

Thank you Madame Chair,

I am pleased to have the opportunity to be here today to outline the progress this government has made in addressing the range of issues that make up the legacy of the Indian Residential School System. Joining me are officials from the department of Indian Residential Schools Resolution Canada: Mr. Mario Dion, Deputy Minister; and Mr. Shawn Tupper, Director General, Operations.

You have posed the question: Does the government's Alternative Dispute Resolution Process effectively deal with IRS claims? You have heard from a number of witnesses who have said that it does not. Today I will respond to some of those criticisms, and discuss some of the concerns that we too, as a government, acknowledge and recognize.

I will also discuss the other important steps the government has taken to address the legacy of residential schools. Our Alternative Dispute Resolution process, or ADR, has not been the only response that has been put into place – we are doing much more.

Addressing the legacy of Indian residential schools is an emotional and difficult task. It is also a story of complexity and diversity that we only began to really hear about in the 1980's. In 1996 Canadians were confronted by the realities of these schools with the release of the Report of the Royal Commission on

Aboriginal Peoples; in particular, it clearly and poignantly addressed the sexual and physical abuse in Indian residential schools and the ongoing legacy left with the Aboriginal community.

Previous governments largely ignored this issue. In response to the Royal Commission however, the Government of Canada developed a specific and innovative strategy to address in a comprehensive way this troubled legacy.

Our goals then, as now, included opening pathways to healing and reconciliation - by apologizing, by compensating, and by making that process less difficult for those who have suffered. These values are reflected in the priorities this government has set for improving the lives and conditions of all Aboriginal people. The Roundtable hosted by the Prime Minister, the six sectoral roundtables, and our ongoing work with each of the National Aboriginal Organizations clearly demonstrate this government's commitment to build a partnership with Aboriginal people. Together we will make steady progress toward improving the lives of Aboriginal Canadians.

Let me take a moment to remind you of all that we have done specifically to address residential school issues.

In 1998, the Liberal government began this process by issuing a statement of reconciliation in which we said, and I quote:

“We are burdened by past actions that resulted in weakening the identity of Aboriginal peoples, suppressing their languages and cultures, and outlawing spiritual practices.”

The government expressed to all Aboriginal people in Canada:

“Our profound regret for past actions of the federal government which have contributed to these difficult pages in the history of our relationship together”

And finally, we specifically addressed the impacts that the survivors of the residential school system have felt and the legacy of personal pain and distress that continue in Aboriginal communities to this day. Most importantly, to those who were physically and sexually abused, we said:

“We wish to emphasize that what you experienced was not your fault and should never have happened. To those of you who suffered this tragedy at residential schools we are deeply sorry.”

Further, this government took an unprecedented step when we granted 350 million dollars to the Aboriginal Healing Foundation - not as a form of compensation for abuse - but to help Survivors, their families, and communities to become healthy.

People who have taken part in Foundation programs have spoken of a stronger sense of self, becoming more attentive to their families, committed to passing on cultural teachings, spending time with Elders, and personal wellness. They feel less alone, more forgiving, returned to school in some cases or renewed their careers.

As the work of the Aboriginal Healing Foundation began, we continued to listen through a series of exploratory dialogues held between 1998 and 1999.

Survivors, their lawyers, healers, leaders, and senior officials within government and the churches who participated in these dialogues, helped to develop the partnership that would find answers and new choices for former students.

In addition, we undertook a number of studies which assessed what others have done, nationally and internationally to address institutional abuse. For example we looked at thirteen such institutions here in Canada, the work of the Law Commission of Canada on Institutional Abuse, and Mr. Justice Kaufman's study of the Nova Scotia government's response to abuse at Shelburne.

Internationally, delegations from the Irish and Canadian governments have met several times to discuss our respective approaches to these issues.

One clear challenge was that the legacy of the 130 schools run by the federal government and the Catholic, Anglican, United, and Presbyterian churches had swamped the legal system with thousands of claims of abuse.

The total number of claims for compensation has risen to 13,500. Although we have resolved 2,000 files through settlement or other means, we are still facing over 11,000 individual lawsuits filed by former students. It is estimated that if these proceeded solely through the courts, rather than through settlement or an alternative process, it would take over 50 years to move the caseload through the system at a cost of over 2.3 Billion dollars.

Clearly, the government and its partners were challenged with finding fast, safe and effective options for former students to settle their claims. We needed an integrated and holistic approach that provided the flexibility, speed and efficiency these kinds of claims require.

The government, along with Survivor groups and the churches, explored various Dispute Resolution models through a series of ten pilot projects in which 400 people across the country tried to find the best ways to settle their claims safely and effectively. These began in late 1998 and have seen a settlement success rate of over 75%.

We learned through these projects that there is no single answer for adequately addressing the range of issues that sexual and physical abuse left by this school system. No single response - whether it's a healing program, a truth and reconciliation forum, or compensation - will resolve this bleak part of our history.

In June 2001, we created the new department of Indian Residential Schools Resolution Canada to focus the federal resources needed to resolve these issues and allow government to work with its partners to explore new and innovative approaches. Within a year of its establishment, this department launched a National Resolution Framework made up of a number of initiatives which together set out policies to facilitate access to justice and ensure claimants are treated as humanely as possible.

The National Resolution Framework includes a litigation strategy, health supports, commemoration and our settlement centerpiece – Alternative Dispute Resolution.

The framework was launched with the guidance of former students, their lawyers, and the churches and allowed us to work out the details of how best to apply these innovative approaches to the majority of the claims facing the government.

One issue surrounding the ADR is that it requires proof of a claim. Former students have told us that they want the opportunity to tell their stories and to have them validated. In his review of the compensation process for abuses at Nova Scotia's Shelburne School for Boys, Mr. Justice Fred Kaufmann was clear that claims must be validated and he applauded the efforts of the federal government in doing so in the Indian residential schools cases. In addition, all Canadians expect their government to be accountable – they want us to ensure that claims of abuse are validated before compensation is awarded. Survivors themselves have called for a credible process that will validate their stories and educate the public about what happened to them.

These are complex cases – some going back over 50 years and involving many parties. It takes time and money to address these claims.

Our stakeholders have helped shape the framework in other ways. We delayed the launch of the DR process by several months in order to reconsider - and ultimately change – key aspects of the process as a result of their input. After

addressing certain concerns, we launched the new Alternative Dispute Resolution process in November of 2003.

The seven-year plan we have designed is far-reaching – and offers far more than many people recognize. Our ADR approach is groundbreaking - a culturally based humane and holistic way to provide additional choices for former students who are seeking compensation for sexual and physical abuses. ADR for Indian residential schools is a safer, faster way to settle claims outside of court that provides the types of personal support that former students have said they need.

This process can occur in communities, where ever participants may agree to hold hearings, and it can include a traditional ceremony, if this is so desired.

ADR is not antagonistic. There is no questioning or cross-examination by lawyers. Hearings are held in private with health support service available. The process is designed to be expeditious and as you heard from the Honourable Ted Hughes, it has the capacity to deliver decisions within 90 days of a file arriving in the Adjudication Secretariat. This is a far cry from the two or three years a similar case can take to wind through the courts.

In addition, we allow all former residential school students, whether in court or in ADR, money for family members or elders to attend out-of-town hearings. We pay an additional 15% of the compensation awarded as a contribution toward a claimant's legal costs. We have an agreement with Health Canada for support services and a 24-hour crisis hotline is in place. We also help to provide access to traditional healers, if this is preferred. In addition to these approaches, we

have a commemorative program. You heard from witnesses last week how important it is to honour and pay tribute to all former residential school students, whether they pursue a claim for compensation or not. You also heard of the need to educate all Canadians about this part of our shared history.

We, with former students and the churches, laboured to build this element of the program in a way that advances individual and community healing, closure and reconciliation so that former residential school students can move forward with a renewed sense of dignity.

Loss of language and culture is a common theme when we speak with survivors, victims, their lawyers and Aboriginal leaders. You heard it here in your sessions.

Ninety per cent of the thousands of claims charge us with the loss of language and culture. This issue is not a recognized legal cause of action in our country.

As a government, we have listened to the debate regarding the loss of Aboriginal languages and cultures and believe that individual cash payments to claimants are not the best approach. In addition, many residential school survivors have said that financial compensation, no matter what the size of the award, will not adequately address this loss.

The government believes that the creation of programs and services to respond to the loss of languages and cultures, guided by Aboriginal people themselves, is the most appropriate response. To that end, the Minister of Canadian Heritage, is leading an 11-year, 172 and a half million dollar initiative to preserve, revitalize



and promote Aboriginal languages and cultures. In addition to this, the federal government invests some thirty million dollars per year in other programs and initiatives that support Aboriginal languages and cultures either directly or indirectly.

Let me turn now to where we stand today with the ADR process and the road ahead. Each week the government receives more applications for ADR and the Adjudication Secretariat continues to conduct its hearings.

We believe that we are on track to resolve the majority of the claims through ADR. In little over a year, over 1200 people have chosen the ADR process as the means for resolving their claims.

What is most important to understand is that the program has really just completed its initial phase –we had to focus on consultations and program development before we could receive let alone resolve claims through ADR. The government is confident that as more claims are settled, trust in the ADR process will grow.

ADR may not be for everyone. We understand and respect that. However, we strongly believe this process to be a viable and fair option for claimants and an alternative to the courts. The approach provides a respectful, honourable and more expedient process for former students and the church institutions involved.

At the same time, we know that our approach is not perfect. As you know, the Assembly of First Nations has renewed its engagement in the issue of

compensating former students – indeed we invited and financed its recent review of our ADR process.

As you heard from Survivors, there are many voices that advocate on behalf of former students and the AFN is one of those voices. Its recently released report proposes some alternative ideas.

We are working with the AFN to determine the best methods to address our mutual concerns. Of course, we have to consider the additional costs of the AFN proposal. There may be certain items that my department can implement shortly, but many of the report's recommendations will require the review and approval of the government. We also want to ensure whatever changes we make are done within the context of the Government of Canada's broader dialogue with Aboriginal leadership.

In the meantime, we cannot delay the resolution of claims either through litigation or the existing DR process.

In closing, I hope you will understand from my comments today just how complex these issues are – there is no simple solution. All that you have heard from every witness argues in favour of approaches that are flexible and which demonstrate a willingness, on the part of all parties, to listen. In light of the magnitude and the gravity of this legacy, we must remain open-minded to new ideas and approaches for resolving these issues.

Moving forward, we welcome input of survivors, stakeholders and of Parliamentarians such as yourselves. With that in mind I turn it back to you Madame Chair. I and officials with the department welcome your questions.