects, National Museums Scotland agreed in 2018 to transfer the remains. Citing legislation, National Museums Scotland advised the federal agency that it would not transfer the funerary objects.

- In June, at the second Indigenous Leaders Roundtable, Indigenous leaders reiterated support for the process of transferring the remains to the Canadian Museum of History and eventually The Rooms. However, Indigenous leaders expressed a strong desire to seek the return of funerary objects at a future date, following the repatriation.

**Prepared by:** Communications, Indigenous Affairs  
**Approved by:** Executive, Indigenous Affairs
KEY MESSAGES

Intergovernmental and Indigenous Affairs Secretariat
Innu Inquiry
Feb. 11, 2019

Summary:
The Government and the Innu entered into a Memorandum of Understanding on July 5, 2017 that outlined their mutual intent to pursue an inquiry into the treatment, experiences and outcomes of Innu in the child protection system.

The Provincial Government and Innu Leadership jointly completed a draft Terms of Reference and transmitted them to the Federal Government on September 19, 2017, asking the federal government to “fully” participate in the Inquiry.

The Innu were not been satisfied with the level of federal participation in the Inquiry, and stated to federal Minister Jane Philpott that the Inquiry is on hold until the Federal Government’s participation is satisfactory to the Innu. The Innu and Government have agreed upon the Terms of Reference.

The Innu and Government have a willingness to have joint further talks with the Federal Government regarding the Federal Government’s support of the Innu’s participation in the Inquiry for fiscal 2019-2020. These talks have not yet taken place.

The Inquiry is noted as one of the topics in a draft letter from the Premier to Seamus O’ Regan, federal Minister of Indigenous Services.

The Federal Government is aware federal support for the Innu is an issue.

Anticipated Question:
• When will the Innu inquiry start?

Key Messages:
• The Innu Nation and the Government of Newfoundland and Labrador have agreed to hold an inquiry into the treatment of Innu children in the foster care system. Budget 2018 allocated $1 million to start this work.

• Similar to the rest of Canada, our province is experiencing an over-representation of Indigenous children in the child protection system and we are committed to working with our Indigenous and federal partners to reduce the number of Indigenous
children in care and improve outcomes for those children that are in care.

- The Innu and Government have a willingness to have joint further talks with the Federal Government regarding Ottawa’s support of Innu participation in the Inquiry.

**Backgrounder:**
- The Federal Government and/or the Innu have communicated the following to Indigenous Affairs:
  - The changes the Federal Government wishes to have made to the noted joint draft Terms of Reference;
  - That it have a senior representative present at the Inquiry;
  - That it will provide documentation it has that is requested by the Inquiry;
  - That it will identify witnesses with knowledge of the federal role in the provincial child protection services;
  - That it will, with the other parties, address the inquiry’s recommendations; and
  - That the $250,000 already pledged to support the Innu participation in the inquiry is all the federal funding that is available for this fiscal year.

Thus, a meeting has been requested in a draft February 7, 2019 letter from the Premier to Indigenous Services Canada Minister Seamus O’ Regan.

- Indigenous Affairs and Justice and Public Safety met with Innu leadership and Innu counsel on Oct. 19, 2018 and discussed all aspects of the Inquiry. There has been dialogue with the Innu since that meeting in relation to the Inquiry...

- The province and the Innu are seeking a meeting with federal officials to discuss federal support for the Inquiry.

**Prepared by:** Indigenous Affairs Communications  
**Approved by:** Indigenous Affairs Executive
KEY MESSAGES

Executive Council
Intergovernmental and Indigenous Affairs Secretariat
Truth and Reconciliation Commission’s Calls to Action
February 12, 2019

Summary:
In 2005, in response to legal action by former students of Indian Residential Schools across Canada, the Federal Government entered into settlement negotiations, which concluded in March 2007 with the Indian Residential Schools Settlement Agreement. The Truth and Reconciliation Commission was created as a part of the Settlement Agreement.

The Truth and Reconciliation Commission was mandated to inform Canadians about Indian Residential Schools, and to guide a process of reconciliation through documenting information from survivors, families, communities and anyone else affected by the experience.

Commissioners heard more than 6,750 survivor and witness statements from across the country and the Truth and Reconciliation Commission released its Summary Report on June 2, 2015, containing 94 Calls to Action directed at the Federal Government, and all Provinces and Territories.

The Calls to Action represent the first step toward redressing the legacy of Indian Residential Schools and advancing the process of reconciliation.


Anticipated Questions:
• Where does the Provincial Government stand on implementing Calls to Action recommended by the Truth and Reconciliation commission that apply to Newfoundland and Labrador?

Key Messages:
• The Government of Newfoundland and Labrador completed an initial assessment of all policies/programs/initiatives where Government has taken action, or where opportunities for Government action may exist, for those Truth and Reconciliation Calls to Action that were directed at Provinces and Territories.

• The Provincial Government shared this assessment with Indigenous Governments and Organizations to seek their input and comments, is working to provide full and fair consideration and response to all comments submitted, and will finalize engagement with those Indigenous partners directly.
• Government has already started on the path toward advancing the ideals set out by the Truth and Reconciliation Committee through through engagement with Indigenous partners.

• Government will continue to partner with Indigenous Governments and Organizations across the province to advance reconciliation in Newfoundland and Labrador now and into the future.

Prepared by: Communications, Indigenous Affairs
Approved by: Indigenous Affairs Executive
KEY MESSAGES

Executive Council
Intergovernmental and Indigenous Affairs Secretariat
ATIPP Request for Access to Records on the Truth and Reconciliation Commission’s Calls to Action
February 12, 2019

Summary:
The Intergovernmental and Indigenous Affairs Secretariat (Indigenous Affairs) received a request dated Jan. 17, 2018 for access to the following records/information:

All records related to the government’s progress in fulfilling its commitment to implement the Truth and Reconciliation Commission’s Calls to Action – specifically those calls to action numbered 1, 2, 3 and 5. Please provide all records from Nov. 30, 2015 to December 31, 2017.

The ATIPP Coordinator for Indigenous Affairs advised the applicant in correspondence dated Feb. 8, 2019 that a partial response was being provided. The applicant was advised that Indigenous Affairs is still processing the remaining responsive records and will endeavour to provide a final response as soon as possible.

The Truth and Reconciliation Commission presented its final report in December 2015, containing 94 Calls to Action directed at the Federal Government, and all Provinces and Territories.

Anticipated Questions:
• Why has it taken more than a year to respond to the request for access to information?
• What is a partial response?
• What is the volume of the remaining records and when can I expect to receive them?
• Where does the Provincial Government stand on implementing Calls to Action recommended by the Truth and Reconciliation Commission that apply to Newfoundland and Labrador?

Key Messages:
• The Provincial Government is committed to legislation governing the Access to Information and Protection of Privacy Act and supports a culture of openness and accountability in the public sector.
• Given the length of time that has passed since the applicant submitted the request for information, Government decided to provide the applicant with a partial response.
• Indigenous Affairs is reviewing the balance of the remaining responsive records and will respond to the applicant when that process has concluded.
Secondary Messages:
- The Government of Newfoundland and Labrador completed an initial assessment of all policies/programs/initiatives where Government has taken action, or where opportunities for Government action may exist, for those Truth and Reconciliation Calls to Action that were directed at Provinces and Territories.
- The Provincial Government shared this assessment with Indigenous Governments and Organizations to seek their input and comments, is working to provide full and fair consideration and response to all comments submitted, and will finalize engagement with those Indigenous partners directly.
- Government has already started on the path toward advancing the ideals set out by the Truth and Reconciliation Commission through engagement with Indigenous partners and will continue to partner with Indigenous Governments and Organizations to advance reconciliation.

Backgrounder:
- The Department of Children, Seniors and Social Development (CSSD) received the same request for records from the applicant.
- CSSD is preparing a response to the applicant.
- The partial response prepared by Indigenous Affairs comprised 296 pages and included the following:
  - Indigenous Affairs information notes
  - Interdepartmental emails
  - Correspondence to leaders of Indigenous Governments and Organizations, outlining an assessment of Government’s progress with respect to the relevant Calls to Action, and requesting input
  - A table outlining Government’s Response to the Calls to Action
  - A table listing responses from two of 13 Indigenous Groups

Prepared by: Communications, Indigenous Affairs
Approved by:
KEY MESSAGES

Executive Council
Intergovernmental and Indigenous Affairs Secretariat
Qalipu First Nation Enrolment
Feb. 13, 2019

Summary:
The Federal Government announced on Nov. 15 that Ottawa and the Federation of Newfoundland Indians (FNI) would move forward with reassessing approximately 58,000 individuals who were denied Founding Membership in the Qalipu Mi’kmaq First Nation.

The parties also committed to enter into exploratory discussions to address outstanding concerns regarding members of the Canadian Armed Forces, veterans, RCMP and FNI members or members of other Mi’kmaq organizations who were named in the 2008 agreement on the creation of the Qalipu First Nation, but denied Founding Membership.

Anticipated Questions:
- What is the Provincial Government’s position on the planned reassessment of 58,000 individuals who were denied Founding Membership in the Qalipu First Nation enrolment process?
- Where does the Provincial Government stand on the concerns that were expressed by members of the Canadian Armed Forces, the RCMP, veterans and other members of the military, who were not granted exemptions or exceptions for their service outside of the province?

Key Messages:
- The Provincial Government welcomes the announcement that the Federal Government and the FNI will be looking at a process to reassess individuals who were denied Founding Membership in the Qalipu First Nation.
- Similarly, the Province also supports a review of the outstanding concerns that have been expressed by Indigenous veterans, the RCMP and other members of the military. We support the view that their contributions in their service to Canada deserves recognition and consideration in a review of the enrolment process for Founding Membership.
- While status under the federal Indian Act is exclusively a federal matter, and the creation and membership enrolment of Qalipu First Nation is a matter for the Federal Government, Qalipu First Nation, and the Federation of Newfoundland Indians, the Provincial Government has worked and is always ready to work with all parties to help ensure all applications are fully and fairly processed.

Secondary Messages:
- The review of the enrolment process is the result of the May 8, 2018 Federal Court decision on the David Wells and Sandra Wells case, which deemed the requirement
for proof of self-identification to the Mi'kmaq community pre-dating 2008 was unreasonable.

- Government had expressed concerns about the high number of rejected Founding Members, the rejection and acceptance of members from the same family, and the large number of applicants who were rejected with no right to appeal the decision.
- The Indigenous Affairs Secretariat will continue to monitor the reassessment process that is being undertaken by the Federal Government.
- Individuals affected by the Wells decision will be contacted by mail in January 2019 with information on how to submit additional documents to have their application reassessed. Individuals have been advised to ensure their mailing address is up-to-date.

Background:
- The Federal Government and the Federation of Newfoundland Indians reached agreement in 2008 on the creation of the Qalipu First Nation. A Supplemental Agreement was signed in 2013 as a means of clarifying criteria for Mi'kmaq membership criteria. A series of court challenges and decisions, along with other outstanding pieces of litigation, has since complicated the enrolment process.
- The Mi'kmaq First Nations Assembly of Newfoundland was established by individuals who felt disenfranchised by the enrolment process and represented 80,000+ rejected applicants. It began legal cases to challenge the actions of the Federal Government and the Federation of Newfoundland Indians.
- By January 2017, all 100,000+ applications, including those of the 23,877 Founding Members who had already been granted membership, were (re)assessed, with notifications being sent to all applicants. In February 2017, the Federal Government released the results of the reassessment application process, as follows:
  - 13,365 Founding Members remained eligible.
  - 10,512 Founding Members were found to not meet the criteria of the Supplemental Agreement.
  - 4,679 applicants who were not Founding Members are eligible for founding membership.
  - 68,134 applications were not Founding Members and are not eligible.
  - 3,984 applicants have invalid applications and are not eligible.
  - For more than 70,000 applicants who were rejected, there was no right to appeal.
- In May 2018, the Federal Court issued two decisions (Wells cases), the most significant findings being that documentary proof of self-identification could predate band establishment in 2011 and did not have to predate the signing of the agreement to create the band in 2008, and that denying applicants the right to appeal lack of self-identification was unfair.

Prepared by: Communications, Indigenous Affairs
Approved by: Indigenous Affairs Secretariat
Premier’s Message for Toby Andersen Retirement

Congratulations to Toby Andersen on the occasion of his retirement, which completes one chapter in a personal story that is filled with great accomplishments! I am pleased that my colleague in caucus and good friend, and your MHA, Randy Edmunds, is with you at this evening’s proceedings.

I would like to commend Toby for his work and his contributions as the Labrador Inuit Association’s Chief Negotiator for the Labrador Inuit Land Claims Agreement. His leadership and foresight and his work with others were critical in paving the way for the completion of this agreement.

This was an incredible and historic piece of work. As Toby stated in Them Days magazine, in an article published in 2015 to mark the 10th anniversary of self-government for Nunatsiavut, finalizing the agreement felt like a couple of hundred pounds had been taken off of his shoulders. This statement shows how seriously Toby took his work, and how great his dedication has been to the people he represents.

It’s been my pleasure to work with you in recent years in your role as the Deputy Minister of Nunatsiavut Affairs. I can tell you that this is a sentiment that is shared by Deputy Minister Aubrey Gover and his team at Indigenous Affairs, particularly Ruby Carter and Mark Bugden, who worked long and hard on the agreement.

On behalf of the Government of Newfoundland and Labrador, congratulations on your retirement. Enjoy the leisure time you have earned. I wish you every success in the next chapter of your life.

Nakummek.

Dwight Ball

Premier of Newfoundland and Labrador and Minister of Intergovernmental and Indigenous Affairs
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