



IN THE MATTER OF: NOTICE OF INTENTION TO ISSUE AN ORDER PURSUANT TO THE TERMS OF REFERENCE BY THE COMMISSIONERS OF THE NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

NOTICE OF INTENTION TO ISSUE AN ORDER PURSUANT TO THE TERMS OF REFERENCE

TAKE NOTICE that the Commissioners of National Inquiry into Missing and Murdered Indigenous Women and Girls [hereinafter “the National Inquiry”], are hereby giving written notice to all parties with standing that they intend to issue the Draft Order [“Draft Order”] attached hereto, as “Schedule A” pursuant to the Terms of Reference D authorizing the Commissioners to adopt any procedures they consider expedient, Terms of Reference E to protect the personal and cultural information in the possession of the National Inquiry and Terms of Reference Y, directing the Commissioners to file the records and papers of the Inquiry with the Clerk of the Privy Council.

AND FURTHER TAKE NOTICE that all Parties with Standing who have participatory rights in the National Inquiry proceedings are invited to share their written position with respect to the Draft Order.

AND FURTHER TAKE NOTICE that if Parties with Standing wish to provide their feedback and positions with respect to the Draft Order, they will have four (4) days to file Written Submissions. Written Submissions must be filed via email to Bryan Zandberg at b.zandberg@mmiwg-ffada.ca before Friday, June 21st, 2019 at 4:00 pm PDT.

AND FURTHER TAKE NOTICE that a Written Submission is a maximum of 5 pages, double spaced, in length using 12pt font, Times News Roman.

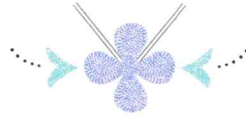
AND FURTHER TAKE NOTICE that the Notice of Proposed Order is made on the following grounds:



1. Section d authorizes the Commissioners to adopt any procedures that they consider expedient for the proper conduct of the Inquiry.
2. Section e of the Terms of Reference direct the Commissioners to conduct the National Inquiry proceedings using a trauma informed, families first, culturally safe and decolonizing approach.
3. Section y of the Terms of Reference direct the Commissioners to file the records and papers of the Inquiry with the clerk of the Privy Council as soon as feasible after the conclusion of the Inquiry.
4. An Indigenous perspective of privacy (cultural safety) exists independent of any statute or legislation which may govern the treatment of the records of the National Inquiry.
5. Evidence and the truths of National Inquiry witnesses included community knowledge, which is a collective Aboriginal Right.
6. The Government of Canada has a duty to consult, and where appropriate, accommodate Indigenous groups when it considers conduct that might adversely impact potential or established Aboriginal or Treaty Rights.
7. The National Inquiry would like to minimize to the greatest extent possible any invasion of privacy and to protect the participants who shared their truths by ensuring witnesses are not further victimized by breaches to their confidentiality which may jeopardize their healing and well-being as outlined in section u and v of the Terms of Reference.



8. In *Canada (Attorney General) v. Fontaine*, 2017 SCC 47, the Supreme Court of Canada recognized at paragraph 47 how further disclosure of sensitive, private and devastating information related to an Indigenous person or community causes heightened privacy and serious safety risks in Indigenous communities and that “such knowledge even in future generations would continue the legacy of dysfunction and trauma” experienced by Indigenous communities. Therefore, the release of sensitive and confidential information many decades later can still traumatize Indigenous persons and communities, despite the passage of time.
9. It is consistent with the National Inquiry mandate that all governments who receive the National Inquiry record respect and defer to Indigenous laws or perspectives of privacy so as to preserve the dignity of all witnesses who shared their truth.
10. There is a need to balance between the desire to provide a full record of the Final Report’s conclusions for the benefit of present and future generations and to preserve the dignity and privacy of witnesses.
11. The terms of the Draft Order are designed to assist with the paradigm shift required to dismantle colonialism within Canadian society, and from all levels of government and public institutions.
12. As time is of the essence to conclude matters in short order and there is an absence of Indigenous perspectives within Canadian laws, this order is necessary to both speak to the terms for the transfer of the record and further explain the application of trauma informed mandate on the classification of records which are transferred.




AND FURTHER TAKE NOTICE that the Commissioners would like to provide additional grounds to support the Draft Order, which is annexed as Schedule B to this notice.

AND FURTHER TAKE NOTICE that the following documents will be referred to in support of such Notice of Proposed Order:

1. Schedule A - Draft Order; and
2. Schedule B – Additional Grounds
3. Such further and other material as counsel may advise and may be permitted.

DATED at Truro, Nova Scotia, this 17th day of June, 2019.

THE NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS
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