Improved Program Delivery

Justice System

A Study Team Report
to the Task Force on Program Review

THE JUSTICE SYSTEM

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to the Task Force
on Program Review

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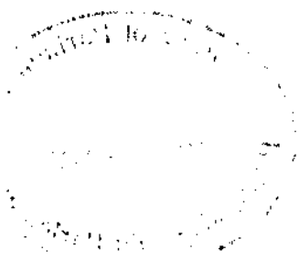

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FOREWORD

The Task Force on Program Review was created in September 1984 with two major objectives - better service to the public and improved management of government programs. Recognizing the desirability of involving the private sector in the work of program review, assistance from national labour, business and professional organizations was sought. The response was immediate and generous. Each of these national organizations selected one of their members to serve in an advisory capacity. These public spirited citizens served without remuneration. Thus was formed the Private Sector Advisory Committee which has been responsible for reviewing and examining all of the work of program review.

The specific program reviews have been carried out by mixed study teams composed of a balance of private sector and public sector specialists, including representatives from provincial and municipal governments. Each study team was responsible for the review of a "family" of programs and it is the reports of these study teams that are published in this series. These study team reports represent consensus, including that of the Private Sector Advisory Committee, but not necessarily unanimity among study team members, or members of the Private Sector Advisory Committee, in all respects.

The review is unique in Canadian history. Never before has there been such broad representation from outside government in such a wide-ranging examination of government programs. The release of the work of the mixed study teams is a public acknowledgement of their extraordinarily valuable contribution to this difficult task.

Study teams reviewed existing evaluations and other available analyses and consulted with many hundreds of people and organizations. The teams split into smaller groups and consulted with interested persons in the private sector. There were also discussions with program recipients, provincial and municipal governments at all levels, from officials to cabinet ministers. Twenty provincial officials including three deputy ministers were members of various study teams.

The observations and options presented in these reports were made by the study teams. Some are subjective. That was necessary and appropriate considering that the review phase of the process was designed to be completed in a little more than a year. Each study team was given three months to carry out its work and to report. The urgent need for better and more responsive government required a fresh analysis of broad scope within a reasonable time frame.

There were several distinct stages in the review process. Terms of reference were drawn up for each study team. Study team leaders and members were appointed with assistance from the Private Sector Advisory Committee and the two Task Force Advisors: Mr. Darcy McKeough and Dr. Peter Meyboom. Mr. McKeough, a business leader and former Ontario cabinet minister, provided private sector liaison while Dr. Meyboom, a senior Treasury Board official, was responsible for liaison with the public sector. The private sector members of the study teams served without remuneration save for a nominal per diem where labour representatives were involved.

After completing their work, the study teams discussed their reports with the Private Sector Advisory Committee. Subsequently, their findings were submitted to the Task Force led by the Deputy Prime Minister, the Honourable Erik Nielsen. The other members are the Honourable Michael Wilson, Minister of Finance, the Honourable John Crosbie, Minister of Justice, and the President of the Treasury Board, the Honourable Robert de Cotret.

The study team reports represent the first orderly step toward cabinet discussion. These reports outline options as seen by the respective study teams and present them in the form of recommendations to the Task Force for consideration. The reports of the study teams do not represent government policy nor are they decisions of the government. The reports provide the basis for discussion of the wide array of programs which exist throughout government. They provide government with a valuable tool in the decision-making process.

Taken together, these volumes illustrate the magnitude and character of the current array of government programs and present options either to change the nature of these programs or to improve their management. Some decisions were announced with the May budget speech, and some subsequently. As the Minister of Finance noted in the May

budget speech, the time horizon for implementation of some measures is the end of the decade. Cabinet will judge the pace and extent of such change.

These study team reports are being released in the hope that they will help Canadians understand better the complexity of the issues involved and some of the optional solutions. They are also released with sincere acknowledgement to all of those who have given so generously of their time and talent to make this review possible.

TERMS OF REFERENCE

BACKGROUND

The Justice System review will include, for the most part, programs under the responsibility of the Minister of Justice, the Solicitor General and the Minister of Supply and Services.

The Minister of Justice is responsible for the Department of Justice. For 1985/86, the Department of Justice has a budget of $158 million and 1,389 person-years. The Minister of Justice performs two distinct functions. The Attorney General function includes legal advice to departments and agencies, the preparation of legislation and the conduct of litigation. The Minister of Justice function is concerned with policy considerations underlying the substantive law for which the minister is directly responsible. Other bodies account for $140 million and 551 person-years. The minister reports to Parliament for the Supreme Court of Canada, the Federal Court, the Tax Court, the Law Reform Commission, the Canadian Human Rights Commission and the Commissioner for Federal Judicial Affairs.

The Solicitor General is responsible for the Ministry of the Solicitor General with a budget of $1.8 billion and 31,172 person-years, exclusive of the Canadian Security Intelligence Service. The ministry secretariat has a budget of $187 million and 319 person-years. The RCMP has a budget of $828 million and 19,377 person-years. The Correctional Service of Canada has a budget of $795 million and 11,165 person-years and the National Parole Board has a budget of $14 million and 311 person-years. The Solicitor General has jurisdiction over penitentiaries, parole, pardons, federal law enforcement and national security. (The Canadian Security Intelligence Service reports to the Solicitor General but is not included in this review.)

The Minister of Supply and Services is responsible for the Canadian Centre for Justice Statistics of Statistics Canada. The Canadian Centre for Justice Statistics has 85 person-years and a budget of $4,469,400. The mandate of the Canadian Centre for Justice Statistics is to provide - within the direction of the Justice Information Committee - information to describe the substantive, procedural and administrative aspects of the federal, provincial and

territorial justice systems through the presentation of useful data, and to support the development of information systems. The Justice Information Committee includes the federal, provincial and territorial deputy ministers responsible for justice.

TERMS OF REFERENCE

The Ministerial Task Force on Program Review seeks the advice and conclusions of the team regarding a profile of government programs with respect to the Justice System review which is simpler, more understandable and where decision making is decentralized as far as possible to those in direct contact with client groups. Included in this advice could be observations regarding:

- areas of duplication between federal and provincial governments taking note of federal and provincial jurisdiction;
- areas of duplication between departments and agencies of the federal government;
- programs that might be eliminated;
- programs that could be reduced in scope;
- groups of programs that could be consolidated;
- programs whose basic objective is sound but whose form should be changed;
- programs which could be, either in whole or in part, more efficiently and effectively delivered by private sector ogranizations;
- a summary overview of the legislation that would be required to implement any of these program changes;
- the resources implications of any recommended program changes, including increased costs or savings and increases or decreases in staff.

By means of background information to its conclusions the study team is asked to obtain answers to three sets of questions or concerns regarding beneficiaries, efficiency and overlap, and gaps and omissions.

BENEFICIARIES

The principal beneficiaries of the programs and how they use the services.

- Beneficiaries of federal programs who are also beneficiaries of provincial, territorial, municipal or private sector programs.

EFFICIENCY AND OVERLAP

- Programs which are particularly troublesome to beneficiaries in terms of red tape, paper work, and delays.

- Cases where programs could be delivered more efficiently at the provincial level or by private sector organizations.

- Cases where programs could be delivered by alternative means.

- Review of the respective policy and programs functions of the Department of Justice, and the Ministry of the Solicitor General and, with respect to human rights and international law in particular, review the respective roles of the Secretary of State, the Department of External Affairs and the Department of Consumer and Corporate Affairs.

- Review of existing consultation mechanisms and procedures with respect to federal/provincial initiatives.

- Review of provincial structures in the justice system with respect to the efficient delivery of the justice system programs.

- Rationalization of grants and contributions.

- Alternate resourcing strategies for the delivery of legal services to the federal government including:

  a. the merit of putting the Department of Justice on a cost-recovery basis in relation to client departments and agencies; and

  b. the possibility and desirability of establishing resource levels for legal services that focus more on client demands seen as an integral part of a client's overall resource priorities.

GAPS AND OMISSIONS

- Programs which should be taken into account in this review but are not in the list of programs assigned for review.

LINKAGE WITH OTHER STUDIES

Some programs are or will be subject to review by other study teams under the Ministerial Task Force. In order to avoid duplications the team will identify for the Ministerial Task Force issues or programs that have been reviewed by previous Task Force teams or are in the process of being reviewed by ministers through other means.

COMPOSITION OF STUDY TEAMS

The study team will be led by Mr. Nicholas d'Ombrain, Assistant Secretary to the Cabinet, Privy Council Office. The team director will report to both the Public Sector Adviser and the Private Sector Liaison Adviser serving the chairman of the Task Force. The director will be supported by nine seconded government officers and a matching number of private sector representatives nominated through the Private Sector Advisory Committee. The team, or its director, shall meet with the public sector and private sector liaison advisers at their request.

WORK PROGRAM

It will be desirable to assign specific tasks to sub-teams dealing with specific subjects. To this end, the study team will submit for consideration by the Ministerial Task Force a detailed work plan showing the sub-teams and the major activities.

The study team will have access to any evaluations and evaluative tools departments have with respect to programs covered by this review.

COMMUNICATION WITH DEPARTMENTS

Ministers of departments directly affected by this review will be advised which programs under their jurisdiction will be included.

REPORTING SCHEDULE

The study team is requested to report its findings to the Ministerial Task Force by November 28, 1985. In addition, the Task Force will receive brief progress reports on the work of the study team at regular meetings.

ANNEX A

LIST OF THE PROGRAMS OF THE JUSTICE SYSTEM

DEPT.	PN	TITLE
CCA	105	CONSUMER & CORPORATE AFFAIRS COMPETITION
CHRC	1	CANADIAN HUMAN RIGHTS COMMISSION
CI	1	OFFICE OF THE CORRECTIONAL INVESTIGATOR
CSC	12	CORRECTIONAL SERVICE OF CANADA
ELC	1	ELECTIONS CANADA
EPC	1	EMERGENCY PLANNING COURSES
EPC	2	EMERGENCY PLANNING AND RESPONSE COORDINATION
EPC	3	RESEARCH FELLOWSHIPS IN EMERGENCY PLANNING
EPC	4	WORKMEN'S COMPENSATION AGREEMENT
EPC	5	DISASTER FINANCIAL ASSISTANCE ARRANGEMENT
EPC	6	JOINT EMERGENCY PLANNING PROGRAM
FIN-TEP	2	POLITICAL CONTRIBUTION TAX CREDIT
FJA	1	JUDGES & JUDGES SPOUSES & CHILDREN
FJA	2	ADMINISTRATION/FEDERAL JUDICIAL BODIES
FJA	3	LANGUAGE TRAINING COURSES
FJA	4	FEDERAL COURT REPORTS
ICC	1	INFORMATION COMMISSIONER - ACCESS TO INFORMATION
IJC	1	INTERNATIONAL JOINT COMMISSION
JUST	1	CENTRAL DIVORCE REGISTRY
JUST	3	CRIMINAL LAW REFORM FUND
JUST	4	HUMAN RIGHTS LAW FUND
JUST	6	SPECIAL PROJECT - LEGAL AID
JUST	7	CANADIAN LAW INFORMATION COUNCIL (CLIC)
JUST	14	DUFF-RINFRET SCHOLARSHIPS
JUST	15	LEGISLATIVE DRAFTING PROGRAM
JUST	17	CIVIL LAW/COMMON LAW - EXCHANGE PROGRAM
JUST	80	LEGAL AID IN CRIMINAL CASES
JUST	90	COMPENSATION FOR VICTIMS OF VIOLENT CRIME
JUST	200	CONSULTATION AND DEVELOPMENT FUND
JUST	201	GRANT: CANADIAN INSTITUTE OF RESOURCES
JUST	202	GRANT TO HAGUE ACADEMY
JUST	203	GRANT: BRITISH INSTITUTE
JUST	204	GRANTS: INTERNATIONAL COMMISSION OF JURISTS
JUST	205	RESEARCH GRANTS - UNIFORM LAW CONFERENCE
JUST	206	ADMINISTRATIVE EXPENSES - UNIFORM LAW CONF
JUST	207	CANADIAN ASSOCIATION OF PROVINCIAL COURT JUDGES
JUST	208	CANADIAN SOCIETY OF FORENSIC SCIENCE
JUST	209	CANADIAN ASSOCIATION OF CHIEFS OF POLICE

LIST OF THE PROGRAMS OF THE JUSTICE SYSTEM (Cont'd)

DEPT.	PN	TITLE
JUST	210	SUMMER CANADA/STUDENT EMPLOYMENT PROGRAM
LRC	1	LAW REFORM COMMISSION
NPB	2	TEMPORARY ABSENCES (OCCASIONAL RELEASE)
NPB	3	DAY PAROLE
NBP	4	PARDON/FEDERAL OFFENCES
NBP	5	FULL PAROLE
NPB	6	MANDATORY SUPERVISION
PCC	3	PERSONAL INFORMATION/SUPERVISION & PRIVACY
RCMP	2	CANADIAN POLICE INFORMATION CENTRE
RCMP	4	FIREARMS REGISTRATION
RCMP	7	POLICE TRAINING - CANADIAN POLICE COLLEGE
RCMP	8	PUBLICATIONS, DISPLAYS, MUSICAL RIDE
RCMP	9	RCMP EMPLOYEE INFORMATION
RCMP	10	LABORATORY SERVICES
RCMP	100	FEDERAL LAW ENFORCEMENT
RCMP	101	POLICE SERVICES UNDER CONTRACT
RCMP	102	INDENTIFICATION SERVICES
SGC	1	FUNDING PROGRAMS
SGC	2	DEMONSTRATION PROGRAM
SGC	3	FUNDING SUSTAINING CONTRIBUTION PROGRAM
SGC	4	GRANTS PROGRAM
SGC	6	UNSOLICITED RESEARCH FUND
SGC	7	STUDENT EMPLOYMENT PROGRAMS
SGC	8	PUBLICATIONS PROGRAM
SGC	9	VICTIM RESOURCE CENTRE
SGC	10	LIBRARY, DOCUMENTATION CENTRE PULBICATION
SGC	900	CONSULTATION CENTRE ACTIVITIES
SGC	901	YOUNG OFFENDERS DIVISION ACTIVITIES
SS	6	HUMAN RIGHTS
TB	6	OFFICE OF REGULATORY REFORM
SS	51	COURT CHALLENGES PROGRAM
		FEDERAL/PROVINCIAL RESPONSIBILITIES UNDER 16(1) PENITENTIARY ACT

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OVERVIEW

INTRODUCTION

The justice system in Canada today is at a turning point. The role played by the federal government is pivotal to the system as a whole. The quality of justice will become an increasingly important public issue in the years to come as rapid social and economic changes increasingly call into question the principle of equity and how it can be respected given the realities of finite resources and the rapidly growing tendency to substitute judicial for political authority. The consequence of these trends, the study team believes, will be to focus national concern on the federal government's response to an emerging institutional crisis. Decisions by ministers at the federal level flowing from the work of the Ministerial Task Force could have the effect of consolidating significant progress made in the justice system over the past 15 years and determine the way in which the system will work between now and the year 2000. This requires a careful consideration of the principles that guide the federal government's role in the justice system, its institutional arrangements for giving effect to that role and the importance of taking adequate account of finding means to work cooperatively with the provinces in fulfilling their responsibility for the administration of justice. Fiscal restraint at both levels of government provides an opportunity to deal with basic issues because it places a premium on the most efficient way of fulfilling operational responsibilities.

A TURNING POINT

The justice system is at a turning point for a wide variety of reasons. Principally these have to do with the stresses inherent in operating overburdened, costly institutions in times of restraint, and the advances that have been made in making the law and the institutions that give effect to it more reflective of the principle of social equity.

The past two decades have witnessed a number of significant changes in attitudes towards the relationship between law and society. Law is used much more than as a means of regulating the relationship of individuals to one another and to society as a whole. It is, of course, used

for these purposes, but since the passage of the Bill of Rights at the beginning of the 1960s the law has come to be used increasingly as an instrument of collective social equity. This trend has been accompanied by an increasing tendency to use the law and its procedures and methods of decision-making as a means of satisfying societal demands that were either new or, in another era, would have been dealt with through political institutions. Thus, for example, in Access to Information legislation, judicial decision-making has been substituted for ministerial responsibility. These trends have come together in the Charter of Rights which, with its constitutional status, ensures that the need to think about the broad social significance of the law and the way in which the justice system gives effect to it in society will continue to claim more and more attention from all the institutions of justice, public and private. It is also worth noting in this context that the information society is promoting rapid social changes that are already straining the capacity of the legal system as a whole, and to which it must respond effectively if law is to remain the basis of social conduct.

IS JUSTICE A SYSTEM?

Justice in Canada is administered and operated by a range of public and private institutions operating at both levels of government. Together they provide a structure dedicated to providing justice to Canadians. The linkages within the structure are, however, of a somewhat tenuous character. Indeed, the adversarial, individualistic and discretionary character of the legal profession might at times be thought to insinuate itself into the disjointed relationships of the institutions, public and private, that compose the structure of the system.

In the view of the study team, there are, in addition to the weaknesses of linkages within the structure, two important related issues that should be noted. The first has to do with the extent to which the participants in the system as a whole are interested in, or capable of, viewing their interaction in systemic terms. The common law tradition discourages systemic rationalization, and this appears to have extended to not thinking about why relationships within the system are as they are, or how they could be improved. The second related issue is that historically there has been very little empirical data about what is actually happening within the justice system. This

absence of information is gradually being corrected, but it still remains largely the case that the absence of an academic tradition has made it difficult to adapt the law to meet modern social conditions on the basis of a clear understanding of how the law is actually applied and what may result from changes in it.

In short, there is a system, but it is housed within a structure whose members are often unable to benefit from strong interrelationships. This is because there is no tradition of doing so, nor is there a generally held perception that more systemic thinking and better information about how one part of the structure affects others would be helpful.

TAKING STOCK OF HOW THE JUSTICE SYSTEM IS EVOLVING

The complexity of the justice system is daunting and getting more so as more law, and more complex law, is enacted. Taking stock implies an attempt to look at the system systemically which, as noted, is not how the participants of the system tend to see themselves or each other. It is not surprising, therefore, to discover that a number of notable advances have been made in a more or less isolated manner in or among particular components of the sector. These advances, particularly in policy support for the development of the law, in elaborating the theoretical framework for the administration of justice and collecting data on what is actually happening in the system, have institutional bases in governments, law reform commissions, private foundations and the universities.

Fifteen years ago, policy development in support of the law was essentially non-existent. At the federal level, the first moves in this direction were made in the early 1970s when the Department of Justice began to consult individual law professors, although in those days few law professors were professionally trained researchers. The establishment of the Law Reform Commission gave these early stirrings some institutional permanence. The Department of Justice remained, however, the domain of litigators and solicitors until well into the mid-70s, although to its credit the policy void within the government was partially filled by the Solicitor General's departmental secretariat. Today, however, these early efforts to broaden the scope of the law-making function to encompass the examination of the policy for law in all its aspects have

grown into the extensive activities of the Law Reform Commission, the Department of Justice, and the Solicitor General's departmental secretariat.

Fifteen years ago Canada's law schools were not much engaged in research activities. Faculty members were not professionally trained to conduct research, and there was little interest in the schools in developing joint programs with professional researchers in disciplines such as sociology, criminology, political science, history, economics, and so on. Today Canada's faculties of law are different places, endeavouring not only to educate future professionals, but to promote scholarship and give future practitioners a framework within which to think about the increasingly important role of law as an instrument of social and political change.

During the same period both levels of government have become more active in finding means to give effect to the principle of equality before the law and the related social values of rehabilitation and crime prevention. The federal government has funded a very significant portion of legal aid programs; assisted Native peoples to understand the law and its procedures; developed crime prevention programs; developed pilot programs designed to provide assistance to victims of crime; and, taken other similar initiatives. Legal aid in particular has profoundly changed access to the law in the justice system. Some of these initiatives have caused certain problems with the provinces, principally because of the significant costs involved, but their cumulative effect has been to humanize justice and make its administration more just.

However, in the view of the study team, these developments are lacking in strategic focus. They cannot be said to fit into any clearly understood management system that seeks to coordinate all these good things in order to arrive at the shared objective of better justice in a rational manner. The truth of this is apparent in the state of federal/provincial tension in the justice sector, in the lack of focus and coordination within and among federal institutions in the justice sector and in the fact that the courts do not appear to have made any significant advances in the execution of their business or their relationship with the rest of the sector over the past 25 years. This is not to suggest that management theory or standardization offer some magic solution, but that current efforts to understand the justice system would benefit from a

strategic sense of direction. It must also be noted that the agendas of governments have changed since the early 1970s. The emphasis has shifted from "leading edge" developmental work to more operationally oriented fundamentals. The justice system needs to evaluate its developmental activities in the light of this overall change in emphasis, in the view of the study team.

FEDERAL/PROVINCIAL RELATIONS - A NEED TO SHARE MORE

The shared constitutional jurisdiction has made for difficult relations in the justice sector. There is currently, however, a tangible spirit on both sides to seek practical rather than jurisdictional solutions to problems. The opportunity to make progress on this basis should not be allowed to slip by, in the study team's view. It is inevitable that there will be tensions in an arrangement where the federal government legislates, as for criminal law, and the provinces pay for its administration. This odd split calls for special arrangements that respect both the law-making role of the federal government and the administrative duties and practical experience of the provinces. The work of the study team suggests that more program delivery functions could be passed to the provinces, particularly in the area of federal correctional institutions including penitentiaries, conditional release supervision and the Parole Board. The study team has proposed transferring all such matters to provinces which wish to assume the responsibility.

In this regard, the government may wish to consider whether an appropriate principle to guide such an evolution would be for the provinces to have primary responsibility for persons whose sentences are served in the community or in institutions whose linkages to community services are of primary importance, and for the federal government to be responsible for correctional and parole services for people judged to be a physical threat to society where security considerations would be uppermost. It should be noted, however, that the use of such a principle might best be used to guide ad hoc sharing arrangements rather than seeking to formally establish a new system of divided jurisdictions that might create as many problems as it solves and risks the elaboration rather than the reduction of administrative structures.

The team has also proposed that, to the extent possible, services should be privatized in whole or in part. It is for consideration, however, that privatization of correctional and parole services ought to be pursued to the fullest extent compatible with the Crown's responsibility to be fully and directly accountable for the use of coercive force in respect of persons whose liberty has been curtailed.

With respect to criminal law policy development, the study team has noted the need to improve relations between the two levels of government. It has noted this particularly in the case of demonstration projects mounted by the federal government in support of particular aspects of the criminal justice system, such as crime prevention and aid to victims. The team has suggested means to improve the delivery of these programs. The government may, however, wish to consider whether the federal/provincial relationship in this area is sufficiently important to warrant a further effort to make the broad inter-governmental consultation process more effective.

The two main mechanisms for coordination in this sector are continuing committees of ministers and deputy ministers respectively. The federal government may wish to consider providing the federal/provincial committee of deputies with a full-time executive secretary whose task would be to ensure that all relevant policy issues and important proposed research and demonstration projects were adequately communicated to and discussed with the deputies. The role would not be to reduce the scope for independent action at either level of government, but to ensure an adequate flow of useful information in a format that would be conducive to enhance the usefulness of debate among the deputies.

Over time, a successful executive secretary could provide leadership and direction to the Canadian Centre for Justice Statistics, which is a national body that reports to the continuing committee of deputies. The centre was created to develop national statistics on what is happening in the justice system. The study team has strongly endorsed strengthening this initiative. This and other means that could foster a more national approach to criminal justice policy issues should, in the view of the study team, be encouraged.

The study team considered the creation of a fully staffed national secretariat to serve the committee of

deputies, but on balance concluded that this would achieve nothing more than adding another layer of bureaucracy. As regards demonstration projects generally, every effort should be made to secure provincial approval and participation and, if this is not forthcoming, a decision to proceed unilaterally should require the personal approval of the federal minister responsible. In addition, such developmental projects should take into account operational realities including the capacity of the justice system to assume new long-term program costs.

THE FUTURE FEDERAL ROLE IN THE JUSTICE SYSTEM

The Minister of Justice (who is also the Attorney General of Canada) is seen as the key national figure in the overall justice system in Canada. It is worthwhile remembering that the system is composed of more than the two levels of government; it includes universities, national voluntary organizations, private foundations that fund research and development, the profession itself with its governing bodies and associations, municipal governments, and, of course, the courts. A rationally oriented strategy for the whole justice system should take into account this broader constituency.

If the federal government is to be fully effective in the development of the justice system, it must ensure that it focuses on how best to fulfil its role in such a way that it satisfies its operational responsibilities, provides an effective overall framework within which the justice system operates and develops, and is sensitive to the responsibilities of the provinces. In this context, there is a need to clearly define federal responsibilities for the provision of national services in the area of policing as part of the operational requirement to define the federal (i.e. non-contract) role of the RCMP.

INSTITUTIONAL ARRANGEMENTS

The study team has addressed the issue of institutional arrangements to fulfil these federal responsibilities, particularly as between the Department of Justice and the Solicitor General's departmental secretariat. In the view of the study team, the existing arrangements have not optimized strategic policy development at the federal level. The team was unable to support a conclusion that the existing shared jurisdiction in criminal justice policy

development between the two departments should be eliminated through a realignment of ministerial responsibilities, notwithstanding that the effect of the existing arrangement is regarded as confusing by many outsiders, including most of the provinces.

In looking at the question of the future federal role, it is important that the federal government is promoting research and policy development which will strengthen the framework within which the justice system operates. There should be particular emphasis on activities that will develop theoretical and empirical bases for such fundamentals as the nature of police independence, prosecutorial discretion, self-governance of the bar, the relationship between law schools and the bar and the nature of judicial independence, to name just a few. These and other systemic issues appear to be largely ignored inside government, although the universities and foundations are now beginning to turn their attention to them. Research on more time-sensitive topics such as aid to victims must of course carry on, but it should not overshadow attention to these essential matters, in the study team's view. Equally, the federal government should ensure that its operational responsibilities for law enforcement, prosecution, and corrections and parole are supported in its research programs.

As to structure, the study team has proposed that the Law Reform Commission be subject to greater direction in its work. The commission should not be asked to undertake major drafting projects. The commission should, the study team suggests, sponsor basic research on the sorts of fundamental issues outlined above and any other specific matter referred to it by the Minister of Justice.

The commission should also endeavour to make the fullest use possible of qualified academics in the law and social sciences faculties, making use of joint teams whenever possible. It should have adequate professional staff to design and evaluate research projects, but in most cases it should not conduct them in-house.

As for the departments of Justice and Solicitor General, the arguments advanced by the study team for and against consolidating criminal justice policy development in the Department of Justice need to be considered carefully. In this regard the team considered several options including concentrating all criminal justice policy in the Department

of Justice, the designation of the Ministry of the Solicitor General as a Criminal Justice Ministry, combining all Justice and Solicitor General functions in a single department with or without a senior/junior ministers arrangement and simply using better coordinating machinery between the two existing departments.

An initiative to consolidate the criminal justice policy development function in the Department of Justice should, the study team believes, remove the confusion and some of the poor coordination in dealing with the provinces. It could result in focusing the Solicitor General's departmental secretariat on policy issues relating to the minister's four agencies, including broad policy issues touching such matters as alternatives to incarceration and the future law enforcement role of the RCMP. It would eliminate the perceived conflict in the minister's responsibility for the agencies as well as for the development of the justice system policy that the agencies are required to administer. Finally, it should obviate any perceived problem in having the Solicitor General develop policy for criminal law when the Minister of Justice is responsible for the criminal law.

The risk in concentrating all criminal justice policy development in the Department of Justice is that such development might be too much legally and not enough socially oriented; that the Solicitor General would be less able to temper the enforcement attitudes of the agencies; and, that the checks inherent in the existing system would be lost. In this regard, however, the Solicitor General's departmental secretariat developed its criminal law policy functions in the early to mid 1970s largely because the Department of Justice had shown no interest in doing so. That situation has now changed.

The new situation clearly involves two departments working in the same policy sector. This overlap creates confusion for outsiders, including the provinces, and rivalry between the two departments. The continuation of overlap, confusion, and rivalry should be weighed against whatever advantages the status quo appears to hold.

PRIVATE SECTOR

Regardless of which structural arrangement is adopted, the study tam believes that efforts should be made to make

more and sustained use of the private sector in research and consultation. The capacity of the law and social sciences faculties to contribute to operationally relevant basic theoretical and empirical research should be systematically encouraged and existing funding redirected to ensure that such work is developed on a coherent basis. A representative group drawn from the law and social sciences faculties, voluntary organizations and the foundations may be a useful group with which to consult on a regular basis. The foundations are funding relevant theoretical and empirical work about which the government appears to be largely unaware. Such consultations and any consequent re-directing of research and development funds should serve both to improve linkages in the system and to ensure the development of a more systematic approach to justice issues. More generally, a redirection of funds towards more systematic research would reduce the scope for provincial irritants. In this regard, research and development funding, including existing sustaining grants to develop centres of excellence in the universities, might be usefully pooled and administered by the Social Sciences and Humanities Research Council. The SSHRC should then be invited to establish a separate funding category for justice issues into which the Law Reform Commission and the government should have adequate input.

THE COURTS

In the study team's view, better use of private sector resources would enable more work to be done on the role of the courts and issues of management and substance which at the present time are largely ignored because of the principle of judicial independence. It is essential that better means be developed to gather the views and opinions of judges and to influence the management of the courts.

CONCLUSION

In the view of the study team, the increasing use of the law to deal with social issues culminating in the political decision-making for the courts inherent in the Charter lends urgency to defining better the federal interest in the systematic understanding of the workings of the justice system and how best to give effect to it. Together with the profession and the non-governmental components of the sector, including the law and social

sciences university faculties, the federal government should ensure that its research and development funds are being used first to develop a better base for understanding issues within the justice system and, in the process, to build better linkages among all those involved in the enforcement of the law, its application in the courts and the remedial consequences in the community and the prison/penitentiary system. This requires close attention to and research support for the operational responsibilities of the Department of Justice and the Ministry of the Solicitor General. Priority consideration of other policy issues such as crime prevention and assistance to victims should, in the study team's view, flow from this fundamental research base rather than precede it. In order to ensure that the orientation of the research base is adequate, the government may wish to consider formal substantive consultative mechanisms linking the federal apparatus to the non-governmental elements of the sector.

On the basis of this justice system base-building orientation, consideration would need to be given to streamlining the respective functions of the two federal departments and the Law Reform Commission. The commission could retain its broadly based systems-wide approach, but use a coordinated legal scholar and social scientist research thrust based primarily in the universities, working in cooperation with private foundations and voluntary organizations. Within these parameters it could then be subjected to more active ministerial direction. The Department of Justice should ensure that its policy activities directly complement the development of relevant research sponsored by the commission and carried out by the universities and foundations, ensuring that other policy development work does not overshadow this fundamental base-building research function. Regardless of whether the government believes criminal justice policy development should be rationalized in the Department of Justice, the Solicitor General's ministry secretariat should, in the view of the study team, focus itself more directly on the provision of independent advice to its minister concerning the policies governing the operations of his agencies, following the advisory model set out for the Deputy Solicitor General in the Canadian Security Intelligence Act.

Finally, based on the foregoing relationships with the provinces in this sector of shared jurisdictions, the study team believes emphasis should be placed on a more cooperative, fact-based footing. Services wherever possible

could be shared, and every effort made to develop new criminal law on a cooperative basis, tying consultation to criteria such as jointly developed costing data and providing for the joint development of demonstration projects. In this regard some very modest machinery on the lines suggested above might be elaborated to assist the continuing federal/provincial committee of deputies to organize their work more effectively.

The development of:

a. an overall approach to the justice sector based on the federal interest in promoting more institutionally and empirically oriented research and policy development designed to support operational requirements and to foster better linkages within the justice system, and

b. greater cooperation with the provinces by sharing more operational services and developing a more national approach to criminal justice policy development

provide two broad guiding principles that may enable the federal government to chart its course and guide its strategic thinking in the justice sector in the critically difficult period that lies ahead.

OTHER KEY ISSUES

International Law

The Department of External Affairs provides its own legal and related services in matters of international law, giving rise to periodic disputes with the Department of Justice particularly in respect of litigation before the International Court of Justice. The study team has identified the arguments for and against consolidating international law issues in Justice and is of the view that the existing arrangements are unsatisfactory. In considering the merits of change, it is important to bear in mind the essentially political character of international law and the continuum that extends between diplomatic negotiations and international litigation. It is also worth noting that in certain areas of international law key to Canada's interests, particularly in law of the sea, the Department of External Affairs has developed an expertise

second to none. In the view of the study team, more involvement on the part of Justice Department litigators should be encouraged but a decision to redefine ministerial responsibility in this area might best be taken only if further practical experience dictates a need for change.

Legislative Drafting

At present, legislative drafting is performed by a unit located in the Department of Justice. Drafting priorities are set by Cabinet on the advice of the Cabinet Committee on Legislation and House Planning, which is chaired by the Government's House Leader and serviced by the Assistant Secretary to the Cabinet for Legislation and House Planning. The study team has identified a number of problems that affect the dispatch with which the drafting function is performed and has advanced the possibility of relocating the function to place it directly under the control of the Government's House Leader. The team has suggested, however, that before considering a major reorganization that has significant implications not only for the Department of Justice but also for the role and structure of the Privy Council Office and the responsibilities of the Prime Minister, consideration be given to management improvements in the existing arrangements. This suggestion is based on the view that organizational change alone seldom solves management problems.

Emergency Planning Arrangements

Emergency planning arrangements have been examined by the study team. Quite apart from questions of expenditure levels, priorities, and federal/provincial jurisdictional issues, the team has been struck by the absence of a clear distinction between locally manageable and national disasters. In this regard, priority needs to be given to developing provincially agreed-upon listings of possible disasters and all available resources should be identified. Questions of jurisdiction and control could be addressed separately to the extent possible in order not to retard the development of basic contingency planning that identifies the optimal use of all resources. In order to make such progress, the federal government must be in a position to coherently manage the resources available to it in the context of an overall emergency planning strategy.

RESEARCH GRANTS AND CONTRIBUTIONS
THE COORDINATION OF RESEARCH, DEVELOPMENT AND POLICY DEVELOPMENT

SHARED JURISDICTION

The constitutionally defined regime of federal and provincial responsibilities for the justice system has led to the development of a complex arrangement of split and shared responsibilities among the 13 senior governments in Canada. The federal government has constitutional responsibility for criminal law and procedures, penitentiaries, certain aspects of policing, the prosecution of federal offences, the appointment of superior court judiciary and various other functions of criminal and civil justice. The provinces have responsibility for the administration of justice. The structure of the justice system is further complicated within many jurisdictions by the existence of more than one department having responsibility for aspects of the justice system. There are, within Canada, approximately two dozen departments having justice-related responsibilities, as well as many other federal agencies, such as Health and Welfare Canada, Department of Indian Affairs and Northern Development, Statistics Canada and provincial social services departments, which have less direct but substantive interest in issues related to the justice system. At the federal level, the two departments with the most direct responsibility for justice-related issues are the Department of Justice and the Ministry of the Solicitor General.

Not surprisingly, each of the players interact with differing priorities, differing levels of resources and differing capacities to jointly and individually manage their responsibilities. There is a consensus that the justice system in Canada can be characterized as fragmented and, indeed, there are some who would argue that it is misleading to characterize it as a system at all, except insofar as the activities of any one component affect the others.

Given the need for interaction in order to discharge responsibilities, there has emerged at the national level a highly complex mechanism for federal/provincial and inter-departmental consultation. In terms of federal/provincial relations, there currently exist at least a dozen committees of an ongoing or ad hoc nature, ranging from the ministerial to the staff level. Within the federal government, the

necessity of inter-departmental coordination of efforts in areas of mutual interest has also necessitated the establishment of extensive committee and consultative structures. The complexity of the interaction and the degree of shared responsibilities for activities in the research and development and policy formulation areas is particularly pronounced.

Both of the aforementioned federal departments have mandates which require them to undertake similar kinds of research, development and policy formulation in order to adequately discharge their responsibilities. Section 4(c) of the Department of Justice Act provides general authority to that department to "have the superintendence of all matters connected with the administration of justice in Canada, not within the jurisdiction of the governments of the provinces". In addition, the Department of Justice has overall responsibility for the criminal code. The recognition that the justice and legal systems do not operate in isolation from social and economic factors; that the department's legislative responsibilities cannot be discharged without an empirical research capacity; and, that experimentation and consultation are critical to the discharge of its responsibilities, has led the department to establish such capacities over the last decade.

The legislated mandate of the Ministry of the Solicitor General, on the surface, gives that ministry a narrower responsibility for R&D, limited for the most part to operational research to support its statutorally defined functions relating to the agencies. The ministry was established in 1966 and the responsibilities for the RCMP, security matters, Correctional Service of Canada and the National Parole Board were removed from the Department of Justice.

In 1972, Treasury Board approved the establishment of a secretariat within the ministry, with responsibility for the development of policy, evaluation, research and consultative capacities to serve the minister in relation to the above-mentioned agencies and the broader criminal justice system. The ministry was given the administrative responsibility to play the lead role in major aspects of criminal justice policy. The capacity which has developed is focused primarily in the law enforcement and correctional sectors, although increasingly, substantive issues such as victims and sentencing, as well as the young offenders legislation, which cut across all sectors of the system, are being addressed.

In effect, both departments have a lead role in the area of criminal justice policy.

ENVIRONMENT

The study team, in assessing the environment in which the criminal justice system operates, advances the following characterization:

a. The constitutionally, legislatively and administratively defined mandates of the federal and provincial departments involved in the administration of justice have resulted in a highly complex and fragmented system.

b. The consultative process established to manage this complex and fragmented system is itself complex and fragmented.

c. There exists little agreement as to the direction in which the system as a whole should go; that is, on the general lines of legislative policy and program development it would be desirable to pursue on a national basis.

d. The research and knowledge capacity to support such strategic direction is itself under-developed.

e. In part, as a consequence of the above, the capacity to manage the system and the interrelationships among components of the system is also under-developed.

Fundamental to the situation facing criminal justice practitioners and decision-makers is the absence of shared strategic policy at the federal and national levels.

LEADERSHIP ROLE

Virtually all knowledgeable respondents interviewed by the study team acknowledged that the federal government has and must play a leadership role in the criminal justice system by virtue of its law-making power and responsibility as the central government. The question emerges as to how that role can be discharged most effectively to ensure that optimal efficiency in the administration of justice is achieved, and to ensure that a strategy for the improvement

of justice services and legal protection is developed, with full regard for the implications of the proposed changes on all components of the system.

Currently, the federal government exercises its leadership responsibilities in the following ways:

a. through the consultative procedures leading to legislative amendment of the criminal law and areas of civil law which affect provincial interests; and

b. by stimulating policy and procedural change with respect to the operations of various components of the justice system through:

   1. increasing public awareness of, access to and involvement in the justice system; and

   2. providing technical and financial assistance to provincial and non-government departments and agencies in order to allow them to undertake specific activities and operate specific programs.

Both federal departments, as well as Health and Welfare Canada, the Department of Indian Affairs and Northern Development, Secretary of State and Statistics Canada are involved in these activities to varying degrees.

It must be recognized that the federal role as an agent of change within the justice system conflicts with provincial priorities, capacities and levels of resources. It is, however, in the view of the study team, critical that such conflicts be minimized and that, to the extent possible, the needs of the two levels of government coincide.

CONCLUSIONS

On the basis of its review, the study team has concluded that:

a. there is a need for a strategic policy at both the federal and national levels in order to:

   1. reach consensus on the direction for future development of the justice system;

2. allow the development of a research capacity and knowledge base to support integrated policy development and management of the system; and

3. optimize the efficiency with which the system is administered.

b. the existing framework for discharging shared responsibilities at the federal and federal/provincial levels frequently results in inter-departmental and inter-governmental tensions. While some degree of tension is inevitable, improvements in these processes are required.

c. given the complexity, degree of fragmentation and absence of agreement on the direction for further development, it is impossible to determine whether optimal efficiency in the administration of justice is being achieved.

FEDERAL STRATEGIC POLICY

In the view of the study team, the present division of criminal justice policy responsibility between the Department of Justice and the Ministry of the Solicitor General has not facilitated cohesive strategic policy development at the federal level. While specific elements of such a policy, such as that represented by the criminal law review process do exist, that thrust is not tied to a clear direction in other areas of federal operational and policy responsibility or to an understanding of its implications for provincial operational and policy responsibilities. There is a need to develop a capacity to undertake the task of establishing an overall, long-term and integrated approach to developing criminal justice policy at the federal level as well as the research and development activities which would support it.

The study team considered a number of structural alternatives which could contribute to the establishment of an improved strategic policy thrust at the federal level. The implications of major structural or mandate changes in the two departments, changes which could contribute to an improved capacity for strategic policy development, however, were such that no consensus emerged on an alternative which was clearly preferable to the status quo, notwithstanding its limitations.

The Department of Justice could be given a specific lead role in criminal justice policy-making. This would entail the integration within Justice of resources currently devoted by the Solicitor General to long-term policy development and that ministry's concentration on the operations of the RCMP, CSIS, CSC and NPB. Such a move would focus responsibility for overall policy development in one department but would entail major and disruptive structural changes within both. Moreover, this alternative would distance the agencies which are the major expenders of federal justice funds from the long-term policy development capacity which currently exists in the Solicitor General secretariat.

An alternative approach is the designation of the Ministry of the Solicitor General as being responsible for criminal justice policy; in effect to be a "Criminal Justice Ministry". In this case, the Department of Justice would provide the legal services required for legislation as a result of Solicitor General policy development and carry out the responsibilities normally associated with the Office of the Attorney General. This alternative would likewise entail major disruptive structural change and would remove from the Department of Justice its traditional responsibility for criminal law amendment. Any further review of this or other alternatives would need to address the relationship between the Solicitor General's agencies and the Deputy Solicitor General in terms of the appropriate degree of accountability through him/her and his/her appropriate role in resource allocation within and among the agencies.

In some jurisdictions, a single ministry combines the responsibilities of Justice and Solicitor General. One approach examined by the study team would provide for such an arrangement with three deputy ministers: a Deputy Attorney General; a Deputy Solicitor General and a Deputy Minister responsible for justice policy, programs and research. Another possibility is a senior Minister of Justice coordinating the policy activities of junior colleagues responsible for Solicitor General and Attorney General functions. Given the size of the existing federal departments, either of these alternatives could lead to problems resulting from an over-extended span of control. It was also noted that prior to 1966, a single ministry did exist and that the Ministry of Solicitor General was established to separate the investigative and prosecutorial responsibilities of the Crown and because of the breadth of responsibilities for which a single minister was accountable.

In the view of the study team, each of these approaches presents advantages and disadvantages but that of the single ministry with deputies responsible for three areas - legal services, police and operations, policy - appears to be the most useful in obtaining integrated policy control. Nonetheless, none of the alternatives to the present Justice/Solicitor General structure presents sufficient benefits as to make it clearly preferable. Moreover, it is not clear to the study team that any of the alternatives would result in savings in staff or budget.

Maintenance of the status quo however, does not, in the view of the study team, remove the need for a federal strategic policy capacity in criminal justice nor does it imply inaction. Rather, any action would need to be carefully targeted to avoid major disruption but seek maximum collaboration and coordination of policy development. Thus Cabinet could direct both Justice and the Solicitor General to prepare jointly, for its consideration and periodic review, a criminal justice strategic policy plan with an administrative mechanism and resource reallocation.

The study team proposes that the Department of Justice and the secretariat of the Ministry of the Solicitor General be jointly subject to an external "A" base review in order to assist in defining an appropriate strategic planning capacity.

NATIONAL POLICY

Efforts to overcome the divided nature of the criminal justice system and bring some cohesion and direction have been ad hoc or issue-oriented using federal/provincial task forces or working groups. An overall perspective is attempted through the regular meetings of ministers and deputies responsible for justice. The arrangement of and logistics for these meetings devolve upon participants without an on-going secretariat or other support mechanism.

To facilitate the development of a more integrated, national approach to criminal justice policy, the study team examined the possibility of establishing a small, federal/provincial secretariat for the meetings of ministers and deputies. Such a body could provide the machinery to underpin the process of discussion and help focus information on issues, provide institutional memory and aid control and integration of the work of other committees, task forces and working groups.

While some members of the team saw definite advantages to the proposal, it was the view of others that a secretariat would add another bureaucratic element to an already complex environment. The existing mechanisms do achieve results in developing national approaches to specific initiatives in criminal justice and reflect the nature and operation of the Canadian federation. The complexity and number of committees, task forces or working groups can therefore be viewed as a "cost of doing business".

The team also examined the Canadian Centre for Justice Statistics as an experiment in federal/provincial coordination and cooperation in national endeavours. While providing promise in its particular area of concern (justice statistics), it is too early to tell whether the model has applicability in the broader context of the management of the system of R&D in general. The study team noted that notwithstanding a formal federal/provincial committee structure to direct the operations of the centre, the number of participants at the deputy and staff levels and the sporadic interest of deputies in the initiative has led to difficulties in focusing policy direction and ensuring proper accountability.

RESEARCH AND DEVELOPMENT CAPACITY

Criminal justice, as other areas, requires a sufficient body of knowledge and individuals able to provide the long-term intellectual basis for policy development. Such a research and development capacity has been built in the last 20 years in law and criminology through federal and provincial university support and direct federal aid to research. However, an integrated, inter-disciplinary research and development capacity for the criminal justice system as such, rather than parts of it related to particular fields, is still lacking in the study team's view.

Given the need to develop an ongoing and dynamic knowledge base for policy-makers and society to draw upon in criminal justice, and its own mandate as a federal granting agency, the Social Sciences and Humanities Research Council of Canada should implement a strategic research program in law and criminal justice. To enable greater coherence and targeting of funds, resources now expended by the Solicitor General under its programs of support for criminology

centres and independent research could be transferred to SSHRC for the strategic program. The Solicitor General, Justice and provincial authorities would need to have policy input into the structure and orientation of the SSHRC program.

CONSULTATION

In the view of the study team, there is a need for improved consultation between provincial and federal authorities in the exercise of the federal criminal justice leadership role, most particularly in the funding of demonstration projects. While stimulus of innovation in areas such as victims' services or crime prevention is a legitimate federal activity and required for policy development, provincial jurisdictional and long-term cost concerns must be addressed.

The current Solicitor General Consultation Centre structure does not adequately facilitate inter-governmental liaison and communication and is, together with demonstration projects, often an irritant for provincial authorities. The present six regional offices now fulfilling a variety of roles could be replaced by a single senior officer in each provincial capital whose function would be communication and liaison. Although part of and reporting to the Solicitor General Ministry, officers would also serve Justice department needs.

At present, joint Solicitor General/provincial committees exist in Alberta and Quebec to coordinate priorities and project support. Such committees should, in the view of the study team, be established in each province and include Justice department representatives.

Federal funding of demonstration projects would take place through or with provincial authorities. However, the clear power of the federal government to fund projects directly would not be altered. The Solicitor General Demonstration Program would be administered from Ottawa rather than delivered through regional offices as is currently the case. Furthermore, to provide better client service, the project approval process at the headquarters level could be streamlined and specific budgetary allocations determined for each province.

CRIMINAL LAW REFORM FUND
Department of Justice

OBJECTIVES

The stated objective of the Criminal Law Reform Fund is "... to promote legislative and non-legislative reform of the criminal law by:

a. enabling discussion with and obtaining the assistance of outside authorities and experts in relation to legislative reform in specific areas of criminal law;

b. promoting and evaluating experimental projects to test the proposals for changing the criminal law;

c. promoting consultation upon and disseminating information about new approaches to problems in specific areas of the criminal law, involving both legislative and non-legislative proposals" (TB Minute 740125).

AUTHORITY

This is a non-statutory program operated by the federal Department of Justice. Authority for expenditures derives from the annual Appropriations Act.

BACKGROUND

The Criminal Law Reform Fund was established in 1976 to contribute to the review and reform of criminal law and procedures being undertaken by the Law Reform Commission and the Department of Justice. In the department's proposal to Treasury Board and the subsequent terms and conditions of the contribution program approved by the board, emphasis was placed on the importance of non-legislative procedural reform and the responsibility of the Department of Justice to consult broadly on the appropriateness of reforms proposed by the commission. The benefit of the product is to the department, rather than the commission as the commission has its own consultative mechanisms.

The fund was initially intended and remains a mechanism to finance:

a. the department's external consultative process with individuals and non-governmental agencies with respect to proposed amendments to criminal law and procedures;

b. experimental and demonstration projects intended to test the efficacy of proposed amendments or procedures; and

c. external research intended to contribute to substantive and procedural law reform.

In 1984/85, Cabinet approved the establishment of two subcomponents of the fund, the Victims Fund, established for the two-year period 1984/85 and 1985/86 and the Sentencing Fund, covering the 1984/85 to 1986/87 fiscal years. Both funds have adopted the same Treasury Board-approved terms and conditions as are used for the "general" fund. The Victims sub-component is administered by the projects officer with responsibility for the "general" fund, assisted by a term position. The Sentencing fund is administered by a chief and a projects officer within the same section. The purposes of the two sub-components are the same as those of the "general" fund, although their focus is more specific, being limited to projects relating to the federal government's victims and sentencing initiatives.

Priorities for contributions are established annually by the projects officer responsible for the Criminal Law Reform Fund in consultation with the head of the three major client groups of the fund: the Coordinator Criminal Law Review; the General Counsel, Criminal Law Policy and Amendments Section; and the General Counsel, Program Policy and Law Information Development, as well as with provincial and private sector organizations which have a long-standing involvement with the fund. Priorities are approved by the Program Assessment Committee, chaired by the Assistant Deputy Minister Policy Planning, and include the section heads identified above, as well as the Director, Research and Statistics; Director, Financial Services; Director, Communications and Public Affairs; Executive Assistant to the Assistant Deputy Minister, Public Law; two projects officers; and the Senior Consultant on Criminal Justice from the Consultation Centre, Ministry of the Solicitor General. On the basis of the priorities and anticipated requirements

from the major client groups within the ministry, and anticipated projects, an operational work plan, including a budget allocation by client group, is also approved by the Program Assessment Committee.

For 1985/86, the "general" fund preliminary allocation by client group is as follows:

Criminal Law Review Section	7.2 per cent
Criminal Law Policy and Amendments Section	53.9 per cent
Program, Policy and Law Information Development Section	18.0 per cent
Provincial and Private Sector Organizations	15.6 per cent
Other new initiatives	5.4 per cent

Priorities for the victims component of the fund are also approved by the Program Assessment Committee. A departmental Justice Victims Working Group does play a formal role in the recommendation of priorities and review of project proposals. For 1985/86, the priorities arevictim impact statement, spousal assault, child sexual abuse, general victim-witness assistance for specific groups of victims, sexual offences, comprehensive victim assistance projects and legal information for victims.

Proposals for the grant funding of sentencing initiatives are reviewed by the branch's sentencing team and approved by the Project Assessment Committee. A Justice/Solicitor General Coordinating Committee meets on occasion to ensure that each department is aware of funding activities and that duplication and overlap is avoided. The priorities for funding were established by Cabinet when the fund was established. They are: fine option programs, community service order programs, and restitution programs, with special attention being given to Natives and victims. The three areas relate to proposed amendments to the criminal code which were contained in Bill C-19 which died on the order paper in 1984. Only the fine option amendment was carried forward into Bill C-18.

Program administrators are essentially reactive to proposals in the case of the general and the comprehensive victims funds, as they are over-subscribed annually. In 1984/85, 92 project proposals totalling approximately $3 million were received, with 23 being approved. The administrators for the sentencing sub-component on the other hand have, of necessity, taken a pro-active approach to soliciting program proposals. That fund has been undersubscribed in 1984/85 and the previous fiscal year.

The terms and conditions of the "general" Law Reform Fund have been adopted for the victim and sentencing components. While the priorities for funding vary among the three funds, the criteria for approval are the same: congruence with priorities, the credibility and background of the applicant, an assessment of the likelihood of project success, appropriateness of budget level and the degree and type of provincial support. In the case of proposals which meet preliminary screening criteria, the project officer negotiates with the sponsor to resolve deficiencies in the submission, negotiates with appropriate provincial contacts and other federal departments and prepares a standard form project summary and assessment for review and recommendation to the minister by the Project Assessment Committee.

Each province has identified a law reform coordinator with whom the projects officer clears all project proposals involving the coordinator's jurisdiction. Provinces, in effect, have a veto over the fund's proposed projects where there is provincial or joint federal/provincial responsibility for the subject area.

The fund does not provide for "core" or ongoing funding of programs or agencies and funds only unsolicited external research projects. Contribution agreements are utilized for all projects. Ministerial signature for all agreements is required, although the Assistant Deputy Minister, Policy Planning has the authority to approve increases to ministerially approved contributions up to a maximum of $2,500.

All projects are reviewed by the Research and Statistics section of the department to determine the type of reporting, monitoring or evaluative strategy appropriate to the project. All major demonstration projects are subject to a formal program evaluation conducted under the direction of that section. Prior to final payment of the contribution, financial claims are subject to a departmental audit in accordance with current Treasury Board circulars.

BENEFICIARIES

The beneficiaries of this program are:

a. the client sections of the Department of Justice in that they rely on the fund for external consultation regarding Criminal Code and procedural amendment;

b. individuals and organizations, both governmental and non-governmental, in that they are provided the opportunity to provide advice on proposed reform and to access funds for projects relating to criminal law and procedural reform; and

c. the public at large, to the extent that legislative and non-legislative criminal law reform is aided by the fund.

EXPENDITURES ($000)

A Base	**83/84**	**84/85**	**85/86**
Salaries and Wages	50.7	53.4	55.4
O&M	6.8	10.0	10.0
Contributions	417.5	417.5	417.5
TOTAL	475.0	480.9	483.9
PYs	1.5	1.5	1.5

These figures exclude term person-years and the budget for victims and sentencing initiatives in 1984/85 and the contributions budget for work relating to the Badgley report in 1983/84. In 1984/85, $352,200 in contribution funds were provided for victims and $234,000 for sentencing.

OBSERVATIONS

The fund has not been subject to a formal evaluation, although the Bureau of Management Consultants (BMC) completed an "Evaluation Overview" of all "Thrust" (discretionary) funds in the Department in October, 1985. That overview identified some 22 evaluation and management questions and recommended that an "Evaluation Assessment" be undertaken. (An evaluation assessment is a further review prior to a full-scale evaluation of program effectiveness and efficiency.) The BMC report also recommended that the five major funds and their sub-funds be treated as one fund on the basis that management issues (unidentified) cut across all funds, client groups are unlikely to differentiate between funds and that "trade-offs between instruments" cut across funds.

The Ministry of the Solicitor General operates a contribution and demonstration fund with a 1985/86 budget of $2,614,000. Similarly, the Department of Health and Welfare operates demonstration programs which fund projects similar to some of those covered by the Law Reform Fund, particularly in relation to victims. As a consequence, the fund is involved with joint and "piggy-back" funding with the other federal departments.

None of the relevant departments identified duplication of effort as a problem, although there are admitted overlaps in assigned or assumed areas of responsibility in relation to demonstration funding in the administration of justice area and lack of agreement concerning which ministry should have primary responsibility for particular substantive areas, such as victims and sentencing.

Provincial and voluntary sector respondents expressed uncertainty concerning the appropriate department to approach with funding proposals. Provincial respondents generally expressed the opinion that the federal government should not fund projects relating to the administration of justice without prior approval of the province and some maintained that it should not fund any demonstration projects which were not exclusively within its jurisdiction.

In its assessment, Treasury Board Secretariat (TBS) commented:

> "How many independent assessments must be made of the development of a new Criminal Law for Canada? For example, the Law Reform Commission, which is an independent agency, is engaged in an Accelerated Criminal Code Review, costing over $10 million over five years. In addition, the Departments of Justice and Solicitor General are also involved in studies within the Accelerated Criminal Code Review at a total cost of $10 million over the same period."

In addition, in its assessment of other Justice grant and contribution programs, TBS recommended collapsing the programs to reduce their numbers and increase flexibility.

ASSESSMENT

With respect to the issue of the appearance of duplication or overlap between this and the Solicitor General funding sources, it appears to the study team that the existence of two sources for demonstration projects relating to the administration of justice does cause confusion in the provinces and the voluntary sector. There is no evidence of actual duplication of funding and efforts are made to re-direct inappropriately submitted proposals to the other department. The focus of this fund, residing as it does in the Justice ministry, is on criminal law and procedure. The focus of the Solicitor General programs, on the other hand, is on broader social and non-legal aspects of program delivery. In a number of instances projects are cost-shared with the Ministry of the Solicitor General, resulting in duplication of administrative requirements and, from the perspective of the Department of Justice, unnecessary delay in the other department's approval process. Because contribution program funds are not transferable between departments, one department cannot take full administrative responsibility on behalf of the federal government for jointly funded projects.

In the view of the study team, an additional problem for projects jointly funded with other sources is the department's audit requirement that final payment on a contribution agreement be conditional upon receipt of statements for the full expenditures of the project. This represents a disincentive to joint funding, particularly

where the department's contribution is small relative to the total costs of the project. The use of relatively small contributions to encourage specific components of, for example, large conferences could potentially maximize the benefit to the department of consultation expenditures if joint funding were possible.

With respect to the larger issue of whether there should be more than one funding source at the federal level for demonstration projects, one can only conclude that as long as more than one department has a mandate in a particular program area; has research, experimentation and information needs in those areas; and as long as duplication of effort is avoided, programs are efficiently administered and produce useful product, there is no justification for structural changes to consolidate funding sources into one agency. The study team has concluded that:

a. the Department of Justice has clear legislated authority to undertake research, development and consultation in the light of its responsibility for the Criminal Code of Canada. The "general" fund and the victims and sentencing components were established to promote experimentation and consultation with respect to criminal law and procedural amendment.

b. in the absence of a formal evaluation of the effectiveness of the fund, it would appear that it does represent a useful and beneficial mechanism for consultation and program development in relation to criminal code amendments and as a mechanism to fund research in areas of general interest to criminal law amendment.

c. there is no evidence of duplication of effort between this fund and similar funds in other departments.

d. relative to similar funds in the Ministry of the Solicitor General, it would appear that this fund is effectively administered, although the audit requirements of the department may represent a disincentive to accessing the fund to cover small portions of a larger project.

The sentencing component of the fund has been under-subscribed during the first two years of its

three-year approval period. This is due to a number of factors, principal among which is the fact that two of the three legislative initiatives, Community Service Orders and restitution, died with Bill C-19. Without the legislated base, and in the light of the high priority given programming in relation to the Young Offenders Act, provincial interest in pursuing funds from this source was less than what it might have been. In addition, delays in staffing the associated term positions have in turn delayed the process of developing proposals in cooperation with provincial and non-government agencies.

Cabinet approvals to continue the victims initiative after 1985/86 and the sentencing initiatives after 1986/87 are conditional upon an external evaluation of the programs.

In the study team's view, should the relationship between the Law Reform Commission and the Department of Justice change, the utility of the fund to the basic formative research which underlinesthe proposals for legislative reform may be enhanced.

OPTIONS

Discontinue the fund and eliminate the department's major source of discretionary funding with respect to criminal law reform.

However, the study team recommends to the Task Force that the government continue the operation of the fund, subject to the evaluations required by the Cabinet order establishing the victims and sentencing funds and the evaluation planned of the "general" fund.

HUMAN RIGHTS LAW FUND
Department of Justice

OBJECTIVE

The objectives of the fund are "to inform Canadians in general, and more specifically the legal public [about], and to promote developments in and enlarge the body of knowledge on Human Rights Law in Canada." (TB minute 783539). The terms and conditions of this fund stipulate that "the application of these contributions will be to provide funds for legal research, publications and legal seminars and conferences and innovative public legal education projects".

AUTHORITY

This a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriations Act.

BACKGROUND

The program was established in 1982 to provide for contributions in the human rights law field during the fiscal years 1982/83, 1983/84 and 1984/85. During 1985/86, expenditure levels were reduced from $500,000 to $400,000 and continuation of the program was made conditional on an evaluation of the performance of the fund. A draft of the final evaluation report is currently under review by the department's Bureau of Evaluation and Internal Audit.

Proposals for projects are reviewed by a projects officer and analysts from the Human Rights Law Section. All funding decisions are made by the departmental Human Rights Law Fund Committee which meets every two months. The committee is chaired by the Assistant Deputy Minister, Public Law and includes the General Counsel, Human Rights Law; the General Counsel, Program Policy; the Director of Research; the Director of Programs and Projects Administration; Chief, Projects Management and Finance; and projects officer. That committee is also responsible for approving the funding priorities recommended by the human rights section and the projects officer.

Priorities identified for 1985/86 are international human rights, Canadian human-rights legislation in general, the Charter in general and sections 7 and 15 of the Charter.

During the current fiscal year the fund has been used extensively to support the preparation of briefs and submissions by major national asssociations and groups in response to the government's consultation paper on equality rights.

The existence of the fund is not widely advertised. In 1983/84 the deputy minister wrote to law faculties, human rights associations and organizations involved in public legal education. Since that time, the fund has relied on direct contact with agencies and individuals and word of mouth to promote utilization of monies. The fund has been over-subscribed since its inception. During 1984/85 there were 56 applications with 29 applications being approved for funding totalling $1.3 million.

Because of the nature of most of the funded projects -- relating as they do to conferences, publications and research -- only two have been subject to formal evaluation. All proposals, however, are reviewed by the Research and Statistics Section.

The Secretary of State operates a similar fund which provides grants to organizations, institutions and groups involved in human rights activities.

In 1984/85, the approximate percentage distribution of contribution funds among major priority areas was as follows:

Human Rights Legislation General (including International)	24.5 per cent
Charter of Rights General	11.0 per cent
Section 15 and other Specific Sections	64.4 per cent

BENEFICIARIES

The major beneficiaries of the fund are the Department of Justice in that the fund provides a vehicle for consultation with knowledgeable groups and individuals; the Canadian legal community, to which the funds are primarily directed; and the public at large in relation to the public legal education component of the fund.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	50.7	53.4	56.0
Other O & M	0.3	0.6	0.6
Contributions[1]	433.5	496.0	400.0
TOTAL	484.5	561.5	462.0
PYs*	1.5	1.5	1.5

* The fund was reduced by $100,000 in fiscal 1985/86 in response to direction to reduce growth in government spending.

OBSERVATIONS

The department's Bureau of Evaluation and Internal Audit has concluded that there was no overlap in logic or design of the Human Rights Law Fund and other programs of the Department of Justice or the Secretary of State. The Secretary of State's fund is concerned with the broader social, political and cultural aspects of human rights, while the Justice fund focuses on the legal aspects. Where public legal education or conference projects relate to both areas of interest, joint funding may be undertaken. In 1984/85, there were two projects jointly funded by the two departments.

The major conclusions of the Bureau of Evaluation and Internal Audit are:

a. the fund has been very successful in improving the number and quality of human rights publications in Canada;

b. overall the fund has been an important agent in stimulating activity in the human rights field, both through promoting publication activity and in sponsoring specialized conferences and other mechanisms for input into the Parliamentary Sub-Committee on Equality Rights;

c. the public legal education function and the sponsoring of unspecialized conferences were of less value to the department and should be de-emphasized from the perspective of the fund;

d. the fund should be more actively promoted to ensure equal and fair access and more range in the types of proposals received;

e. goals and priorities should be more clearly defined and should include emphasis on joint projects involving legal professionals and other groups. In addition the priorities should reflect specific areas in which scholarly research should be encouraged;

f. a reduction in demand for conference sponsorship is expected given that the Charter is now fully in place. This, and a reduced emphasis on public legal education, will allow the fund to achieve its objectives and expand its client group without an increase in overall funding;

g. improvement in fund administration, including a designated contact for proposals, is necessary;

h. more emphasis must be placed on project follow-up and evaluation and a more systematic approach to information dissemination would increase the benefit of the program to a larger group within the department; and

i. the utility of and need for the program will undoubtedly continue as Charter interpretations continue. At the same time, however, it is highly probable that the priorities for the fund will change.

The major recommendations of the audit and evaluation bureau are as follows:

a. the legal profession should continue to be the primary focus but collaboration with groups outside the profession is highly desirable;

b. program priorities should be classified and communicated to a larger client group;

c. public legal education projects should be de-emphasized as they are adequately carried out by other programs;

d. a projects officer should be formally designated to deal with initial contracts and applications;

e. a more systematic method for project evaluation should be implemented, utilizing the Research and Statistics Section; and

f. fund managers should encourage joint funding projects and consider the use of contributions for seed of partial project funding.

It is understood that the Bureau of Evaluation and Internal Audit will be adding an additional recommendation to streamline the project review procedure and decrease the time demands placed on members of the Human Rights Law Fund Committee.

In its assessment, the Treasury Board Secretariat recommended that consideration be given to combining this fund with the Secretary of State's program or that some or all of the funds within the Department of Justice be combined.

ASSESSMENT

On the basis of the study team's assessment of the related Department of Justice and Secretary of State programs, it would appear that there is no duplication of function between the two funds. Moreover, given the responsibilities of the Human Rights Commission, there is no overlap or duplication with that agency and the fund is, the study team believes, most appropriately administered within justice. The Internal Evaluation is recommending an increased emphasis on joint project funding and if this

recommendation is accepted, it would lead to increased coordination of efforts, but not to duplication of efforts. Given that the program mandate concerns the legal aspects of human rights, and that this will of necessity require the involvement of the legal professionals both within the Department of Justice and outside, removal of departmental responsibility for its administration would be a detrimental step in the view of the study team. At the same time, it may not be appropriate to have that department assuming responsibility for funding the broader social, political and cultural aspects of human rights which are the focus of the Secretary of State.

With respect to the Treasury Board recommendation that this fund be collapsed with others within the Department of Justice, it appears to the study team that this would be of limited value, as all demonstration funding is currently administered by a single section. There would be no administrative savings. While consolidation would provide more flexibility in transferring available funds from one target area to another, it would result in increased difficulty in choosing from among competing and different priorities. Furthermore, it is noted that the Minister of Justice already has the authority to reallocate contribution funds amongst the various funding programs.

The question of whether public legal education should continue to be an objective for the department's Human Rights Law Fund is, the study team believes, appropriately raised by the evaluation. The department also administers the Access to Legal Information Fund which was approved by Cabinet in 1984. That fund, which was not referred to the study team for review, has as its objective:

a. extending and developing the network of non-profit public legal education [and information] (PLEI) organizations through the provision of start-up funding to new organizations to facilitate the establishment of a national infrastructure of community legal information resource centres; and

b. encouraging established PLEI organizations to ensure that public needs for federal legal information are adequately met and that federal and provincial legal information is available to meet the needs of women, Natives, the elderly, youth, the poor, handicapped, immigrants and members of visible minorities.

The PLEI programs budget in 1985/86 is set at $500,000 with under-expenditure anticipated. If the PLEI terms and conditions were expanded to include public education concerning the legal aspects of human rights, it seems likely that the Human Rights Law Fund objective concerning "innovative public legal education projects" could more effectively be met within the context of a broader program aimed at increasing public access to the law and the legal system. The Access to Legal Information Fund was authorized for three years, ending in 1986/87 and is subject to review prior to extension or expansion.

The fact that the Human Rights Law Fund is over-subscribed has discouraged the department from further publicizing its existence. The recommendation in the internal audit report that publicity be expanded to increase knowledge and attract a broader range of clients and projects seems appropriate, so long as priorities are clarified and appropriate administrative and evaluative procedures are in place.

While the provision of short-term "seed" money for project start-up is appropriate under the existing Terms and Conditions of the fund, the responsibility for longer term "core" or partial funding of ongoing projects would more appropriately fall to the Secretary of State's fund in the view of the study team.

OPTIONS

The logical alternatives to the status quo with respect to the Human Rights Law Fund are:

1. merge the fund with the grants fund operated by the Secretary of State; and

2. discontinue the fund.

The study team recommends to the Task Force that the government continue the operation of the fund, subject to the improvements identified in the Bureau of Evaluation and Internal Audit's evaluation report.

SPECIAL PROJECT - LEGAL AID
Department of Justice

OBJECTIVES

The objective of the fund is to develop information to improve the delivery of legal aid services across Canada through supporting planning, research, evaluation and training initiatives, as well as experimental pilot projects. More specifically, its purpose is:

a. to support departmental policy relating to federal/provincial and federal/territorial agreements on legal aid;

b. to support the provincial and territorial legal aid plans; and

c. to support new initiatives intended to have an impact on the delivery of legal services in the legal aid context (for example, mediation in family law).

AUTHORITY

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

The fund was established in 1972, at the same time as the first federal/provincial cost-sharing agreement respecting criminal legal aid.

In the past, the fund was largely reactive due in large part to the protracted federal/provincial cost-sharing negotiations and the absence of clear policy direction upon which to establish project funding priorities. In October 1984, a departmental Legal Aid Projects Working Group composed of policy, research, project and financial officers, as well as a representative of the Bureau of Program Evaluation and Internal Audit, was established. The establishment of the working group, as well as the reduction in federal/provincial tensions relating to contract negotiations, has resulted in a renewed interest in

utilization of the fund. Priorities have been established for project funding and the department has assumed a more pro-active approach to the development of proposals for funding.

Priorities identified for 1985/86 are:

a. improved delivery of services in remote areas;
b. improved delivery of services to Native people;
c. research in family law in federal areas of jurisdiction, including interprovincial enforcement;
d. national survey and/or studies on eligibility criteria and coverage standards for legal aid; and
e. alternative methods of service delivery, including paralegals, mediation and public interest advocacy.

In addition, the department has identified four further areas in which research, policy development and new initiatives are expected in this and subsequent fiscal years, as follows:

a. impact of the Charter on legal aid, both in terms of the implications of Section 15 and the effect of the Charter on the delivery of legal aid as defined in the cost-sharing agreement;
b. representation before federal tribunals. A recent Supreme Court of Canada decision regarding right to counsel in Immigration Appeal Board hearings has potentially significant implications for provincial plans and will likely result in intensified pressure for federal cost-sharing in federal administrative tribunal cases;
c. the implications of the Young Offenders Act for legal aid in the light of judicial interpretation and challenges under the Charter are not yet clear; and
d. the possibility of the transfer of civil legal aid cost-sharing responsibility from the Canada Assistance Plan (Health and Welfare) to Justice.

All project proposals are reviewed by the project officer responsible for the fund and by the departmental working group. Criteria for approval are specified in the Treasury Board minute which established the plan. In addition to priorities, the principal criteria for approval of funding requests for demonstration projects are their

potential for inclusion in the ongoing operations of the legal aid and provincial government support for the proposal. All contribution agreements must be approved by the minister on recommendation by the department's Program Assessment Committee chaired by the Assistant Deputy Minister, Policy Planning.

Demonstration projects are subject to external evaluation under the direction of the Research and Statistics sections. Contribution agreements usually include data collection requirements.

In the past two fiscal years, the fund has been undersubscribed. The department attributes this to the preoccupation on the part of the provinces and the plans with the renegotiation of the cost-sharing agreement, a lack of clear policy direction within the department and a reluctance on the part of provinces to consider new initiatives at a time in which expenditures in all areas were being reduced. In addition, provincial restraint resulted in withdrawal of financial support for the National Legal Aid Research Center. It was anticipated that the centre would promote innovative programming and generate demand on the fund. When the centre failed, the demand did not materialize. In 1985/86, negotiations are underway or agreements have been signed in six provinces and territories. Only two provinces were involved in three demonstration or research projects in the previous fiscal year.

BENEFICIARIES

The major beneficiaries of the program are the Department of Justice in respect of information gathered through conferences, consultations, research and demonstration projects, as well as the planners who participate to the extent that service delivery mechanisms are improved and services expanded. The economically disadvantaged also benefit from improved access to legal aid.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	25.3	26.7	27.7
Other O & M	.5	.5	.5
Contributions	124.9	109.3	250.0
TOTAL	150.7	137.25	278.95
PYs	.75	.75	.75

OBSERVATIONS

Staff involved with the fund recognize that prior to 1985/86, priorities for funding were not sufficiently clear to link expenditures to departmental objectives. The identification of additional policy-related staff resources and the establishment of the working group appear to have had positive effect in terms of ensuring that are expenditures related to departmental objectives.

While a cause for some concern, under-expenditures by the fund in recent years are understandable in the light of the renegotiation of the cost-sharing agreement and the essentially reactive stance which the program had assumed. In the absence of a longer term development strategy, which now seems to be emerging, demands on the fund would be expected to be variable.

Given that most provincial plans operate at arm's-length from their respective provincial governments, a third party, such as the Department of Justice, will face difficulty in attempting to develop demonstration programs in the provinces. This is particularly true when provincial governments are reducing services, as they have been for the past several years. If one accepts the validity of a federal role in the further development of legal aid delivery mechanisms, it is critical that the role be exercised in close consultation with the provinces. There is no evidence that such consultation is not occurring at the present time.

Provincial contacts, who were aware of the existence of the fund, were supportive of its intent and indicated that it was the only source of discretionary funding for legal

aid projects. They did, however, stress the importance of provincial consultation in project development, approval and evaluation. As direct beneficiaries of federal funding the directors of the legal aid plans are, as expected, also supportive of the continuation of the fund and in the more proactive role which the fund is assuming.

ASSESSMENT

In its program assessment, the Treasury Board Secretariat observed:

a. "given the plethora of research and pilot project funds available in the general area of the legal/justice/category of programs", this fund may be redundant;

b. a portion of the monies available in the legal aid cost-sharing fund could be redirected to meet the objectives of the fund; and

c. under-utilization of the fund may be further evidence of redundancy, as needs may be being met from elsewhere.

The study team does not support the TBS assessment for the following reasons:

a. legal aid policy and funding at the federal level is recognized as being primarily the responsibility of the Department of Justice. There is no apparent overlap with funding programs of the Ministry of the Solicitor General or with Health and Welfare's Canada Assistance Plan. With respect to the other funding programs of the Department of Justice, under the existing terms and conditions, the types of activities and projects funded by the Special Project - Legal Aid fund would not be eligible for funding.

b. The monies available in the legal aid cost-sharing program are for transfer payments to the provinces under the cost-sharing agreement. That program, which is administered by the same section, is not structured to fund research, demonstration projects or conferences. If the functions now performed by the Special Project - Legal Aid Fund are to be retained, the section would require

the same staff and financial resources as are now dedicated to the fund.

c. It would appear that the under-utilization of the fund is due to the reasons identified previously, rather than the availability of funding sources elsewhere.

In the view of the study team, the possibility of collapsing this fund with one or more other funds does exist. There would, however, appear to be limited benefit to such a move. Because all the demonstration funding programs are already administered by the same departmental section, there would be no savings in administrative overhead. The criteria for funding under the Special Project - Legal Aid Fund are clearly specified in its terms and conditions. Consolidation of the department's discretionary funding programs would necessitate the establishment of more general criteria. This could result in the department having more flexibility in the types of projects funded but would make it more difficult to control the demands placed on the fund and to choose amongst a larger number of competing priorities.

The Minister of Justice has the authority to reallocate contribution funds amongst the funding programs. This has been done in the past where one fund is under-utilized and there are insufficient resources to fund priority projects in other areas. The department, therefore, has some flexibility in redirecting funds to meet changing priorities, but that flexibility is, appropriately, controlled by the minister.

The study team believes this program and the other of the Programs and Projects Administration Section's contribution funding programs appear to be efficiently administered. A full-scale evaluation of the Special Project - Legal Aid Fund is beyond the capacity of this study team, but is being planned by the department's Bureau of Internal Audit and Evaluation after the report of the Task Force.

OPTIONS

A logical alternative to the status quo is termination of the program.

The study team recommends to the Task Force that the government continue the fund, without administrative change, subject to the planned evaluation by the department.

GRANT TO THE CANADIAN LAW INFORMATION COUNCIL
Department of Justice

OBJECTIVES

The purpose of the grant is to assist the Canadian Law Information Council (CLIC) in achieving its objective of: "Improving the quality and availability of legal information of all types for lawyers, researchers, the judiciary and the public generally in Canada and ensuring timely access to this information through the development of efficient and cost-effective manual and automated legal information systems".

AUTHORITY

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

CLIC was incorporated in 1973 as a charitable, non-profit corporation under Part II of the Canada Corporations Act. The statutory objects of the council, as set forth in its Charter, are:

a. generally, to promote the acquisition of knowledge of the law in Canada and its dissemination within Canada;

b. to enhance the quality and increase the availability of information pertaining to the law in Canada for the benefit of the Canadian community:

   1. by improving conventional means as well as through electronic data processing, microfilming or other means or devices; and

   2. by developing and supporting research generally in computer applications in law in Canada.

The council's three areas of priority are:

a. the improvement of publishing of statute law, regulations and case law and of the means of access to these primary sources of law;
b. the promotion of the necessary projects and programs to fill deficiencies in the substantive legal literature of Canada; and
c. the development, supply and coordination of legal materials intended for the non-lawyer with particular reference to an individual's personal rights and rights vis-à-vis government and agencies of government.

The council operates in a tiered structure which includes:

a. the full council, consisting of the general membership and including senior representatives of the federal, provincial and territorial governments, Canadian Bar Association and private bar representatives, law book publishers, the law deans, law teachers and library associations, as well as other private sector companies involved in the field. The council has overall responsibility for by-laws, funding and programming decisions and policies;

b. the Board of Governors and an executive are elected for one-year terms and have more direct control over the implementation of the full council's directions; and

c. seven advisory committees consisting of members of the council and other experts are currently constituted to provide advice on specific programs or projects and other functions such as audit and nominations.

CLIC operates offices in Ottawa and Toronto and has a staff of approximately 30 people, headed by an executive director. In 1984/85, the operating budget was $2.26 million, approximately half of which was allocated to the statutory indexing program.

The major program activity areas of CLIC and examples of specific projects within those areas are:

1. Computers and the Law: intended to promote the utilization of computer technology to assist in legal research and information dissemination and to expand available databases to that end. CLIC has developed a self-instruction program entitled Computer Assisted Legal Research: A Guide for Canadian Law Students and distributed copies to all law schools, as well as negotiated a reduced user rate on QL Systems, the major database for law students. In addition, CLIC undertook to provide QL with a French-language capability and prepared a number of proposals for database improvement and standardization.

2. Indexing: intended to improve access to statutory materials, this project involves the use of a computerized system of indexing developed by CLIC to generate indices to access government statutes. Since 1981, indices and updates have been produced for British Columbia, Ontario and Alberta. Previously, CLIC produced a manual index for Newfoundland to prove the feasibility of developing topic indices. Currently, CLIC is preparing indices for the Revised Statutes of Canada (expected to be adopted in 1986) and the Quebec statutes.

3. Public Legal Education and Information (PLEI): intended to improve public access to legal information, this activity aims at strengthening and promoting the network of PLEI organizations across Canada. CLIC's Legal Information Secretariat, located in Toronto, has been involved in developing materials for use by PLEI organizations and in providing consultation and information resource services to them.

4. Regulatory Reporter: CLIC publishes the Regulatory Reporter which reports monthly on regulatory decisions in the fields of communications, at both the federal and provincial levels, transportation and energy. This is the major source of information on the decisions of regulatory agencies in these fields.

5. Reference Centre for French Language Common Law Documentation: given the increased use of the French language in common law jurisdictions, this program is intended to encourage the development of common law materials in French and to act as a clearinghouse and reference centre for documentation and information. The centre has published a looseleaf bibliography on French language material, as well as a newsletter and personnel directory.

6. Research and Legal Literature: this activity involves the study and investigation of issues and the identification of solutions relating to areas under CLIC's mandate. Particular emphasis has been given to the case law reporting system in Canada with the intent of improving access to judicial decisions, avoiding duplication in law reports and developing standards for headnotes. Efforts also include the introduction of a standardized numbering system for court cases and the development of indices for legal literature, statutory terminology and the like.

The major sources of funding and the actual and proportionate contributions for 1984/85 were as follows:

	($000)	%
Federal Department of Justice grant	445	25
Provincial governments - grants	209	12
Law societies	97	06
Law foundations	182	10
Indexing project - contracts	360	21
Secretary of State - contracts	108	06
Regulatory Reporter - subscriptions	55	03
PLEI contracts - Dept. of Justice	123	07
Publishers & private sector membership	18	01
Other	150	09
TOTAL	1,747	

All provincial governments, except Manitoba and Yukon, contributed to CLIC in 1984. The original agreement was for the provinces to match the federal contribution, in proportion to their populations. This has not been achieved. All law societies contribute, as do all law

foundations, except Ontario's. In recent years, reductions in trust-fund interest and increased demands for funds from provincial agencies, such as the legal aid plans, have reduced the availability of foundation grants.

In addition to the grant program, in 1984/85 the Department of Justice contracted for or made contributions to CLIC for the indexing of the federal statutes, PLEI activities under the Access to Legal Information Fund, administering of the Justice exhibit at the 1984 Canadian National Exhibition and the development of a manual for program evaluation by PLEI service agencies. The activities relating to the Reference Centre for French Language Common Law Documentation are cost-shared with the Secretary of State.

BENEFICIARIES

The major beneficiaries of the grant to the council are the legal community both in and out of government, other users of law libraries, law teachers and students. In that the grant provides for a large portion of the infrastructure costs of the council, it also benefits the federal departments in that CLIC is able to undertake contract work for them.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	0	0	0
Other O&M	0	0	0
Grants	424.0	445.2	400.0[1]
TOTAL	424.0	445.2	400.0
PYs	0	0	0

OBSERVATIONS

An evaluation of CLIC is currently under way by the department's Bureau of Evaluation and Internal Audit. The

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1 The fiscal 1985/86 reduction was part of the department's effort to reduce growth in government spending.

design is currently being finalized; the evaluation expected to be completed within three months.

Support for CLIC within the legal community is high. All provincial governments participate in the committee structure, often at the deputy minister level. Quebec's participation, financially and actively, has been relatively low, primarily because of the council's emphasis on common law. However, it is understood Quebec's interest and participation has been increasing in recent years.

Treasury Board Secretariat observed that there appears to be some duplication of effort in the PLEI area between the department and CLIC. In fact, both agencies see their efforts as complementing each other and the department sees CLIC as assuming the key role in supporting the network of PLEI service organizations when the Access to Law Information fund authorization expires at the end of 1986/87. The department's three-year, $75,000-per-year contribution to CLIC is intended to enable the council to assume a central role in supporting the PLEI network across Canada when the department's initiative ends.

A new Institute of Computers and the Law has been established at the University of British Columbia. The full program has not been finalized, although it would appear that the efforts of the institute do not duplicate those of CLIC. Priorities for the institute include computer applications for law course instruction, continuing legal education and bar admission exams and computer applications in sentencing decision-making. These areas are not covered by CLIC activities.

The composition of full council and the Board of Governors is probably unique in federal/provincial justice areas in that the private sector is a full participant in decision-making. Given that the private publishers are directly affected by the council and that the council could be seen as being in competition with the publishers, the participation of the private sector is seen as essential by council staff and federal, provincial and private bar participants.

The model for project development adopted by CLIC is to identify needs, develop and implement solutions, demonstrate viability and, if it is commercially viable, pass the initiative to the private sector. This was achieved in the case of the Supreme Court of Canada's decision summaries.

The Regulatory Reporter, which is now in its fifth year of publication, is currently paying for itself through subscription fees. No private publisher has shown a desire to assume this responsibility to date, however, because of a relatively low projected profit margin.

CLIC is making recommendations regarding duplication of private sector publications and the quality of some publications, particularly headnotes, resulting in criticism of CLIC from some quarters in the publishing industry.

A major American legal database company planning to enter the Canadian market, in direct competition to QL Systems and potentially other legal publishers, has asked for membership in CLIC.

ASSESSMENT

In the absence of an evaluation of CLIC, it is difficult for the study team to assess the value of the department's contribution to the council. It can be said that support for the initiative is high among the legal community and provincial governments.

The entry of American competitors into the field may make the role of CLIC as a coordinating mechanism for legal publishers and governments more important. There has been some concern expressed on the potential loss of control over this aspect of the publication industry to foreign control.

The Treasury Board Secretariat observation regarding overlap between CLIC and Justice PLEI initiatives, does not appear to be valid in the view of the study team. CLIC is being encouraged to play a greater role in supporting PLEI initiatives and contribution funds are being directed to that purpose.

A significant reduction in the grant would likely have a snowball effect, leading to significant reductions in grants from other sources and likely negatively affect the Council.

OPTIONS

A logical alternative to the status quo is termination of the program.

The study team recommends to the Task Force that the government continue the program, subject to the results of the evaluation now underway.

DUFF-RINFRET SCHOLARSHIPS
Department of Justice

OBJECTIVES

The objective of the Duff-Rinfret Scholarship Program is to promote legal research on and advanced study of areas of law relevant to federal jurisdiction by providing scholarships for law students at the Masters level.

AUTHORITY

This is a non-statutory program. Authority for its operation derives from the annual Appropriation Acts.

DESCRIPTION

The program, begun in 1975, was initiated by the Department of Justice with a view toward producing legal scholars and materials in areas of federal jurisdiction and assisting the expansion of graduate law schools in the process. It was hoped that this program would provide scholarly work of relevance to federal policies and a pool of potential advisers informed about and concerned with legal matters of direct relevance to the federal government.

Each year seven scholarships are offered at the Masters level. In 1985/86 each scholarship is valued at $11,000 plus tuition fees, a travel allowance of $800 and a thesis allowance of the same amount.

A 1981 program evaluation conducted for the Department of Justice concluded that the program had not met its objectives. It pointed out that after its first six years of operation, at a cost of approximately $450,000, only four recipients were employed by the federal government. Moreover, the evaluation found no perceptible development of graduate schools stemming from the program. It suggested that a more effective alternative to ensure that relevant legal research was undertaken would be the giving of grants to selected law professors to prepare research materials. Termination of the program was recommended.

A 1983 report prepared by the Department's Bureau of Program Evaluation and Internal Audit concurred with the 1981 evaluation and also recommended termination of the program. The bureau concluded that while the program was

efficiently administered, it did not contribute in a substantial way to the mission and objectives of the Department of Justice.

In response to the evaluation, the program managers argued that the evaluation and the conclusions of the bureau were not valid, that the program should be retained and, in fact, that it should be expanded. They pointed out that:

a. Because the number of scholarships awarded annually had been reduced from 17 to seven in the second year of the program's operation, the initially stated objective of assisting in the development of graduate law programs became unachievable.

b. The number of graduates working in the department was not a valid measure of the benefit derived by the federal government. The majority of graduates indicated that they were working wholly or partially in areas of federal jurisdiction. Moreover, at that time (1983), almost half of all theses produced had been published. It was pointed out that federal lawyers undoubtedly benefited from that work, as well as from the subsequent research undertaken by graduates.

c. A number of administrative changes had been made since the 1981 evaluation to increase the profile and prestige of the program.

Highlighting, from the perspective of the legal and academic community, the need to encourage more graduate programs in Canada, the Consultative Group on Research and Education in Law recommended in 1983 the extension of the program to cover doctoral and post-doctoral studies and the establishment of paralleled programs by provincial governments.

The Social Science and Humanities Research Council of Canada also offers doctoral and post-doctoral fellowships which are available to lawyers, although the focus of study is not limited to areas of federal government responsibility.

BENEFICIARIES

The major beneficiaries of the program are the seven graduate students who annually receive the awards. To date, 77 students have received the scholarships. Previous evaluations have indicated that the law schools and the Department of Justice derive some minimal benefit from the program. Program managers, however, maintain that there has been considerable indirect benefit to the department in terms of the quality and quantity of research and well-trained lawyers available.

EXPENDITURES

	83/84	84/85	85/86
Salaries and Wages	16,200	17,000	17,850
Other O&M	0	0	0
Grants	82,900	95,500	95,500
TOTAL	99,100	112,500	113,350
PYs	.6	.6	.6

OBSERVATIONS AND ASSESSMENT

Two previous evaluations, as well as the Treasury Board Secretariat review, recommended termination of this program. In support, they point out that it does not contribute in substantial ways to the mission or objectives of the Department of Justice.

Program managers acknowledge that the original objectives for the program were overly ambitious, particularly in light of the reduction in the number of scholarships offered. While there has been no formal redefinition of objectives, those involved in the program now accept its objectives as being the promotion of superior legal scholarship and expertise in areas of federal jurisdiction and the development of an expanded body of legal research of relevance to federal areas of responsibility. In addition, program managers see a high-profile federal involvement in post-graduate legal education as important and worth enhancing.

The program has a fair amount of support among the legal profession. If the program was dropped or transferred

from the Department of Justice, criticism of the department's commitment to excellence in the field of legal research could be expected.

Given the need for research and development in law and the administration of justice, it is important that the limited resources available be utilized in the most effective manner. The establishment of a strategic theme in "Criminal Justice Research" by the SSHRC could permit more effective use of these resources within the context of a national strategy for the development of knowledge and expertise in the criminal justice field.

OPTIONS

The alternatives are:

1. maintain the program as currently constituted;

2. terminate the program as of March 31, 1987 and maintain the resources allocated to it within the budget of the Department of Justice to be made available for scholarships or fellowships within the context of a SSHRC strategic theme on "Criminal Justice Research" effective April 1, 1987; or

3. terminate the program as of March 31, 1987.

The study team recommends to the Task Force that the government consider terminating the program as of March 31, 1987 and maintaining the resources allocated to it within the budget of the Department of Justice to be made available for scholarships or fellowships within the context of a SSHRC strategic theme on "Criminal Justice Research" effective April 1, 1987.

CONSULTATION AND DEVELOPMENT FUND
Department of Justice

OBJECTIVES

The objectives of the fund are as follows:

a. to support innovative projects in the area of research and development in relation to non-criminal areas of law;

b. to assist in the development and/or publication of legal information materials to better inform citizens of their rights and responsibilities under the Canadian legal system;

c. to encourage consultation in relation to reports and recommendations of the Law Reform Commission in civil and administrative law; and

d. to support non-government conferences of interest to the department.

AUTHORITY

This is a non-statutory program. Authority for its operation derives from the annual Appropriation Acts.

DESCRIPTION

In 1978, the Consultation and Development Fund was established as a permanent fund replacing two smaller funds which had provided support for legal research and development as well as public legal education materials in non-criminal areas of federal jurisdiction since 1972.

Its main purposes are:

a. to provide support for the Public Law Branch in relation to policy development in constitutional and administrative law;

b. to provide support to the Policy, Programs and Research Branch in relation to non-criminal law policy development in general and family law in particular;

c. to provide support for the public legal information activities of the department not covered by the Access to Legal Information Fund, including: the Public Legal Education and Information Conference, some aspects of publication-funding including printing costs, and projects directed at target groups outside of those classified as disadvantaged, including the general public; and

d. to support activities not covered by the other discretionary funds of the department.

Priorities for funding of projects relating to constitutional and administrative law are established annually by the Public Law Branch and for family law projects, by the Policy, Programs and Research Branch. During 1985/86, the public law priorities are:

a. the Constitution: changes to Constitutional Act;

b. reform section 96; Administrative Tribunals;

c. reform of national institutions;

d. federal statutes compliance;

e. access to justice;

f. extent and nature of state interventions;

g. administrative law reform;

h. access to information and privacy;

i. extraterritorial application of Canadian law; and

j. national resources.

The priorities for family law-related funding were:

a. divorce and enforcement:

- implementation of new legislation;
- effect of divorce on children;
- effect of inadequate maintenance on children and dependent spouses;

b. national conference on mediation and conciliation;

c. rights of children in the context of family law including representation; and

d. family law and Native people.

Applications for funding are considered by the project officer in consultation with the appropriate public law and policy staff. Approval for proposals is recommended to the minister by the Projects Assessment Committee, chaired by the Assistant Deputy Minister, Policy Planning. Depending on that committee's meeting timetable, scheduled projects under $25,000 may be circulated to committee members for approval.

While the terms and conditions of the fund provide for the funding of innovative projects, during 1984/85 no demonstration projects were undertaken. The bulk of the funds are directed to legal research, conferences and publications. As a consequence, projects are not subject to a formal evaluation by the Research and Statistics Section, although all projects are reviewed prior to approval by staff from that section.

There are no comparable funds operated by the Department of Justice.

The fund is over-subscribed annually. In 1983/84, for example, funding requests totalling $1.1 million were received and in 1984/85 the department began to discourage applications when the balance available fell below $10,000 in June. In light of under-utilization of the resources available to the sentencing sub-component of the Criminal Law Reform Fund, $80,000 was transferred to the Consultation and Development Fund in 1985/86 to meet the demand there.

BENEFICIARIES

The major beneficiary of the fund is the Department of Justice as a vehicle for consultation and research to support departmental initiatives relating to public and family law.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	25.3	26.7	27.7
Other O&M	0	0	0
Contributions	141.0	160.0	240.0*
TOTAL	166.3	186.7	267.7
PYs	.75	.75	.75

* Includes $80,000 transferred from sentencing Criminal Law Reform Fund in 1985/86.

OBSERVATIONS

The fund has not been subject to a formal evaluation, although the Bureau of Management Consultants completed an "Evaluation Overview" of all "Thrust" (discretionary) funds in the department in October, 1985. That overview identified some 22 evaluation and management questions and recommended that an "Evaluation Assessment" be undertaken. (An evaluation assessment is a further review prior to a full scale evaluation of program effectiveness and efficiency.) The BMC report also recommended that the five major funds and their sub-funds be treated as one fund on the basis that management issues (unidentified) cut across all funds, client groups are unlikely to differentiate between funds and that "trade-offs between instruments" cut across funds.

With the exception of the Human Rights Law Fund which is targeted specifically to matters relating to human rights, this is the only source of non-criminal law related discretionary funding in the department for the promotion of consultation and research in public and family law areas.

In its assessment of the Department of Justice's contribution funding programs, the Treasury Board Secretariat recommended collapsing the funds to form a single contribution program.

ASSESSMENT

In the view of the study team, the possibility of collapsing this fund with one or more other funds does

exist. There would, however, appear to be limited benefit to such a move. Because all the demonstration funding programs are already administered by the same departmental section, there would be no savings in administrative overhead. The criteria for funding under the Consultation and Development Fund are clearly specified in its terms and conditions. Consolidation of the department's discretionary funding programs would necessitate the establishment of more general criteria. This could result in the department having more flexibility in the types of projects funded but would make it more difficult to control the demands placed on the fund and to choose among a larger number of competing priorities.

The Minister of Justice has the authority to reallocate contribution funds amongst the funding programs. This was done in 1985/86 where one fund is under-utilized and there are insufficient resources to fund priority projects under this fund. The department, therefore, has some flexibility in redirecting funds to meet changing priorities, but that flexibility is, appropriately, controlled by the minister responsible.

This and the other of the Programs and Projects Administration Section's contribution funding programs appear to be efficiently administered. A full-scale assessment of the Consultation and Development Fund is beyond the capacity of this study team, but is being planned by the department's Bureau of Internal Audit and Evaluation after the report of the Task Force.

OPTIONS

The logical alternatives are:

1. Continue the fund, subject to the planned evaluation by the department.

2. Increase the resources available in the fund to meet a greater portion of the demand being experienced, subject to the findings of the internal evaluation.

3. Terminate the program.

The study team recommends to the Task Force that the government continue the program, subject to the planned evaluation by the department.

GRANT TO THE CANADIAN INSTITUTE OF RESOURCE LAW
Department of Justice

OBJECTIVES

The objective of the grant is to support the Canadian Institute of Resource Law, an independent, non-profit organization which undertakes and promotes legal research, education and publications on Canadian natural resources.

AUTHORITY

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

The Canadian Institute of Resource Law is attached to the Law School at the University of Calgary. It is a highly regarded research and educational institute specializing in resource law. In addition to undertaking legal research, the insitute sponsors conferences, seminars and courses in that area of law.

From 1981/82 through 1983/84, the department provided grants of $10,000 per year for a major project entitled "the continental shelf project". The study was jointly funded by the department, the Government of Alberta and the oil industry.

In 1984/85, Treasury Board authorized a one-time grant of $25,000 for general support for the work of the institute. A similar one-time grant of $25,000 was authorized by Cabinet in 1985/86. A matching grant from EMR was also authorized by Cabinet during the current fiscal year. In both years, under-expended funds from other areas of the department's appropriation were utilized.

BENEFICIARIES

With respect to the grants made from 1981/82 through 1983/84, the Department of Justice benefitted through the product being produced, specifically, a publication resulting from a specific project. With respect to the more recent $25,000 grants, the major beneficiary is the institute itself, although the federal and provincial

governments and the public at large do benefit from the research and educational efforts of the Institute.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	0	0	0
Other O&M	0	0	0
Grants	10.0	25.0[1]	25.0*
TOTAL	10.0	25.0	25.0
PYs	0	0	0

* In 1984/85 and 1985/86, the grants were not approved in the main estimates but were given with Treasury Board or Cabinet approval from unexpended funds in other areas.

OBSERVATIONS

While the reputation of the institute is described by the department as being very good in the field, the continuation of this grant program was not afforded a high priority.

ASSESSMENT

In the view of the study team, given the absence of any clear direct benefit to the department from the sustained funding of the institute and the low priority afforded it by departmental staff, there seems little justification for the continuation of ad hoc, reallocations of funding resources to the institute, as has occurred in the past two fiscal years.

OPTIONS

As this program has not appeared in the main estimates for the past two fiscal years, and no submission proposing ongoing funding is anticipated, it is assumed that this program will disappear at the end of fiscal 85/86. Had this been an 'A' base program, termination would have been put forward as an alternative.

GRANT TO THE HAGUE ACADEMY OF INTERNATIONAL LAW
Department of Justice

OBJECTIVES

The grant is intended to support the Hague Academy of International Law's program for summer courses involving lectures from international law experts to jurists from around the world.

AUTHORITY

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

The academy has been presenting the summer courses since 1923 and has amassed a large collection of the lectures presented during the courses. Participation by jurists in the program is considered prestigious.

The work of the academy has been mainly financed by the Government of the Netherlands and American foundations. Around 1973, the American foundations ceased support and European foundations carried that portion of the funding burden until 1973 on a reducing scale. The academy then appealed to all countries with embassies in the Netherlands to support the initiative. Canada has been contributing to the academy since 1976.

BENEFICIARIES

The main beneficiary of the grant is the academy itself. Jurists, including Canadians, who attend also benefit as do experts on international law who have access to the academy's collection.

EXPENDITURES ($000)	**83/84**	**84/85**	**85/86**
Salaries and Wages	0	0	0
Other O&M	0	0	0
Grants	11.5	12.0	12.0
TOTAL	11.5	12.0	12.0
PYs	0	0	0

OBSERVATIONS

The value of participating in the support of the academy is extremely difficult to quantify. Canada's contribution is modest and it is unlikely that elimination of its grant would significantly affect the operation of the academy.

At the same time, it could be argued that given Canada's well-developed judicial system, its reliance on international trade and the priority given public international law by the Department of Justice, Canada has a responsibility to contribute to the support of the infrastructure of the international law community, an important element of which is the academy.

ASSESSMENT

There are no objective criteria upon which to judge the effectiveness of the grant or of the academy's overall program. Continued funding is supported by the Department of Justice on the grounds identified above.

Discontinuation of the grant would undoubtedly attract criticism from other countries which contribute and from the academy.

OPTIONS

The only logical alternative to the status quo is discontinuation of the grant, an option which would attract criticism but likely have minimal effect on the operation of the academy.

The study team recommends to the Task Force that the government continue the program.

GRANT TO THE BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW
Department of Justice

OBJECTIVES

This grant is intended to support the Commonwealth Legal Advisory Service (CLAS) operated by the British Institute of International and Comparative Law.

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

The Commonwealth Legal Advisory Service was established in 1963 following the 1961 meeting of Commonwealth Prime Ministers at which the need for an organization to allow Commonwealth countries to assist each other in the legal field was identified. CLAS is a central source of library services on British law and legal opinions. The service is used mainly by under-developed countries of the Commonwealth where such services do not exist, although the Department of Justice and provincial attorneys general may also access the free services of CLAS. The Institute has become a clearinghouse for information and studies on legal developments in all Commonwealth countries.

Commonwealth governments contribute toward the budget of CLAS in the same proportion as they contribute to the budget of the Commonwealth secretariat. Prior to 1978/79, the annual grant was made by the Canadian International Development Agency. Because of expenditure restraint in that year, CIDA ceased funding the service and the Department of Justice assumed responsibility.

BENEFICIARIES

The major beneficiaries of this program are lawyers and governments in third world countries who can avail themselves of the services of CLAS. The government of Canada and provincial attorneys general could also benefit in that they also have free access to the services.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	0	0	0
Other O&M	0	0	0
Grants	10.0	10.0	10.0
TOTAL	10.0	10.0	10.0
PYs	0	0	0

OBSERVATIONS

As with other Department of Justice grant programs, the benefit of the expenditure to the department is extremely difficult to quantify. The contribution is small and it is thought unlikely that the elimination of the grant would negatively affect the continuation of the service.

Department of Justice lawyers do make some limited use of the service but the primary rationale for the grant is to aid third-world governments and lawyers. Departmental legal staff estimate that approximately five out of 200 requests to the service originate from Canada.

ASSESSMENT

In the absence of an evaluation of the Commonwealth Legal Advisory Service, there are no objective criteria on which to assess the value of this program to either the third world or the Department of Justice. The initiative was clearly not seen as being of sufficient priority by CIDA to warrant funding during a period of expenditure restraint. From a somewhat narrower perspective, that of support to the development of the legal community in the third world, it is evident that the state of development of resource capacity to support legal work is limited and that the service is a valuable assistance in the effort to improve the quality of legal opinions and decisions.

There seems to be little connection between the mandate of the department and the purpose of this grant, which can best be described as technical assistance to the third world. Given CIDA's decision to drop the program in

1978/79, there seems little justification for Justice to continue with it.

OPTIONS

The logical alternative to continuing the program is to drop it on the grounds that it is of little value to the department and was not deemed to be a high priority by the major federal agency responsible for foreign assistance.

The study team recommends to the Task Force that the government consider terminating the program.

GRANT TO THE INTERNATIONAL COMMISSION OF JURISTS
Department of Justice

OBJECTIVES

The grant is intended to assist the International Commission of Jurists (ICJ), the objective of which is the maintenance of justice and respect for the legal rights of individuals throughout the free world.

AUTHORITY

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

The ICJ, which was established in 1952, is headquartered in Geneva and has a membership composed of prominent jurists from nations within the free world. It describes itself as a non-political organization dedicated to encouraging the maintenance of justice and respect for legal rights of individuals throughout the free world and to serve as the legal conscience of the world in fighting against any systematic violation of internationally recognized systems of justice.

It attempts to achieve its objectives through moral suasion, publicizing violations of the rule of law and the maintenance of a network of leading jurists throughout the free world. The commission publishes the Review of the ICJ.

Canada has been associated with the commission since 1952. In 1982/83, a Canadian branch was established. Of the $18,500 grant, $2,500 is directed to the operation of that branch.

BENEFICIARIES

The beneficiaries of this program are the jurists who are interested in and participate in the work of the commission.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	0	0	0
Other O&M	0	0	0
Grants	18.5	18.5	18.5
TOTAL	18.5	18.5	18.5
PYs	0	0	0

OBSERVATIONS

In practical terms, the impact of the $18,500 contribution to the maintenance or promotion of the legal rights of individuals throughout the free world is minimal. No objective measures of the effectiveness of the commission's work are available and the significance of Canada's contribution cannot be measured.

Canada does, apparently, have a high profile in the commission and the field of individual legal rights. The first president of the commission was the Honourable J.T. Thorson, former President of the Exchequer Court. The Province of Quebec also contributes to the commission.

ASSESSMENT

It is impossible to assess the benefit of this program, other than in terms of the value of the maintenance of contact with a network of leading jurists in this and other countries.

Discontinuation of funding could be interpreted as a lack of federal government and Canadian support for the principles of the rule of law and individual rights.

OPTIONS

The study team recommends to the Task Force that the government consider continuing the program.

RESEARCH GRANT - UNIFORM LAW CONFERENCE OF CANADA
Department of Justice

OBJECTIVES

This grant is intended to provide the Uniform Law Conference of Canada with the capacity to undertake limited research using experts external to those who normally participate in the work of the conference.

AUTHORITY

This a non-statutory program of the federal Department of Justice. Authority for the expenditure derives from the annual Appropriation Acts.

BACKGROUND

Prior to 1973, the Uniform Law Conference of Canada had virtually no funds of its own with which to undertake legal research. It was felt that the conference should have a limited budget of its own to facilitate its work, rather than having to rely in all cases on voluntary work done as and when time permits. In addition, such a budget would allow the conference to benefit from the knowledge and advice of acknowledged experts not involved in the conference itself.

The grant consists of the difference, in any given year, between the cash on hand at year end and $75,000, or $25,000, whichever of the two amounts is lesser.

Priorities for research expenditures are approved by the executive committee of the conference from among the projects approved by the conference.

Other than the monies available in the conference's general revenue fund, the conference has no other source of monies for external research.

BENEFICIARIES

The major beneficiaries of the program are the provincial, territorial and federal governments which benefit from the deliberations and products of the

conference. To the extent that uniformity in laws among the various jurisdictions is encouraged, the public also derives benefit.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	0	0	0
Other O & M	0	0	0
Grants	23.5	5.6	1.1
TOTAL	23.5	5.6	1.1
PYs	0	0	0

In each of the two previous fiscal years, the grant was $25,000.

OBSERVATIONS

While much of the work of the conference is in areas of law within provincial jurisdiction and, hence, a disproportionate benefit could be seen as being derived by the provinces, the federal government has benefitted directly from the expenditures by the conference of funds for external research. For example, external research funds have been utilized for the Uniform Evidence Act project of the conference. This, in fact, has been the major use of these funds.

While the maximum grant in any given year is $25,000, in this and the previous fiscal year the actual grant has been considerably less. Because the need for external research will vary, depending on the projects undertaken, the amount of the grant will also vary. It should be noted that the actual expenditure by the federal government on this program has not been large because of the formula established.

Without the existence of this grant for external research and the printing of materials related to the Uniform Evidence Act and the work of the Evidence Task Force, the federal government would have had to underwrite the costs of the work through some other means.

ASSESSMENT

In the view of the study team, cancellation of this program or a reduction in the maximum grant would not significantly impair the normal functioning of the conference. Its flexibility and ability to undertake particularly large or complex areas of work, such as the Uniform Evidence Act would, however, be reduced. It is likely that other ad hoc means to fund work of that type would have to be established and that the federal Department of Justice would be asked to underwrite the work. In the absence of the annual grant, it would be more difficult for the conference to fund external research in areas of provincial responsibility as it would be more difficult to justify ad hoc funding by the federal department in these cases.

The grant can be justified on the basis that the federal government does and should play a national role in facilitating uniformity of legislation, even when that legislation is primarily or wholly in areas of provincial competence. Although it is difficult to quantify, the value of the benefit accruing directly and indirectly to the federal government from the work of the conference undoubtedly exceeds the $4,000 administrative expenses grant. As the bulk of the external research expenditures to date has related to the Uniform Evidence Act, there is little doubt that the federal government has received value for money from this program in the opinion of the study team.

Treasury Board, in its program assessment, recommended collapsing the two Uniform Law Conference grants. Given that this would not reduce administrative overhead, as both grants are administered by the same section of the department, no cost savings would result. Moreover, given that the $4,000 administrative expenses grant is matched by each of nine of the 10 provinces, with the two territories and Prince Edward Island contributing $2,000 each, there is some rationale in keeping the administrative grant separate from the research grant, if both are to continue.

OPTIONS

The alternatives are as follows:

1. Retain the research grant as is or combined with the administrative grant. This would permit the

conference to continue to operate as at present and to undertake larger research projects as and when required.

2. Reduce the amount of the grant to reflect the fact that the maximum has not been given in recent years. This would not save the federal government any money, unless large projects reduced conference resources to the point where the $25,000 ceiling kicked in.

3. Eliminate the program. This would limit the conference's ability to undertake large or complex projects and could well result in future ad hoc requests for additional resources being directed to the federal government.

The study team recommends to the Task Force that the government consider continuing the program.

ADMINISTRATIVE EXPENSES - UNIFORM LAW CONFERENCE OF CANADA
Department of Justice

OBJECTIVES

This grant is intended to help defray the administrative costs of the Uniform Law Conference of Canada.

AUTHORITY

This a non-statutory program of the federal Department of Justice. Authority for the expenditures derives from the annual Appropriation Acts.

BACKGROUND

The Uniform Law Conference of Canada was established following a recommendation of the Canadian Bar Association that each provincial government appoint commissioners to attend conferences organized for the purpose of promoting uniformity of legislation in the provinces. The first conference was held in 1918 and annual conferences have been held in every year since then, except 1940. All provinces, the two territories and the federal government participate in the conference. The federal governmnent has participated since 1935.

Most provinces provide for annual grants to the conference and the sending of delegates in statute. Other jurisdictions, including the federal government, have taken no legislative action relating to the appointment of representatives or the making of grants.

The annual contribution for administrative expenses is $4,000 for the federal government and each province, except Prince Edward Island, the Yukon Territory and the Northwest Territories, which contribute $2,000 per annum. Annual contributions total approximately $46,000, with some variation due to late payments. The major administrative expenses include printing of proceedings and occasional special reports, an honorarium for the executive director and the costs of holding the annual meeting and of executive travel.

The conference is divided into three sections:

a. The Uniform Law Section, the purpose of which is to promote uniformity of legislation in Canada in those branches of law for which uniformity is desirable and practicable. Examples of uniform acts which are or have recently been the subject of work by this section include:

   - Maintenance and Custody Act;
   - Franchises Act;
   - Evidence Act;
   - Uniform Sale of Goods Act; and
   - Uniform Custody Jurisdiction Act.

b. The Criminal Law Section, the purpose of which is to study and prepare in legislative form amendments to the criminal code and related statutes. An indication of the role of this section is the fact that more than 50 per cent of the 220 resolutions passed by the section between 1977 and 1981 were adopted in Bill C-19 which died on the order paper in 1984.

c. The Legislative Drafting Section, which concerns itself with matters of general interest in the field of legislative drafting and with matters referred to it by the other two sections.

The bulk of the work of the conference is undertaken by the executive, local secretaries (in each jurisdiction), the executive director and members of ad hoc committees. conference work is undertaken in addition to the normal duties of the participants, most of whom are federal or provincial public servants.

Since 1973, the federal government has provided the conference with a small research grant with which to cover external research and related printing expenses. (See previous assessment.)

BENEFICIARIES

The major beneficiaries of the program are the provincial, territorial and federal governments, which benefit from the deliberations and products of the conference. To the extent that uniformity in laws among

the various jurisdictions is encouraged, the public also derives benefit.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	25	26	26
Other O&M	0	0	0
Grants/Contributions	4	4	4
TOTAL	29	30	30
PYs	.33*	.33	.33

* The .33 person-year ascribed to this program is in fact an estimate of the resources allocated to undertake the work of the conference. The resources allocated to grant administration are miniscule.

OBSERVATIONS

While the majority of the projects undertaken by the Conference relate to areas of law primarily or exclusively in provincial jurisdiction, some of the projects are of direct relevance to the federal government. For example, the Uniform Evidence Act now under active consideration by the Department of Justice for introduction in Parliament, is a product of the conference. In other areas, such as in the cases of the draft Franchises Act and Vital Statistics Act, which are currently being developed, the federal interest is indirect. In the case of the Franchises Act, which is an area of provincial jurisdiction, it was the federal government which proposed that uniform legislation be developed, its primary concern being the operation of franchising schemes of questionable viability. Statistics Canada has requested that the conference prepare a new Vital Statistics Act to replace the existing uniform act adopted by the conference in 1949 and currently enacted in 10 provinces and territories.

The work of the Criminal Law and Legislative Drafting Sections is of direct relevance to the Department of Justice given its responsibility for criminal law and federal legislative drafting.

If the federal government was to cease contributing to the administrative expenses of the conference, the appro-

priateness of its continued participation in the work of the conference would be in doubt. Such a move would be taken as a sign that the federal government is no longer supportive of the conference or its aims. While the conference did operate without federal government involvement between 1918 and 1935, it is impractical to envisage it doing so at the present time.

ASSESSMENT

The grant itself is relatively small ($4,000 per annum) and is matched by the provinces. The federal government derives benefit from the conference which also contributes significantly to the national legislative regime. The work of the conference is supported by the provinces.

In the view of the study team, withdrawal of the federal government from participation would detract significantly from the national objective of legislative uniformity.

OPTIONS

The only logical alternative to the status quo is to discontinue the grant. The effect of such a move would be a reduced role for the federal government in legislative reform, the elimination of an important forum for input to criminal law amendment initiatives and quite likely the need for a more expensive consultative process for the provinces and the federal government.

The study team recommends to the Task Force that the government continue the program.

GRANT TO CANADIAN ASSOCATION OF PROVINCIAL COURT JUDGES
Department of Justice

OBJECTIVES

The purpose of the grant to the Canadian Association of Provincial Court Judges (CAPCJ) is to help defray the costs of the association's annual conference and seminars, and to ensure that federal legislation and policy priorities are considered within the continuing education and professional development program of the provincial court judiciary.

AUTHORITY

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

The CAPCJ holds annual conferences and seminars for the continuing professional development of provincial court judges and magistrates. Since 1975, the Department of Justice has contributed to the cost of that program. The contribution is justified by the department on the grounds that national benefits derive from improvement in the standards of magistrates and provincial court judges who are responsible for hearing approximately 95 per cent of all criminal code cases.

The original 1975/76 grant was for $22,500. That amount has increased over the years to $70,000 in 1985/86. The grant is conditional upon receipt of at least equal provincial contributions by the association.

Additional contribution funding is occasionally given to CAPCJ by the department for specific conferences to study proposed or enacted legislation.

BENEFICIARIES

The main beneficiaries of this program are the provincial court judges and magistrates.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	0	0	0
Other O&M	0	0	0
Grants	60.0	70.0	70.0
TOTAL	60.0	70.0	70.0
PYs	0	0	0

OBSERVATIONS

Given that the provincial court judiciary hears the vast majority of criminal code cases, there is value to the CAPCJ continuing education program in promoting uniformity of application of the criminal law throughout Canada.

In addition to direct contributions to the CAPCJ, the provincial governments cover the cost of judges' travel to conferences and seminars.

ASSESSMENT

While the need for a federal contribution to the CAPCJ could be questioned, especially given increasing levels of provincial contributions, in practical terms it would be extremely difficult for the federal government to withdraw or downgrade its support, in the view of the study team. While the federal grant was never intended to be a matching grant, in the sense that as provincial contributions increased so would federal, this has been the effect of the incremental increases since 1975/76.

There has been no evaluation of the effectiveness of the CAPCJ continuing education program. It is generally accepted, however, that the quality of the provincial court bench has improved over the last decade, largely as the result of the "professionalization" of the bench through the replacement of lay magistrates with lawyers in most jurisdictions. In the study team's view, the CAPCJ program has undoubtedly contributed somewhat to the quality of the bench. There may well be a possibility of expanding the jurisdiction of that bench and reduce some of the burden on the section 96 criminal courts.

While not identified as being an objective in giving this grant, it is recognized that the existence of the association and its annual conference also provides a mechanism for the department to receive input from provincial court judges into the criminal law review process. In the absence of the association, consultation may well be more expensive than the grant.

OPTIONS

The discontinuation of the grant program would negatively affect the quality of judicial education in Canada.

The study team therefore recommends to the Task Force that the government continue the program but undertake an evaluation of its effectiveness.

CONTRIBUTION TO CANADIAN SOCIETY OF FORENSIC SCIENCE
Department of Justice

OBJECTIVES

To cover the costs of the Canadian Society of Forensic Science to assess devices intended to measure the concentration of alcohol in the blood, pursuant to the Attorney General of Canada's responsibility to approve such devices for the enforcement of the impaired driving provisions of the criminal code.

AUTHORITY

The responsibility of the Attorney General to approve "instruments" and "containers" is established in subsection 237(6) of the criminal code. The use of the Breath Test Committee of the Canadian Society of Forensic Science to advise the Attorney General on which instruments to approve is not required by statute. The authority for the contribution derives from the annual Appropriation Acts.

DESCRIPTION

The Department of Justice has been providing the society with contributions since 1976. The society is a non-profit professional association of forensic scientists. One of its committees, the Breath Test Committee, at the request of the Department of Justice, tests and evaluates devices proposed for use in the enforcement of the impaired driving provisions of the code and advises the Attorney General as to the scientific acceptability of such devices. It is the responsibility of the Attorney General to actually approve the utilization of the devices.

The committee also sets operating standards for the use of breath testing instruments to ensure accurate readings for evidentiary purposes.

In addition to the annual contribution, in 1984/85 and 1985/86, the Research and Statistics Section of the Department of Justice contracted with the society to assess the forensic aspects of new breath sample containers which would be required if the as yet unproclaimed sections of the code passed by Parliament in 1969 and 1985 (Bill C-18) are to be proclaimed in force. The amount of the contracts to

assess those types of containers was $19,272 plus DSS fees in 1984/85 and $3,568 plus fees in 1985/86.

The possibility exists of an additional contract of approximately $15,000 during the current fiscal year if a fourth container is ready for marketing. It was the assessment of the department that the cost of testing the new containers could not be covered under the amount of the contribution.

BENEFICIARIES

The most direct beneficiary of the program is the Attorney General of Canada. Arguably, all Canadians benefit to the extent that the contribution assists in the effective enforcement of impaired driving laws.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	0	0	0
Other O&M	0	0	0
Contributions	27.1	36.8	36.8
TOTAL	27.1	36.8	36.8
PYs	0	0	0

OBSERVATIONS

The responsibility for testing breath-test equipment has essentially been privatized.

In its assessment, the Treasury Board Secretariat concluded that the committee is the appropriate organization to fulfil this function.

ASSESSMENT

The study team concurs with the TBS assessment.

OPTIONS

The study team recommends to the Task Force that the government continue the program.

GRANT TO CANADIAN ASSOCIATION OF CHIEFS OF POLICE
Department of Justice

OBJECTIVES

The objective of the grant is to provide the Canadian Association of Chiefs of Police with financial resources to support the operation of the Law Amendments Committee in order to secure a continuing flow of advice on enforcement problems in the criminal law field.

AUTHORITY

This is a non-statutory program operated by the Department of Justice. Authority for expenditures derives from the annual Appropriation Acts.

BACKGROUND

At the request of the Department of Justice, the Canadian Association of Chiefs of Police's Law Amendments Committee reviews and provides, on an ongoing basis, comment on all new legislation and amendments relating to the criminal code. The annual $17,000 grant is intended to assist the committee in defraying travel and incidental costs associated with the review.

Given the degree of consultation necessary during the Accelerated Criminal Law Review process, the demand on the police community for their views regarding the proposed amendments has increased substantially. During 1984/85, legislative proposals on powers of the police, theft and fraud, search and seizure were brought forward. Current areas requiring review include amendments concerning pornography and prostitution, legal status of the police, search warrants, the procedures for identifying witnesses, classification of offences, arrest, the procedures following seizure and electronic surveillance.

As a consequence of the increased workload, the CACP has asked the Department of Justice to increase the annual grant; to date, this has not been done.

BENEFICIARIES

The major beneficiaries of this program are the police community and the Department of Justice as the grant permits consultation between the two on the content of the criminal code.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	0	0	0
Other O&M	0	0	0
Grants	17.0	17.0	17.0
TOTAL	17.0	17.0	17.0
PYs	0	0	0

OBSERVATIONS

Failure to consult adequately with the police community on criminal law amendments would have significant impact for the Department of Justice. The CACP represents the most convenient and appropriate forum through which to focus those consultations as it is the formal national association for all non-RCMP accredited police forces and maintains a high national profile.

The Treasury Board Secretariat, in its program assessment, observed that there appears to be duplication of other funds approved by Cabinet for the Review of the Criminal Code, whereby the federal agencies and department are to seek advice from the legal milieu in drafting changes and improvement to current legislation regarding law enforcement. Given the large number of grants and contributions, some of which are of relatively small in scale, Justice should, in the view of the study team, review these programs to eliminate overlaps and duplications.

ASSESSMENT

The Criminal Reform Fund, under its terms and conditions, is unable to provide for long term sustaining funding. The making of a grant is much easier administratively than is the making of the contribution

agreement. There is no duplication or overlap between this particular program and others in the department.

Rather than increase the grant at a time when demand on the committee is high, it may be more appropriate to utilize the contribution program mechanism to augment CACP resources on an ad hoc basis. This would help ensure that federal resources are utilized effectively and efficiently.

OPTIONS

Discontinuing the annual grant would be counter-productive to the necessary consultation process with police on criminal law amendment.

The study team recommends to the Task Force that the government continue the program.

SUMMER CANADA STUDENT EMPLOYMENT PROGRAM
Department of Justice

OBJECTIVES

From the perspective of the Canada Employment and Immigration Commission, the objective of the program was to provide career-related jobs in federal departments and agencies for students. From the perspective of the Department of Justice, the program provided manpower for summer education and information programs for the public regarding legal matters.

AUTHORITY

This was a non-statutory program. The department derived its authority to operate it from the annual Appropriation Acts prior to 1984/85. In 1984/85, the Appropriation Act authorized the expenditure of funds by the Employment and Immigration Commission, rather than the Department of Justice.

BACKGROUND

The Summer Canada/Student Employment Program, begun in 1973, allowed the Department of Justice to sponsor public legal education and information (PLEI) projects throughout the country.

In 1984/85, responsibility for the grants portion of the program was transferred to the Employment and Immigration Commission. The Department of Justice continued to utilize one person-year to administer the allocation of funds.

In 1985/86, the program was abolished.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	38.9	41.5	0
Other O&M	0	0	0
Grants/Contributions	765.6	0	0
TOTAL	804.5	41.5	0
PYs	1	1	0

OBSERVATION AND ASSESSMENT

Given that the program has been abolished, no observations or assessments are made or options proposed.

CRIMINAL JUSTICE RESEARCH PROGRAM
Solicitor General Canada

OBJECTIVES

The objectives of the program are to:

- design and carry out research and evaluation studies which produce and accumulate information to inform decision-makers with respect to criminal justice policies, programs, services and legislation;

- interpret and disseminate the results of research, evaluation, and experimentation to provide technical advice to provinces and local agencies to improve criminal justice practices; and

- promote the use of research findings in criminal justice policy-making and support the development of Canadian criminal justice research manpower.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditures derives from the annual Appropriation Acts.

DESCRIPTION

The program developed from the research activities of the ministry and its agencies, taking its present form in 1974 with the establishment of the Research Division within the Solicitor General Secretariat. The program provides research support to the minister and deputy solicitor general, the secretariat and the ministry agencies.

Research is conducted through the four units of the research division: corrections; police and law enforcement; causes and prevention; criminal justice policy. Depending upon the size and complexity of the project, research is done through contracting out, or by way of a collaborative approach using program staff and contractors. These approaches vary over time and with tasks. The great bulk of the work, however, is contracted out. An in-house approach will use contractors for specific research assistance and most work undertaken is collaborative - a research officer

works with a contractor to develop a project design, methodology, etc., obtains approval and manages the contract.

In-house work is normally done when factors such as speed, priority, particular expertise and security are present.

Depending upon the nature and cost of the project, contracts may be sole-sourced or go to tender through Supply and Services Canada. Projects over $50,000 are always sent for tender. Contracts are administered with 25 per cent of the agreed sum retained pending satisfactory performance. An inventory of researchers available for contract work is maintained by the Secretariat Program Branch Administration Unit.

Dissemination of research project results is by way of user reports to targeted groups of interested parties and as appropriate, internal reports, memoranda, etc. In addition, research findings may be published by the ministry in the form of technical reports or through conferences.

Research priorities are set through a committee system grouping representatives of the secretariat branches and the ministry agencies. The committees ensure that agency requirements and ministry initiatives, such as victims or crime prevention, are coordinated in an overall matrix fashion and research resources allocated.

The Department of Justice is also represented to ensure coordination of activities. Each research project has a steering committee with members from the relevant agency or department.

EXPENDITURES ($000)

	83/84	**84/85**	**85/86**
Salaries and Wages			
Other O&M	900	800	735
Capital	2,500	1,700	1,300
Grants and Contributions			
TOTAL	3,400	2,500	2,035
PYs	18	18	18

BENEFICIARIES

a. Decision-makers within the Ministry of the Solicitor General;

b. other decision-makers, federal, provincial and municipal authorities concerned with criminal justice; and

c. researchers in criminal justice.

OBSERVATIONS

The research program is driven by the policy needs of the ministry, both in terms of the minister and his deputy's immediate or short-term needs, and the requirements of the ministry agencies and the Solicitor General's approach to acting as an agent for change in the criminal justice system. The program must therefore respond to a variety of pressures, albeit within a coordinated ministry system. Equally, it must ensure a research product which is timely, relevant and of high quality for policy formulation.

The program is operated as a separate administrative unit from the ministry secretariat branches and agencies it serves. While the possibility exists of providing a research support capability internal to each branch or agency, it is considered that this would fragment the overall ministry research effort, risk diversion of longer term research resources into short term operational concerns and present coordination problems.

The committee system which defines and approves the research programs and projects is complex and reflects the need to coordinate ministry activities across a number of areas and decision centres. It is also an attempt to avoid duplication of effort between ministry elements and with other departments, in particular the Department of Justice and its research activities.

It is generally accepted by provincial contacts that research activity at the provincial level is limited in scope and tends to reflect operational needs. The federal government research effort in criminal justice is the major source of longer term, policy-based work in the field. The program has also assisted in the development and maintenance

of a criminology research capacity in Canada both within government and the private sector.

ASSESSMENT

In the view of the study team, this program is an integral part of the Solicitor General ministry's policy development process. It does not duplicate other programs. Through a continuing effort and a formal consultation structure, it coordinates with research activity in other relevant federal departments.

No program evaluation exists and measured estimations of impact and effectiveness are not possible. In terms of efficiency, the program operates appropriately and steps have been taken to respond to observations made by a 1982 internal comprehensive audit and by the Auditor General in a 1983 report. The level of contracting out appears consistent with the fluctuating demand over any given time period.

If the program was not in operation, the ministry could not properly undertake its policy development and leadership function, compromising attainment of its objectives. Further, a major source of research information available for development of the criminal justice system in Canada would be lost and the national research capacity in this field diminished.

OPTIONS

Given the infrastructure relationship of the program to the Solicitor General's ministry operation and the negative effect discontinuing the program would have on the attainment of ministry goals and the criminal justice system generally, the study team recommends to the Task Force that the government consider continuing the program.

DEMONSTRATION PROGRAM
Solicitor General Canada

OBJECTIVES

Within the context of Research and Development, the demonstration program is designed to:

- test and evaluate, in conjunction with provincial, municipal and community organizations, innovative approaches to the resolution of complex and persistent criminal justice problems;

- produce, accumulate and disseminate knowledge and information to support decision-making for criminal justice legislation policies, programs and services;

- stimulate and promote information exchange concerning new concepts and emerging issues in criminal justice; and

- increase citizen and community participation in the resolution of criminal justice problems.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditure derives from the annual Appropriation Acts.

DESCRIPTION

The Demonstration Program began in 1968 and is administered by the Consultation Centre of the ministry secretariat. It offers funding up to a maximum of three years for a variety of experimental projects in criminal justice such as service delivery models, conferences, training aids and information kits.

Applicants may be individuals, groups, organizations or governments - municipal, regional or provincial. Applications may be made through one of the Consultation Centre's six regional offices or directly to headquarters depending upon whether they are local, regional or national in scope. Either a complete detailed project proposal or a

short preliminary proposal may be submitted. For the latter, regional or Ottawa staff as appropriate will assist in preparation of a fully detailed proposal.

Proposals are screened by staff and a profile and recommendations are prepared for submission to the relevant ministry review committee. Committees are generally composed of representatives of the RCMP, National Parole Board, Correctional Service of Canada and ministry secretariat. Committees also include a Department of Justice representative.

The review committees ensure that the proposal is relevant in the context of the ministry's objectives, criteria and needs and recommend approval or rejection. Approval for funding may be given at different levels.

Selection criteria for projects require that they:

- be innovative;
- further ministry objectives and Consultation Centre priorities;
- be developed with relevant federal, provincial, municipal and voluntary agencies;
- be carried out in not more than three years;
- exhibit a high potential for local support to ensure continuance after the initial phase; and
- be developed in a systematic manner, be well-documented and have an evaluation component.

Priority is given to projects involving citizen participation at the policy and direct service levels.

Upon approval of the review committee's recommendation, applicants are contacted by regional or national staff and informed of the decision. The period between application and announcement of decision varies considerably but on average is between three and five months. Applications are received at any time with no fixed deadline dates.

The program budget is allocated among the various initiatives, such as victims, crime prevention, and according to the priorities for activities between and within those established by the ministry as part of its annual planning exercise. Budget control and program management for each initiative is the responsibility of a national program consultant located in Ottawa. The regional staff normally play a communications and project-monitoring role reporting for these purposes to the national consultant.

BENEFICIARIES

a. Provincial regional and municipal governments (police forces), and individuals; and

b. non-governmental organizations working in the criminal justice field.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	856	911	1136
Other O&M	650	575	1056
Capital			
Grants and Contributions	1,473	1,323	2,614
TOTAL	2,979	2,809	4,806
PYs	24	24	26

OBSERVATIONS

The demonstration program offers the ministry a flexible vehicle for experimentation and dissemination in developing new approaches to criminal justice and services through its various initiatives. The program's degree of flexibility and its Ottawa coordination may, however, cause some difficulty for regional staff in assessing a project's chances of support since budgets are centrally controlled. There is some feeling perhaps more decentralization of budgets or specific regional allocations would be desirable.

The program has, because of its direct support of projects involving local governments, police agencies and community groups, raised the concerns of provincial authorities. The latter consider the activities supported by the program directly related to the administration of justice and, therefore, a federal intrusion into an area of provincial jurisdiction. Also of concern is the demand for services which may be generated by demonstration projects and for which federal funding is available for up to only three years.

In Alberta and Quebec, joint committees have been established with provincial justice and Solicitor General representatives to ensure information exchange and project control. In other provinces communication is less structured and provincial concerns perhaps less well addressed.

Plans are now being developed by the ministry to establish committees with all provinces to provide a formal, ongoing mechanism for joint federal/provincial consideration of demonstration program activities and projects. It should be noted that provincial officials contacted did agree that few resources for experimentation and information dissemination were available at the provincial level and that, in general, such activity would be much less without a federal program.

ASSESSMENT

While program evaluations which include study of demonstration project support are at the final stage for the ministry's victims and crime prevention initiatives, no overall evaluation for the demonstration program as such has been done. It is, therefore, difficult to assess its impact and effectiveness.

In recent years, however, steps have been taken to more closely integrate the demonstration program with the secretariat policy development function. Evaluation components are required for any projects supported, a project evaluation responsibility allocated to the secretariat Statistics Division and an evaluation committee established with representatives from the Statistics and Research Divisions and the Consultation Centre. The Consultation Centre has also been more closely linked to the secretariat research planning process. This effort should be continued in the view of the study team.

The program does not duplicate other programs and through cross-membership on project review committees with the departments of Justice and Health and Welfare, ensures coordination of related activities. There is no duplication with provincial programs and projects must normally, for approval, involve some form of local or provincial support.

Nonetheless, in some cases, provincial justice ministries may not always be aware of projects involving local governments, police forces, community groups or other ministries. The smooth operation of the program depends upon the communication channels, formal or informal, established between the Consultation Centre regional offices and provincial officials and the individuals involved.

In the study team's opinion, there is little doubt that the program is problematic for justice ministries for reasons of jurisdiction and stimulation of demand for services. There is a need for formal mechanisms to allow joint federal/provincial coordination of development program activities.

It is clear that the federal government has, by virtue of its responsibility for the criminal law and generally as a national government, a leadership role in the criminal justice system. The exercise of this role requires the collaboration of provincial authorities where federal concerns for and action towards development of new or improved services are concerned. Since there is general agreement that significant resources for innovation are available only at the federal level, termination of this activity would likely negatively affect efforts to improve justice services to the public. However, in the view of the study team, the demonstration program must, if it is to continue, ensure provincial collaboration and, through regular and sustained project evaluation, an integration with the policy development process within the Solicitor General's department.

OPTIONS

In the study team's view, the status quo is unsatisfactory with regard to effective collaboration with provincial authorities and the full implementation of a project evaluation process.

Termination of the program would remove a federal/provincial irritant but could end the major vehicle for

service improvement and innovation currently available. Potential findings for policy development could be lost and there could be considerable criticism from community groups, particularly in social service areas such as victim services.

Continuing the program with mechanisms for provincial collaboration and close linkage with the research and policy development process within the ministry would place the program within the context of a national approach to innovation in the criminal justice system.

The study team recommends to the Task Force that the government consider the following:

1. Maintaining the program.

2. Establishing a joint committee with every province, where not already existing, to coordinate program activities in each province.

3. Streamlining procedures for project approval towardtoward reducing the period between submission of an application and notification of the results.

SUSTAINING CONTRIBUTIONS TO CANADIAN CRIMINAL JUSTICE RESEARCH CENTRES
Solicitor General Canada

OBJECTIVES

To provide support for Canadian criminological research centres to enable them to:

- carry out programs of long-term research in areas of importance to the ministry;
- disseminate effectively the results of criminological research; and
- develop Canadian criminological research manpower.

AUTHORITY

This a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditure derives from the annual Appropriation Acts.

DESCRIPTION

The contributions program was introduced in 1969 to respond to a shortage of researchers, a government policy requiring 70 per cent of research to be contracted out, and the end of Ford Foundation support to criminology centres at the University of Toronto and the Université de Montréal. The possible collapse of the two centres would, in its view, have deprived the ministry of major sources of contract researchers.

Since its initial support of the Toronto and Montreal centres, the program has expanded to cover centres at Simon Fraser University, the universities of Regina, Alberta and Ottawa, Dalhousie University and the University of Manitoba. The centres agree to use specific portions of the ministry contribution to:

a. prepare focused research reports in selected areas mutually agreed-upon by the centre and the ministry;

b. develop research manpower; and

c. sustain the ongoing operation of the centre (administrative costs, salaries, etc.) relative to the objectives defined in the agreements such as dissemination of research results.

The universities concerned agree to ensure that centres will receive matching funds (i.e. funding at least equivalent to that provided by the ministry) either from within the university or from other sources.

Focused research as used by the program refers to long-term research which examines fundamental issues in terms of their policy implications. A number of small inter-related studies can be carried out under the umbrella of a specific focused research theme. Examples of research topics are the media and the criminal justice system; the policy implications of research on the operation of parts of the criminal justice system.

Development of research manpower may be accomplished by a variety of mechanisms including awards to graduate students and the operation of graduate programs, assistance with research costs, etc. Centres are free to take the approach most appropriate in light of their circumstances.

Dissemination of research results is through symposia, workshops and conferences put on by the centres. Proceedings of these events as well as findings of research conducted by centre members are published by the centres.

Funding levels reflect:

- the length of time various centres have been supported by the ministry;

- the scope of a centre's operation and thus the extent of its research capacity;

- the presence of graduate students (especially doctoral) enrolled in criminology; and

- support of criminological research in the major regions of Canada at a level which approximates the population of these regions relative to the population as a whole.

Contribution agreements normally are for 36 months. Current amounts given annually are:

Dalhousie University	$ 25,000
Université de Montréal	130,000
University of Ottawa	30,000
University of Toronto	105,000
University of Manitoba	30,000
University of Regina	25,000
University of Alberta	25,000
Simon Fraser University	55,000

Universities must submit annually certified financial statements itemizing use of ministry- and matching-funds, along with copies of centre annual reports and conference proceedings. Six months before expiry of an agreement a university must report upon progress toward objectives specified in the agreement.

Findings of ministry-assisted research or conference proceedings may be published with appropriate acknowledgements and disclaimers. Focused research reports may be published by either the university or the ministry, subject to mutual agreement on publication modalities.

Payment of amounts under the agreements is made on a quarterly basis following receipt of a statement of expenditures by the ministry. Although contribution agreements are for a 36-month period, they are subject to annual approval of funds by Parliament.

BENEFICIARIES

Criminology research centres at the above-listed eight universities.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	15	15	25
Other O&M	10	10	10
Capital			
Grants and Contributions	400	400	425
TOTAL	425	425	460
PYs	.25	.25	.5

OBSERVATIONS

This is a research infrastructure program which assists the development and maintenance of a national research capacity in criminology and related fields. Centres provide training of human resources, research output and are elements of a research communication network. They range from well-established institutions, such as in Toronto and Montreal, with extensive, well-developed programs and activities, to new institutions at Dalhousie and Manitoba.

The degree to which centres are linked to or used by the local criminal justice communities appears to vary with each institution. The ministry does not require centres to offer services to the wider community but hopes their expertise will be used and this is the case. Nonetheless, the centres are primarily academic institutions within universities whose basic vocation is research and knowledge building rather than active community service.

In supporting the centres, the ministry considers it serves its own needs by ensuring a pool of qualified individuals available for employment or research contracts. As well, the focused research project of each centre provides findings on topics of specific interest and, of course, research done through the centres generally may be of value to the ministry.

The matching grant aspect of the program is a means of ensuring university support of and involvement with the centres and possibly attracting other non-university funds. Ministry funds have been "leveraged" to obtain more resources from elsewhere. However, newer centres may find difficulty in obtaining matching funds although the ministry has been generous in its interpretation of matching.

The degree to which the research agenda in the criminal justice area may be influenced by the Solicitor General's support of centres is a question which has been raised. To the extent that any source of research funding will influence researchers and their choice of topics, no doubt an effect is present, particularly where funding possibilities are few as in Canada. The extent of the effect is not verifiable in this case.

ASSESSMENT

No evaluation of this program has been undertaken and therefore, an assessment with regard to effectiveness, using the Comptroller General's guidelines, is not available. In terms of efficiency, the program appears to operate appropriately and is well viewed by açademic contacts. The three-year funding cycle, common to all centres, allows for standardization of procedures and relatively low administrative costs.

In the view of the study team, the program has undoubtedly assisted in the development of a Canadian research capacity in criminology since its inception. However, the degree to which it has developed a capacity that was already building through general expansion of the university system and research support through the Canada Council and, later, the Social Sciences and Humanities Research Council of Canada (SSHRC) as well as the Quebec granting agency, FCAR, is not measurable. It is probable that the funds available from the program have helped institutions and individual researchers attract other funds and provided "critical masses" of research funding. More importantly, perhaps, assistance to centres has helped criminology as a discipline achieve focus and status as well as research funding.

The linkage of the program to the ministry's own research and development effort and requirements are direct insofar as focused research projects are undertaken by centres whose results are useful. Other linkages stem from helping to ensure the existence of a pool of research expertise which can be drawn upon and are thus indirect.

In the opinion of the study team, the program is a logical component of the ministry's overall approach to helping to ensure a Canadian research capacity in criminology in order to serve its own needs and accomplish its goals. However, given the limited direct linkage and the research capacity in criminology now achieved in universities, the program's existence does not appear crucial to the ministry's research effort.

The program provides national research capacity infrastructure support in criminology. Another federal agency, the SSHRC, also provides support to criminology research although not specifically through a centres program. The Study Team on Education and Research has examined this program and proposed that it be terminated on the grounds of duplication with SSHRC support and a lack of evaluation of the program's impact and rationale.

OPTIONS

Termination of the program would likely reduce the efficiency of the ministry's communication with the research milieu. While the larger, long-established centres could probably continue without the program's support, newer and smaller centres might find more difficulty in doing so depending upon local circumstances and fund-raising ability.

Ending the program would also mean funds would be withdrawn from criminology research and training which, given pressures on other sources of support and general budget restraint, could result in an overall reduction in research activity. This could be intensified if matching funds were lost as a result of ending the federal contribution. Considerable criticism of the federal government could be expected from the research community and the administrations of those universities affected.

However, the ministry's research effort would not be directly affected by termination of the program and centres might well find alternative sources of support. Furthermore, SSHRC does now provide research funding in criminology.

Transfer of the program resources to SSHRC would benefit the secretariat, allowing the program to continue while integrating it into the federal agency responsible for general research support in the human sciences. Any such transfer should involve policy input from the Solicitor General and designation of funds for criminology research. Some simplification would be achieved together with an increase in coherence of federal non-contract support of criminology research.

The study team recommends to the Task Force that the government consider ending the program of sustaining contributions to Canadian Criminal Justice Research Centres, as of March 31, 1987.

The resources allocated to this program for contributions could be maintained in the Solicitor General ministry budget after April 1, 1987, but be made available annually to the Social Sciences and Humanities Research Council of Canada for a strategic program in criminal justice research.

SOLICITOR GENERAL'S FUND FOR INDEPENDENT RESEARCH
Solicitor General Canada

OBJECTIVES

To provide financial support and technical expertise for a limited number of relatively small research projects in order to:

- develop Canadian criminological research manpower;
- promote innovative research in areas of concern to the ministry; and
- support research designed to develop practical responses to criminal justice problems.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditure derives from the annual Appropriation Acts.

DESCRIPTION

The program was introduced in 1984 to complement existing ministry research support programs of contracts for specific projects and sustaining contributions to university criminology centres. It is designed to assist the undertaking of research projects by covering expenses such as computer time, photocopying, typing, research assistance and similar costs up to a maximum of $10,000 non-renewable. Salaries for those already on salary and overhead costs are not eligible under the program. Projects may take up to three years.

Applicants must be Canadian citizens or permanent residents and not normally associated with a criminology centre supported by the ministry. Topics proposed for funding must be relevant to the Canadian criminal justice system.

The closing date for applications is October with results announced early in the new year. Applications are screened by the Secretariat Research Division and applicants' identities removed before transmission to a

committee composed of the directors of the criminology centres at the University of Toronto, Simon Fraser University and the Université de Montréal.

Each application is sent by the committee to two external assessors for an opinion as to merit. Applications and assessors' comments are subsequently considered by a selection committee consisting of the three criminology centre directors together with the Director General, Research and Statistics, and the Director, Research Division, ministry secretariat.

In selecting among applications some priority is given to projects which are of high quality but which may not fit the immediate priorities of government departments funding research. Work which is or should be part of the evaluation or operation of governmental agencies is of secondary priority.

Recommendations of the selection committee are normally forwarded to the Assistant Solicitor General, Program Branch, for approval, although they may be sent to the minister. Upon formal approval applicants are notified and a news release is issued.

Awards are in the form of contributions and 85 per cent is paid at the time of signing the contribution agreement. The remaining 15 per cent is paid upon acceptance by the ministry of the final report of a project.

Final reports consist of a brief description of the research and its results or a published report (e.g. a reprint of an article that has been accepted or published by a referred journal). Reports are reviewed by the members of the selection committee. A statement of expenditure must also be submitted with the final report.

BENEFICIARIES

Those Canadian researchers in criminology who receive awards and are not normally associated with the criminology centres supported by the ministry of the Solicitor General under its program of Sustaining Contributions to Canadian Criminal Justice Research Centres.

EXPENDITURES ($000)

	84/85	85/86
Salaries and Wages	10.0	25.0
Other O&M	25.0	15.0
Capital		
Grants and Contributions	135.0	135.0
TOTAL	170.0	175.0
PYs	.2	.5

OBSERVATIONS

The program provides a means to encourage new approaches to existing problems in criminal justice and the definition and exploration of different research paradigms. From this perspective, the ministry is prepared to accept projects that, while of high quality, are also of high risk in terms of useful payoff in research findings for funds expended. The program is thus a means of escaping the necessarily pre-determined requirements and priorities for ministry research support using the contract route while assisting its general research effort in criminal justice.

Applicants under the program must not be associated with the eight university criminology centres funded by the ministry. This is seen as avoiding "double support" of the same researchers as well as expanding the pool of researchers known to the ministry whether within or outside the university sector. Such persons may be used for contract work in future but, in any event, diversification of contacts with the relatively small Canadian criminology research community is considered desirable per se.

ASSESSMENT

As the Treasury Board assessment notes, the program is too new for any evaluation of its effectiveness. From the viewpoint of efficiency, it appears to work well with a turnaround time from application to announcement of result that compares favourably with similar programs administered by other organizations.

The administrative cost of the program is minimal and is undertaken by existing infrastructure. Also, a significant part of the operation of the program is done by university criminology centres and academics who are not paid for this activity.

Financial and activity reporting procedures are in place and the retention of 15 per cent of awards is a useful control mechanism. The submission of research reports to the selection committee provides an appropriate review of results achieved by individual award holders and an ongoing if approximate means of gauging the program's impact.

The program is well viewed according to academic contacts and assists in developing the national research effort and capacity in criminology. It helps provide, in addition, diversification of funding sources - seen as desirable by the university research milieu - and allows the private sector to obtain support.

In the view of the study team, the program is a logical component of the ministry's overall approach to helping to ensure a Canadian research capacity in criminology in order to accomplish its own goals. However, if the program did not exist, the effect on the ministry's research effort would not be significant. It is a useful addition rather than an essential part, in the study team's view.

An alternative source of federal funding for independent research in criminology is provided by the Social Sciences and Humanities Research Council of Canada. The council's support, however, is for independent research in general, so criminology applications must compete for limited funds with those from all other disciplines. The Study Team on Education and Research has reviewed this program and recommended its termination as a duplication of SSHRC activity with minimal impact on research.

OPTIONS

Termination of the program would not directly affect the secretariat's research effort. The impact upon the overall national research capacity in criminology would not be great and SSHRC provides federal research support. Criticism could, however, be expected from the criminology research community.

Transfer of funds to SSHRC would permit the program's benefits to the secretariat to continue while integrating it into the federal agency responsible for general research support in the human sciences. Any such transfer should involve policy input from Solicitor General and designation of funds for criminology research, possibly through a strategic program. Some simplification could be achieved together with an increase in coherence of federal non-contract support of criminology research.

The study team recommends to the Task Force that the government consider the following:

1. Ending the Solicitor General's Fund for Independent Research Program as of March 31, 1987.

2. Maintaining the resources allocated to this program for contributions in the Solicitor General ministry budget after April 1, 1987, but making them available annually to the Social Sciences and Humanities Research Council of Canada for a strategic program in criminal justice research.

3. Directing the Social Sciences and Humanities Research Council of Canada to plan, in conjunction with the Ministry of the Solicitor General, the Department of Justice and appropriate provincial authorities, a strategic program in criminal justice to be implemented as of April 1, 1987.

PROGRAM OF GRANTS AND SUSTAINING CONTRIBUTIONS TO NATIONAL VOLUNTARY ORGANIZATIONS INVOLVED IN CRIMINAL JUSTICE
Solicitor General Canada

OBJECTIVES

The program is designed to:

- promote and support the development of an effective voluntary sector to participate in criminal justice issues;
- stimulate and increase enlightened public participation in the resolution of criminal justice problems;
- strengthen the capability of the voluntary sector to deliver criminal justice services; and
- provide the ministry with an effective consultation mechanism to discuss major policy and program issues.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditures derives from the annual Appropriation Acts.

DESCRIPTION

This program is administered by the Consultation Centre of the ministry secretariat and provides sustaining funding to national organizations in the criminal justice field. It grew out of consolidation of previous ministry core funding arrangements in 1983 and Cabinet approval in early 1984.

Organizations seeking support must be national, as evidenced by a national office and activities or members in a majority of provinces or regions. Their scope must be nationwide, or in the process of becoming so, and their objectives and activities complementary to those of the ministry.

Applications are processed in Ottawa for eligibility. If necessary, Consultation Centre staff assistance is available to organizations in preparing an application. Information to be supplied by organizations includes details of objectives, methods of functioning, sources of funds, proposed budget and other relevant material.

Applications are reviewed by the Consultation Centre Management Committee and then forwarded to the Ministry Committee on National Voluntary Organizations with comments and recommendations. The ministry committee is composed of representatives from secretariat branches, the National Parole Board and the Correctional Service of Canada with observers from the RCMP and CSIS. It examines applications in the context of the ministry's criteria, objectives, needs and resources, and makes a recommendation to the minister.

Funding may be in the form of grants or contributions. Grants are given for core funding of established organizations. Sustaining contributions are used to support organizations which are developing or new to the program. Ministry support may extend to 75 per cent of the organizations' core funding. At present, some 13 organizations receive funding - 10 by grants and three through contributions.

Organizations are supported for a five-year period at the end of which a full evaluation will be carried out to determine if funding will be continued. Those organizations now receiving funds have been evaluated.

Grants are paid annually at the start of the fiscal year. Organizations must submit each year a copy of their annual report and an audited financial statement. Contributions are paid according to a schedule of projected cash needs submitted by each recipient upon receipt of a financial report. Unspent monies are returned to the ministry.

A joint Ministry/Voluntary Organizations Committee has been struck to provide a framework for advice on the development and operation of the program, policy for voluntary sector support and more general matters of Solicitor General voluntary sector relations.

BENEFICIARIES

National voluntary organizations in the criminal justice field, namely:

John Howard Society of Canada	686,000
Elizabeth Fry Society of Canada	602,650
St. Leonard Society	120,400
Salvation Army	90,000
Canadian Training Institute	95,000
Seven Step of Canada	60,000
Prison Acts Federation	62,000
Church Council on Justice and Corrections	55,000
Canadian Criminal Justice Association	240,000
National Associations Active in Criminal Justice	68,000
Association des Sciences de Réhabilitation	145,000
Canadian Association of Chiefs of Police	50,000
Société Canadienne pour la justice Pénale	240,000

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	65	65	58
Other O&M	10	10	12
Capital			
Grants	1,458	1,079	2,555
Contributions			
TOTAL	1,533	1,154	2,625
PYs	1.2	1.2	1.2

OBSERVATIONS

The ministry has succeeded in putting into place a stable policy base for its support and overall relations with the national voluntary sector. It has now begun the process of operationalizing this base through the program and the joint Ministry/Voluntary Sector Committee.

ASSESSMENT

The program is new and evaluation of its impact and effectiveness awaits the passage of time. However, its administration is simple and, relative to funds distributed,

not overly costly. Personnel time is expended on liaison activities with organizations as much as on relations with the ministry on program matters which is usual in this type of activity.

It is the view of the study team that, given the federal government's national role in the justice system the program is an appropriate activity in terms of jurisdictional responsibility and does not duplicate other programs. A stable, well-functioning voluntary sector provides services, development and delivery, opportunities for experimentation and channels to dissemination of results, communication between government and citizens, increased public awareness about and definition of criminal justice issues. Moreover, if, in particular, services were not provided by voluntary organizations either the criminal justice system's functioning would suffer (and thus society generally) or the state would have to provide such services directly and likely at higher cost.

In terms of the ministry's own goals and activities, the program provides a firm base for relations with the voluntary sector, and a direct support to its policy development and research role the study team believes.

OPTIONS

Termination of the program would mean disruption of services to the justice system and to its community backing; it would probably increase justice costs and call forth considerable public criticism. Given the need for a strong voluntary sector and the benefits accruing to governments and society, the program should be maintained. However, given the program's activities, the person-year allocation may be excessive.

The study team therefore recommends to the Task Force that the government consider continuing this program and directing that a review of the person-year allocation be undertaken by the department.

EMPLOYMENT PROGRAM
Solicitor General Canada

OBJECTIVES

The objectives of the Criminal Justice Employment Development program are to:

- provide training, work experience and career opportunities for youth, women, Natives and male and female ex-offenders seeking entry or re-entry to the job market;

- facilitate the transition of target groups from unemployment or a training or educational milieu to the permanent work force;

- stimulate positive interaction and attitudinal change between target groups and the criminal justice system;

- facilitate contributions by target groups to their communities and enhance community support for, and participation in, the criminal justice system;

- improve Canadian criminal justice research capability;

- enhance ministry efforts in priority areas such as law enforcement, crime prevention, victims services, Natives, young offenders, women in conflict with the law, and corrections; and

- promote crime prevention through social development.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditures derives from the annual Appropriation Acts.

DESCRIPTION

The program allows the Ministry of the Solicitor General to utilize the Challenge '85 program of Employment and Immigration Canada to provide summer employment within

the criminal justice field for students and youth. The program consists of a project component and an internship component administered through the ministry secretariat Consultation Centre and its six regional offices.

Interns are placed within the secretariat and the ministry agencies, RCMP, National Parole Board, Correctional Service of Canada and the Canadian Security and Intelligence Service. Projects are developed through the regional offices and recommended for support to Employment and Immigration which exercises financial and administrative control. In 1984/85, Employment and Immigration undertook direct control of these job creation funds. No project activity was undertaken in 1985/86, however; funds were obtained to continue the internship program in the ministry. Employment and Immigration funds also continue to support the RCMP supernumeraries program which allows the force to provide jobs as special constables for the summer period.

The program has also been a vehicle in the past for implementation of other Employment and Immigration job creation programs involving ex-offenders and other target groups. At present, only the summer interns and RCMP supernumerary programs are operating and the ministry is examining a year-round employment program of its own in light of the possibility of Employment and Immigration withdrawal from funding federal departments.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	125	125	125
Other O&M	58	62	12
Capital			
Grants and Contributions	4,540	2,600	1,730
TOTAL	4,723	2,787	1,822
PYs	4	4	2.5

BENEFICIARIES

a. Municipal governments (police forces);

b. non-governmental organizations and working groups in the criminal justice system; and

c. unemployed individuals.

OBSERVATIONS

None

ASSESSMENT

No evaluation exists of the Solicitor General program and measured assessment of its impact and effectiveness is unavailable. Employment and Immigration is in the process of doing a general evaluation of the Challenge '85 program. However, since jobs have been created, support, as Treasury Board notes, has been given to Employment and Immigration's objectives.

In terms of the Ministry of Solicitor General's goals, the program has brought youth and the wider community into contact with the justice system in a positive manner. Furthermore, the study team believes it has allowed the ministry to pursue its agent of change role in criminal justice through a variety of projects linked to its overall initiatives.

OPTIONS

This is primarily a job-creation program and has provided employment. If the overall program is continued by Employment and Immigration, the Solicitor General component could be maintained as an appropriate delivery mechanism.

The study team recommends to the Task Force that the government consider continuing the Solicitor General's Employment Program, if a similar government-wide program is in place in subsequent years, subject to the findings of the evaluation of Employment and Immigration Canada's Challenge '85 Program.

PUBLICATIONS PROGRAM
Solicitor General Canada

OBJECTIVES

The objective of this program is to ensure that knowledge and information from ministry criminal justice research and development is disseminated effectively to various audiences including the Solicitor General and Deputy Solicitor General, the branches of the secretariat, the agencies of the ministry, policy and program decision-makers across the justice system and the general public.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditures derives from the annual Appropriation Acts.

DESCRIPTION

The Publications Program is operated by the Communications Group of the ministry secretariat which is responsible for all official secretariat publications. The program ensures:

- editing of all reports submitted for publication;
- arranging for design, artwork and graphics;
- distribution;
- arranging for reprints;
- responding to requests for publications; and
- maintaining mailing lists.

Publications include: technical reports on research or demonstration projects undertaken by or through the secretariat; ongoing series relating to criminal justice; Liaison, a magazine-format publication produced 11 times a year; bulletins and other miscellaneous publications. The program also assures publication of the ministry's annual report as well as that of the Correctional Investigator. On average, some 25 publications (excluding research reports) are processed annually.

Publication costs are normally charged to the division originating the publication which is also responsible for verification of material. Items such as the ministry's annual report and its own publications are charged to the Communications Group. Publications are primarily distributed free of charge.

Publications originating from the Programs Branch must be approved by its Dissemination Advisory Committee, as well as the Assistant Deputy Solicitor General, before submission to the Deputy Solicitor General. Approval of publications has been delegated by the minister to his deputy.

Apart from technical reports, research findings are also disseminated through user reports. Unlike technical reports, user reports are not formal publications but simply findings of a given project distributed to a defined audience with no official imprimatur. After approval for release at the division level, the program provides a cover, serial number and distribution if required.

Distribution of publications is contracted out. Printing services are obtained through the Department of Supply and Services either directly or by tender.

BENEFICIARIES

a. Federal and provincial government decision-makers and professionals in criminal justice;

b. non-government organizations and professionals working in the criminal justice system; and

c. general public.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	80	85	60
Other O&M	200	200	100
Capital			
Grants and Contributions			
TOTAL	280	285	160
PYs	2	2	2

ASSESSMENT

The program has not been evaluated and thus systematic information concerning its effectiveness is not available. A feedback mechanism through user response cards was used in one serial publication and periodic reviews of mailing lists are done. At the technical level, the program appears to function efficiently.

A publication capability for any research and development operation is vital since research findings not disseminated are of no value. There seems little question in the study team's view, therefore, that the secretariat needs a publication program to function effectively and fulfill its role in support of ministry goals. It may be, however, that the publication program could be undertaken by the private sector.

Furthermore, government regulations inhibit cost recovery of research publications. The procedures to be followed and the expense of production are prohibitive for orders of 50 to 1,000 copies. This acts as a deterrent to the effective dissemination of research findings and revenue gathering.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Maintaining the program.

2. Contracting out of the program be examined.

3. Government cost-recovery procedures for small publication orders be simplified.

NATIONAL VICTIMS RESOURCE CENTRE
Solicitor General Canada

OBJECTIVES

To identify relevant victim-related information in the following areas:

- bibliographic (including books, reports, journals, pamphlets, etc.);
- audio-visuals;
- victim service programs; and
- research and development projects.

To collect and code (including abstracting and indexing) this information and to enter it into the centre's computer database.

To provide reference and referral services to its user groups which include but are not limited to: victim service and self-help groups, federal, provincial and municipal officials, criminal justice, social service and health care professionals, researchers and educators.

To develop a network of information suppliers and consumers in the victim area to promote information sharing.

To ensure continuing development of the centre's services and capabilities in both official languages and the updating of its information base.

To ensure that users are familiar with the centre's services and systems.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditures derives from the annual Appropriation Acts.

DESCRIPTION

The program developed from Cabinet's 1981 authorization of a joint Solicitor General/Justice enhanced initiative for

victims of crime. At this point the Victim Resource Centre was to provide easily accessible information for ministry use. As a result of a Federal/Provincial Task Force on Victims of Crime recommendation and Cabinet authorization in 1984, the victims initiative was continued for a further two years. From this base, the National Victims Resource Centre was established to support effective exchange of research and development-based information and expertise among organizations and individuals involved in the development and delivery of victims programs and services. The centre searches out and acquires information, catalogues it into the ministry library, codes and inputs it into a computer database and maintains it in files or on the library shelves. The centre database has some 1,500 bibliographic records, information on over 200 victims service programs operating in Canada, detailed records of 150 victims research and demonstration projects and information about more than 600 films and videotapes available in Canada related to victims topics.

Service to clients is available through personal visits (by appointment), mail and toll-free telephone lines. Detailed information can be given by mail or visits and telephone callers can obtain:

- computer printouts of bibliographic, project and service programs information together with details of audio-visual materials and where to obtain them;

- photocopies of non-copyright information materials;

- books from the ministry library through inter-library loan; and

- assistance in obtaining information about establishment and operation of victims programs.

At this time the centre has not, given its experimental status, made a strong effort to publicize its operation. The primary clientele are agencies working for or with victims of crime rather than victims themselves. However, individual victims who contact the centre are assisted but it is not a referral service.

The centre, unless continued, will cease operations at the end of 1985/86.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages			45
Other O&M	110	110	250
Grants and Contributions			
TOTAL	110	110	295
PYs			1.25

BENEFICIARIES

a. Government and non-government professionals and practitioners dealing with or providing services to victims at the national, provincial and local levels;

b. general public; and

c. victims of crime.

OBSERVATIONS

The centre is operating on an experimental basis until March 31, 1986. Its future has been considered by the Federal/Provincial Working Group on Victims. The centre is also included in the evaluation of the victims initiative being undertaken by the Secretariat Audit and Evaluation Division.

The centre is linked to the Health and Welfare department's Clearing House on Family Violence. In the longer term, program managers see the need for a federal mechanism for coordinating and rationalizing dissemination of victim-related information. The centre itself has an advisory group with secretariat, Health and Welfare, Department of Justice and RCMP members.

The future location of the centre and its relationship to the ministry library and documentation centre will require examination and clarification in the light of the library's future role and operation. As noted in the ministry library program profile, the matter of resource centres separated from the library should be addressed.

ASSESSMENT

The centre offers a useful service and information resource to the criminal justice community. It does so without arousing provincial government concern and, indeed, its establishment reflects federal/provincial agreement. The victims-program evaluation has reported positively on the centre and recommends it continue as does the Federal/ Provincial Working Group. The study team believes it is an important element within the victims-program initiative undertaken by the federal government.

While the centre requires continued federal support, its future location and operation should be examined in the view of the study team. Advantages in resource utilization may indicate maintaining the centre within the secretariat and the ministry library but other considerations could lead to operation by the voluntary sector or the Canadian Centre for Justice Statistics, or by some other similar nationally consitituted body. In the latter case, the centre would be identified more clearly as a national resource and would have federal/provincial direction of its activities. A voluntary sector approach would also help ensure a national identity for the service, more closely involve service agencies and possibly achieve economies.

There do not appear to be arguments for termination of the program. The study team believes it is operating effectively and, given service levels at this developmental stage, efficiently. Furthermore, it is a logical part of the overall federal victims initiative program activities and is contributing to achievement of this program's objectives.

OPTIONS

The study team recommends to the Task Force that the government consider continuing the program but examine its future location.

MINISTRY LIBRARY
Solicitor General Canada

OBJECTIVE

The library is designed to collect and disseminate information to meet the requirements of the ministry by:

- maintaining a collection of 25,000 volumes, 300 sets of periodicals and 40,000 documents on microfiche dealing with criminal justice topics such as victims of crime, crime prevention, young offenders, Natives, law enforcement, corrections and parole. In addition, the library includes materials on management, government publications, bibliographies, indexes and abstracts; and

- providing access to a variety of data bases such as the National Criminal Justice Reference Service to ensure that clients receive information from other sources in an immediate, cost-effective and timely manner.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditures derives from the annual Appropriation Acts.

DESCRIPTION

The ministry library grew out of a 1969 amalgamation of the headquarters libraries of the National Parole Board (NPB) and the Correctional Service of Canada (CSC) following creation of the ministry in 1966. To avoid duplication, collections were amalgamated and services instituted on a ministry-wide basis. The RCMP, however, given its separate location and security requirements, maintains its own library.

The two main tasks undertaken relate to information services and collection building and control. Information services include:

- responses to user requests, including automated reference searching using DIALOG and QL systems which provide access to Canadian and foreign sources;

- showing clients how to use the library to obtain information;

- loan of materials;

- inter-library loans; and

- advice on relevant literature sources.

Collection building and control involves purchase, inventory, maintenance and control of library materials, and cataloguing, using the on-line catalogue support system (CATSS) provided by University of Toronto Automation Systems, Inc. This system is international in scope and allows access to catalogued collections and data banks for reference searches.

The library collection is specialized in those areas relevant to the ministry's mandate and activities. In particular, the library attempts to ensure that relevant unpublished materials, so-called "grey literature" such as reports, working papers and similar documentation, are gathered and catalogued.

The range of services provided has decreased in recent years with resource constraints combined with a growing clientele. Production of bibliographies or technical reports for users has virtually ceased or is strictly limited. Library services to clients outside the ministry have been restricted, although individuals can obtain materials through inter-library loan and/or referral by their own library. The ministry library is a "net-lender" of books under the inter-library loan system.

The library does not have formal links to other institutions in its field apart from its on-line catalogue system and inter-library loans. However, linkages are maintained through professional associations and informal contacts.

BENEFICIARIES

a. Staff of the Ministry of the Solicitor General with greatest use of services by secretariat and National Parole Board personnel as well as Correctional Service of Canada headquarters staff;

b. other federal departments, academic institutions and the private sector upon a limited service basis; and

c. individuals upon referral by their own library.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	195	210	200
Other O&M	290	192	225
Capital			
Grants and Contributions			
TOTAL	485	402	425
PYs	7	7	7

OBSERVATIONS

The library collection is unique and does not duplicate holdings elsewhere in the federal government. While some overlap exists with university collections, the latter are, in structure and approach, academically as opposed to operationally oriented. Furthermore, the library has a particular role as a centre for "grey literature", the conservation and accession of which is a growing problem and the subject of a National Library study group.

Although its services to non-ministry users are limited, the library is a strong resource within a fragmented and only slowly developing criminal justice library network. At present, the level of library service varies widely at the provincial level while collections are being started by police forces, agencies, and community groups. There is no overall list of collections.

The basic raison d'être of the library is to provide an information service to research and policy staff within the secretariat, the CSC and NPB in order to facilitate their work and ultimately assist in attaining ministry goals. However, the mandate of the library and its place within the ministry as a technical support require clarification prior to determination of appropriate human and fiscal resourcing. The Secretariat Corporate Systems

Unit is currently developing terms of reference for a study which would, if approved, examine the library's mandate, appropriate resource levels and the type, level and cost of services to be offered.

The National Victims Resource Centre is integrated with the library for technical purposes (books, loans, etc.) but is otherwise separate. While various reasons may justify creation of separate resource centres for ministry activities or initiatives (young offenders, crime prevention, for example) such a strategy may weaken the library's basic functions and confuse its role.

The library provides service to the ministry as a whole and to outside users although it is a charge to the secretariat's budget. The largest user group is estimated to be CSC followed by the secretariat and the NPB. Appropriate costing of and possible charging for library services should, in the view of the study team, be examined as part of the study noted above.

ASSESSMENT

The library is a basic ministry resource providing services to the secretariat, the CSC and NPB. It is a part of the infrastructure linked to and required by the policy, research and development roles of the ministry secretariat and agencies. Other means of providing the service are not available and its termination would negatively affect overall ministry operations, particularly within a policy development operation.

It is the view of the study team that the efficiency of library operation is generally acceptable within a situation of resource constraint. However, given limited resources and demand levels there is a need to define the mandate, services and resource levels to ensure effectiveness.

OPTIONS

Given the nature of the program as a corporate resource, termination would not bring benefits or savings. The program should, therefore, be maintained but with a better-defined mandate, services, resource levels and cost distribution among users.

The study team recommends to the Task Force that the government consider the following:

1. Maintaining the ministry library program.

2. The Solicitor General secretariat be directed to clearly define the ministry library mandate and required services and resource level.

CONSULTATION CENTRE ACTIVITIES
Solicitor General Canada

OBJECTIVES

- To identify existing or emerging needs for more efficient, effective and human services within or between individual components of the criminal justice system or between individual regions of the country;

- to support experimentation with new and innovative programs to meet such needs;

- to facilitate the development of linkages and open dialogue between the various components of the criminal justice system and to provide an ongoing consultation service as part of this dialogue;

- to provide the minister and the secretariat as a whole with a general overview of federal/provincial relations and with information concerning provincial and regional criminal justice environments;

- to develop the broadly based climate of cooperation at the community level and among other levels of government necessary for successful experimentation with new ideas for improvement;

- to encourage the implementation of new and innovative federal government policy initiatives in the community;

- to provide, through its regional offices, direct access to the ministry for other levels of government, community groups and the general public;

- to support and strengthen the role of voluntary organizations and to promote greater involvement of the general public in the concerns of criminal justice; and

- to disseminate information to assist communities to become involved in criminal justice issues.

AUTHORITY

This is a non-statutory program operated by the Ministry of the Solicitor General. Authority for expenditures is derived from the annual Appropriation Acts.

DESCRIPTION

The Consultation Centre consists of a national office in Ottawa and six regional offices across Canada. The national office provides overall management of the centre and its programs, and ensures integration of the centre with ministry plans and priorities. It directs and supports the regional offices, provides staff training, information materials and expertise and coordination for each program area.

Program areas, such as victims or crime prevention, are the responsibility of national consultants or special advisers who manage these programs and advise regional staff on their operation at the regional level. The regional consultants both operate programs mandated by headquarters and act as a liaison and communication channel with provincial and local authorities and the community.

The Consultation Centre is a service/resource organization and a delivery mechanism for several major programs previously assessed: Sustaining Funding of National Voluntary Organizations, the Demonstration Program and the Summer Canada/Student Employment Program. The centre, apart from funding activities though the Demonstration Program, offers expertise in project and community development, information services and training/education materials. Each regional office has an inventory of reference material on all priority issues of the ministry secretariat and is open to the public. Regional offices are located in Moncton, Montreal, Toronto, Saskatoon, Edmonton and Vancouver.

The Consultation Centre is used by the Young Offenders Directorate of the secretariat to deliver project funding as part of the Young Offenders Act implementation process.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	1114.8	1186.2	1448.4
Other O&M	710	704.4	1068.1
Capital	-	-	-
Grants and Contributions	2931.0	2539.2	3963.0
TOTAL	4755.8	4429.8	6479.5
PYs	31	31	35.5

Note: This resource level captures all resources allocated to the various Consultation Centre programs including those of the Demonstration Program; grants and contributions to National Voluntary Organizations, Summer Employment and Young Offenders Act implementation.

BENEFICIARIES

Provincial governments and agencies; municipal governments (police forces); non-governmental organizations; and community groups.

OBSERVATIONS

The Consultation Centre is an agent for change in the criminal justice system. It accomplishes this through the application of financial resources in specific program areas as determined by ministry policies, the creation of a climate for change, and development of consciousness of issues or needs in the community and at the official level by information and promotional activities.

In fostering change, the centre is an element of the total secretariat research and development process supporting the formulation and implementation of policy. The centre is also a primary communication channel between the ministry secretariat and the regions, provincial authorities and agencies, community groups and the general public.

There appears to be uncertainty at the regional level as to a precise definition and formulation of the centre's role and the emphasis that should be placed on creation of a climate for change or communication of ministry concerns or liaison with provincial authorities. There also seems to be some concern that regional office resources to undertake program administration, communication, liaison and community development may be insufficient for these tasks to be properly accomplished.

The centre's program administration system of overall management and budget control in Ottawa makes for a decision-making and approval process which varies considerably among projects in responding to an application. This can have negative effects on relations with the client groups concerned and, since regions do not have specific budgets, makes it difficult for regional offices to plan and advise. Moreover, in instances where projects are jointly funded with other departments, differing timeframes for the administrative procedures following approval-in-principle can significantly affect projects proceeding on schedule.

The centre does represent an irritant for provincial authorities through its demonstration program funding of projects but also by way of the community development-sensitization activities which lead to demands for services and resources. It is also felt by some that these activities are a federal intrusion into an area of provincial jurisdiction. Joint provincial/Consultation Centre committees are in place in Alberta and Quebec with more ad hoc arrangements operating elsewhere.

ASSESSMENT

The Consultation Centre and its activities are the major implementation mechanisms for the Solicitor General ministry's role as an agent of change in the criminal justice system and an integral part of the secretariat research and development function in support of the policy process. The study team believes that if the federal leadership role is to be fulfilled, Consultation Centre activities are required, given the lack of resources for experimentation and development at the provincial level. Furthermore, although the possibility of transferring delivery of programs and services to the voluntary sector exists, the obstacles to doing so in terms of

accountability, federal/provincial relations and ministry policy and operations are such as to rule out this approach in the view of the study team.

However, there is a need for the Consultation Centre to more clearly define and establish a priority among the various objectives of the centre and to clearly communicate the outcome of such an exercise to staff. Furthermore, the project submission and approval process requires examination toward overall streamlining and possible delegation of some level of decision-making authority to the regions.

To ensure closer collaboration with provincial governments, current ministry secretariat intentions to establish formal joint committees with each province should be carried out quickly. Equally, the process of integration of the Consultation Centre and its demonstration project activities into the research and policy formulation process, as noted by the Auditor General in the report of his 1983 audit of the secretariat, should be pursued and consolidated in the study team's view.

OPTIONS

Termination of the Consultation Centre could negatively affect the capacity of the Ministry of the Solicitor General to carry out research and development in support of policy as well as the exercise of its role in criminal justice.

If the Consultation Centre is to be maintained it requires better definition of, with priority accorded to, objectives, administrative improvements and the establishment of consultation mechanisms with the provinces.

The study team recommends to the Task Force that the government consider the following:

1. Closing the six Consultation Centre regional offices.

2. Locating a senior official with appropriate support in each provincial and territorial capital to liaise with justice authorities on behalf of the Solicitor General and, as required, other federal departments.

3. Administering Consultation Centre programs from Ottawa, through or with provincial and territorial authorities.

4. Reviewing the Consultation Centre objectives to give a clear order of priority.

HUMAN RIGHTS PROGRAM
Secretary of State

OBJECTIVES

To increase the enjoyment of human rights and to foster compliance with Canada's domestic and international human rights commitments.

AUTHORITY

This is a non-statutory program operated by Secretary of State. Authority for its operation derives from the annual Appropriation Acts.

DESCRIPTION

This program received its mandate from Cabinet in 1968. To enhance Canadians' capacity to act as self-reliant citizens, conscious of common interests and willing to contribute to a better quality of life in Canadian society, thus achieving full and effective citizenship.

The priorities relate to the increasing awareness and knowledge of human rights:

a. in the education system, through the provinces and voluntary organizations, involving children and youth particularly at primary and secondary school levels (national and regional priority); and

b. in the private industry and labour sectors, through national employer and employee associations (national priority).

The purpose of the above priorities is to increase the amount of funding directed to the target groups mentioned. Other types of human rights activities are fundable and in particular, regions are not prevented by paragraph `b´ above from working with employee and employer associations.

Another purpose is to increase awareness and knowledge of, as well as practical involvement in, human rights by various publics (excluding court challenges and Bora Laskin fellowships).

BENEFICIARIES

Financial assistance in the form of grants and or contributions may be provided only to the following classes of recipients:

a. voluntary organizations: A group of Canadian citizens or permanent residents who have voluntarily associated themselves for a non-profit purpose (at a national, provincial, community or neighbourhood level); and

b. non-governmental institutions: A non-profit organization, whether voluntarily or not as defined above, established to serve a membership or purpose related to a specific occupation, profession or service and which is not under the direction of any level of government. Such organizations, whether national, regional or local in scope, encourage and facilitate communication and interaction. This class of recipients includes post-secondary institutes.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries & Wages	482	869	744
Other O&M	475	453	540
Capital	3	6	1
Grants and Contributions	485	1197	980
TOTAL	1,445	2,525	2,265
PYs	22	14	18
	11 authorized	7 authorized	

OBSERVATIONS

The Human Rights Program serves as the focal point for federal activities in human rights, at the international, national and regional levels. Human rights are viewed not from a strictly legal aspect but from the perspective of citizenship development as a means of creating a sense of belonging. The program recognizes that human rights

concerns underlie, and are critical, in citizenship development by working with groups such as women, Natives, youth, visible minorities, the handicapped and minority language communities.

A recent moderate increase in the program's funding will enable it to strengthen its education and promotion activities which are the key aspects in augmenting Canadians' knowledge, awareness and enjoyment of human rights.

The initiatives in the field of human rights have just begun and will require more support from this program for the dissemination of necessary educational materials to better inform Canadians.

The study team believes that the number of cases yet to be determined by the Supreme Court, uncertainty concerning interpretation of the Charter and the report of the Committee on Equality Rights still to be processed, reinforces the previous observation.

ASSESSMENT

The Human Rights Program is currently being evaluated. The evaluation results are due in February 1986 and will address issues of program impacts, effects and possible alternatives to meet program objectives.

A recent comprehensive audit of the directorate, which delivers the program at the national level, revealed no major weakness of note. Most of the recommendations have been fully addressed or will be fully addressed by March 31, 1986.

The program is decentralized and regional offices deliver it to provincial and local non-government organizations. Its mandate is quite specific and possible duplication between this program and others is minimal.

Given the responsibility of the Canadian Human Rights Commission and the criteria of the Human Rights Law Fund, there appears to be no duplication with this fund in the view of the study team.

OPTIONS

The federal government regulates only 10 per cent of the workforce while human rights are concerns for senior levels of both the federal and provincial governments.

It is therefore essential, in the view of the study team, that in order to ensure there will be no duplication in the delivery of human rights programs and to maintain cost efficiency, that the dissemination of programs and funding be co-ordinated with provincial programs.

The study team recommends to the Task Force that the government continue the program as is, subject to evaluation considerations.

CANADIAN CENTRE FOR JUSTICE STATISTICS

OBJECTIVES

To provide, within the direction of the Justice Information Council, information on the justice system in Canada (i.e. to describe the substantive, procedural and administrative aspects of justice systems in Canada through the presentation of useful information and to support the development of information systems).

AUTHORITY

Cabinet decision 1981.
Cabinet decision 1984.

DESCRIPTION

The Canadian Centre for Justice Statistics commenced operation in June 1981. It consists of two major operating groups -- the Statistics and Information Directorate, and the Technical Assistance Directorate -- as well as units dedicated to Policy, Planning and Evaluation, Integration and Analysis, and Systems and Data Retrieval.

From an operational standpoint, the centre reports to the Assistant Chief Statistician for Social Statistics of Statistics Canada. It is also answerable to federal and provincial justice deputies, through the Justice Information Council. The Chief Statistician of Canada is also a member of the council. Major policy and program decisions are made by the Justice Information Council, supported by the Liaison Officers' Committee. Program development committees act as substantive/technical advisers to centre staff.

The justice deputies accepted the recommendation of a federal/provincial study team that a satellite operation of Statistics Canada be the focal point for a revitalized national justice statistics initiative. The satellite, while continuing to be an organizational arm of Statistics Canada, would seek to acquire the active cooperation and

support of deputy ministers responsible for justice, both federal and provincial, by undertaking to recognize their priorities and thus be able to respond more quickly and effectively to the community being served.

All justice ministers and their deputies agreed to commit resources to develop national justice statistics, management information systems and operational information. The Deputies, joining with the Chief Statistician, constituted the Justice Information Council (JIC), and are responsible for establishing the program priorities of the national justice statistics centre operated by Statistics Canada.

BENEFICIARIES

The primary clients of CCJS are the deputy ministers responsible for the administration of justice in Canada plus interest groups such as the Canadian Association of Chiefs of Police, various judges' associations (family court judges, etc.), parliamentarians, the media and the public in general.

EXPENDITURES ($000)

	83/84	84/85	85/86
Salaries and Wages	2350.3	2499.8	3309.4
Other O&M	2499.7	2769.6	2684.7
Capital	-	-	-
Grants and Contributions	-	-	-
TOTAL	4850.0	5269.4	5994.1
PYs	76	82	85

OBSERVATIONS

The centre's mandate is to describe the substantive, procedural and administrative aspects of the justice system in Canada through the presentation of useful information and to support the development of information systems.

From this mandate are derived two objectives for the centre:

a. to produce relevant, timely information on the justice system:

   - by collecting data from all jurisdictions to produce measures of the caseload, caseload characteristics and resources of each component of the justice system;

   - collecting and integrating data from other sources to enhance measures of justice system activity; and

   - by compiling information which describes justice system activity and serves to contextualize and explain the measures produced.

b. To provide a range of services designed to improve the administration of justice by assisting in the acquisition and use of information, and the introduction and use of modern technology.

Given this mandate and these objectives, the precise nature of the products and services that the centre will focus upon can be determined only through a thorough and continuing assessment of needs and priorities. Within each sector, priorities must be established between the different types of information that will be collected and produced. In 1980, the priorities for different types of information were assessed in each sector and that work will remain the basis for the continuing development and enhancement of each program area.

The Liaison Officers' Committee (LOC) is one of the federal/provincial mechanisms established to:

   - establish a coordinated approach to the collection, production and dissemination of national statistics and information for each sector; and

   - to provide support to the development of operational systems which can meet both local and national information needs.

Increasing pressure to produce court statistics has been placed on the centre by the federal Department of

Justice which has the primary responsibility for criminal law policy in Canada. The centre's number one priority at the present time is securing agreement from provincial court administrators to gather and compile data identified as necessary for statistical purposes.

The Justice Information Council of Deputy Ministers reviews and approves the multi-year program plans of the centre on an annual basis. The Liaison Officers' Committee of officials designated by their deputies guides the centre.

A concern raised by the external evaluators prior to the end of the first three-year mandate, and which has arisen again during discussions on a "Future of the CCJS" paper prepared by a member at the JIC, is the maintenance of involvement of the deputy ministers in the direction and management of the centre.

Of fundamental importance to the initiative is that the legislative authority of the Statistical Act, by itself, is not enough to ensure the successful production of national justice statistics. Maintenance of the commitment and "sense of ownership" by jurisdictions are essential ingredients to the long-term success of the centre.

At the LOC meeting held in Charlottetown in September 1985, members suggested that it was an appropriate time for JIC to reaffirm the principles upon which the federal provincial initiative and the centre are based. In particular, there is a need to reaffirm the principles of partnerships, shared responsibility for the collection and processing of data and a high level of commitment and involvement by the JIC in the direction and management of the centre.

In the view of the study team, the model of the centre and its supporting management and consultative procedures could be considered for utilization in other areas of joint federal/provincial involvement such as education, labour and health and welfare. It may have applicability to policy and research endeavours in addition to statistical analysis.

ASSESSMENT

The centre initiative retains the general support of all jurisdictions involved. All expectations regarding product, however, have not been met for a number of reasons, including:

a. the absence of information systems in all jurisdictions to feed a national statistical program in all sectors;

b. lack of clear program plans in all sectors and most notably courts and youth justice;

c. a certain amount of disagreement among key participants regarding the priority which should be given to supporting initiatives tangential to the generation of a "core" of national statistics;

d. lack of agreement on what should constitute that core; and

e. recent turnover at senior management levels both within the centre and the committee structures which support it.

A number of respondents were of the view that the centre lacks a sufficient number of high-quality analytical staff to effectively and quickly carry out its mandate and that the current structure of the Statistics and Information Directorate, which consists of a large number of small analytical units, may not be the most effective and flexible organization to undertake the major developmental initiatives necessary. These factors have also likely contributed to slowness of progress in some areas.

The committee structure which directs the centre is large and meets relatively infrequently. There are 28 members on the Justice Information Council and on the Liaison Officers' Committee. This makes it difficult for the committees to provide clear direction to the centre and to resolve identified problems.

In the view of the study team, the problems associated with the absence of information systems in the provinces will persist for some time. The technical assistance functions of the centre are designed specifically to reduce that problem but are able to do so only when a jurisdiction is ready to proceed. Improved coordination of development in key sectors involving operational, police and court systems should, the study team believes, be encouraged, to ensure the cost-effective expenditure of federal development funds.

A number of respondents expressed concern over the "integration of the centre" into the Statistics Canada bureaucracy. While there is no hard evidence that this is, in fact, occurring or that it has negatively affected the centre's ability to carry out its mandate, there exists concern that the neutrality of the centre may be affected and the sense of joint ownership of the enterprise be threatened.

A recent program evaluation concluded: "The current initiative (the Centre and its support structure of committees) represents a bold attempt to overcome a history characterized by lack of any sustained progress in the development of national justice statistics in Canada. To appreciate the progress made, the initiative must be viewed against four decades of concern over the state of national justice statistics, and 10 years of effort to develop mechanisms for improving them.... It appears, in the light of previous efforts, the most effective means of ensuring long term, sustained development of national justice statistics.... The current initiative is experimental in Statistics Canada and ... it differs from most other federal/provincial undertakings.... The unique nature of the present initiative has particular strengths arising in large part from its `joint ownership' status".

OPTIONS

The logical alternatives are:

1. Status quo. The centre is to be subjected to an external evaluation in 1988 and its future mandate can most usefully be reviewed at that time. Identified deficiencies could, however, be addressed immediately. Consideration could be given to improving the oversight capacity of the deputy ministers and liaison officers. Should a national secretariat be established, such a body could assist in directing the centre on the deputies' behalf.

2. Expand the mandate of the centre to include research and evaluation activities to better meet the needs of the non-federal jurisdictions and promote a national approach to criminal justice research. This alternative could well entail a reduction in Solicitor General and Justice departments' research resources. Given the

JUSTICE PROGRAMS

LEGAL SERVICES

Paragraphs 4(b) and 5(b) of the Department of Justice Act, R.S.C. 1970, c.J-2, charge the Minister of Justice with ensuring that the administration of public affairs is in accordance with the law and with the duty to advise the heads of government departments on all matters of law connected with such departments.

ORGANIZATION

Some 290 lawyers in the department's Legal Services Branch and nine regional offices located across the country provide legal services to more than 48 departments, agencies and other governmental bodies. Although employed by and ultimately responsible to the Department of Justice, approximately two-thirds are located in departmental legal services. Support services are provided by the individual departments.

The present method of provision of legal services to departments and agencies has its roots in the 1962 Royal Commission on Government Organization (Glassco) which recommended, subject to certain specific exclusions, that the Department of Justice assume responsibility for an integrated legal service embracing all legal staffs of departments and agencies. The commission noted that an integrated legal service would permit lawyers the "special degree of independence" necessary in order to provide impartial advice, provide for more satisfactory career prospects and better use of individual capabilities, and introduce greater flexibility to meet the intermittent needs of some departments.

Decentralization results in a better understanding of the client department's policy and program objectives and increases client access to legal advice, thus ensuring that the client's operations conform to law and making it possible to coordinate and implement an overall legal strategy across the government. As well, participation of the department's lawyers on the management team results in an understanding of policy issues which ensures that legal opinions are given in the proper context.

Duties include advising the client on contracts, real estate and other commercial agreements and transactions, drafting regulations, interpreting statutes and legal

instruments, providing legal advice to ensure that the client's policies and operations are consistent with federal statutes and other laws and agreements, legal research, identifying legal issues and developments of concern to the client, and representing the client in negotiations and before administrative tribunals.

Only the Department of Justice can contract for legal services outside government pursuant to government contract regulations. Other departments cannot hire outside "agents" without its approval. This ensures conformity with the Department of Justice Act and encourages a uniform policy on legal issues.

An assessment of legal services to departments and agencies by the Department of Justice's Bureau of Program Evaluation and Internal Audit concluded that both the quality of services provided and client satisfaction were generally acceptable. In order that legal services lawyers see themselves as part of an integrated organization, the bureau recommends more management of lawyers to improve identification with Justice objectives and avoid morale and attitude problems and better management to identify needs, resolve legal conflicts and maintain quality and improved communication and coordination. In view of this evaluation, it was not felt necessary by the study team to go over the ground it covered.

The establishing of resource levels for legal services has long been identified as a problem area both for Justice and the client departments. Client proposals to Treasury Board, particularly with regard to new programs, often fail to take into account legal service requirements, either because the client cannot quantify them at the time, fails to identify them or simply ignores them. Thus, Justice is unable to adequately evaluate future needs. Although counsel in the various departments have been of assistance in this regard, Justice usually does not participate in those departments' submissions to Treasury Board, but must make its requests often based on uncertain information regarding clients' needs. Thus, according to Justice it cannot adequately anticipate needs before they arise.

To meet these concerns, the Terms of Reference charged the Justice team with considering alternate resourcing strategies including cost-recovery and integration of resource demands.

Cost-recovery would involve developing a method of billing the client for the value of legal services rendered. Theoretically it may cut costs by encouraging the client to use legal services only where absolutely necessary; improve accountability by forcing the client to identify, with some degree of precision, its legal requirements; improve efficiency by ensuring that counsel use their time in the most effective manner; and, cause the client to appreciate the value and cost of the legal services provided, thus ensuring that it consider the implications of any program for legal costs.

Interviews with officials both in Justice and some client departments revealed a number of concerns. Cost-recovery would be expensive to administer, requiring an extensive record-keeping system which would require much valuable time when resources are now only barely able to keep pace with demand. While many lawyers in private practice keep such records, they do so in the knowledge that the client is free at any time to tax an account.

Cost-recovery would, of necessity, require the creation of a system to reconcile disputes that would arise over value of services.

Departments may fail to seek timely legal advice, thus compounding not only the problem but the eventual costs. The informality which now exists between "in-house counsel" and the client would be lost, to an extent dependent upon the level at which a decision could be made to seek legal advice. One is hardly likely to ask a casual question of counsel if the result is the generation of a legal bill.

Administratively viewed, cost recovery is illusory, in effect only moving cost around. If departments failed to make adequate use of legal services, it could be impossible to maintain cohesive government policy on legal issues. Some departments could, in the guise of consultation contracts, use outside legal advice, thus incurring even greater costs, and resulting in private sector legal opinions which conflict with Justice opinions and are inconsistent with government policy.

The present independence of counsel, viewed as essential by the Glassco Commission, may be hampered by pressure from the client to have legal advice and opinions conform to the client's wishes rather than relate to accuracy and sound government policy.

The Department of Justice audit referred to above noted that the level of legal services provided by Justice is generally regarded by the client departments as being of high quality, undoubtedly due in part to the ability of Justice to retain in government service senior lawyers with considerable expertise. Under cost-recovery, the client may seek the cheapest legal advice, which may not be the best.

Because any possible benefits would be significantly outweighed by the negative aspects, cost-recovery is not a practical alternative in the view of the study team.

A more fruitful approach would be the integration of legal service requirements with the overall resource priorities of the client who, in developing programs, should involve the Department of Justice, thus enabling both to identify, at an early stage, future legal service requirements. This can best be done by allowing departmental counsel, as a member of the management team (although not directly involved in formulating policy), to have access to information regarding policy directions and plans. All Treasury Board submissions that have implications for the use of legal services should involve Justice as a party. This has the advantage of allowing Justice to plan the use of its resources, while avoiding the necessity of justifying its resource needs in the absence of adequate knowledge of client/program needs. By better identifying the inter-relationship between client needs and availability of justice resources, Justice would then be assured that it has adequate resources to meet those needs. This is a much more logical approach in the study team's view.

A third approach was suggested wherein there would be a matching contribution of person-years between Justice and the client. While this may test the client's sincerity in the demand for increased legal services, it lacks the advantages of the integrated approach where Justice and the client apply their collective minds to the needs.

Whatever course is adopted, Justice should improve its tools for determining requirements and prepare systematic and regular reviews of base requirements for legal services in each department.

The client department should continue to provide the support services necessary to the operation of legal services within the department.

In conclusion the Justice team is of the view that:

a. The cost-recovery approach be rejected.

b. Client departments, in developing programs and determining their personnel requirements should involve the Department of Justice at an early stage where the client's future activities could create a need for additional legal services.

c. Department of Justice submissions to the Treasury Board for additional resources for legal services to departments should generally be made jointly with departments where additional legal services are required.

ROLES OF THE DEPARTMENTS OF EXTERNAL AFFAIRS AND JUSTICE IN INTERNATIONAL LAW

INTRODUCTION

International law can be broken into the components of public international law, private international law and international litigation.

Public international law usually involves relations between states in international legal matters. This includes international conferences such as Law of the Sea. It also includes the development of international treaties and to a certain extent the domestic application of such treaties.

Private international law governs the rights of individuals internationally in such matters as child abduction where the state may become involved because of the international nature.

International litigation may contain elements of public international law and/or private international law but at a level where the matter is to be heard by a body which will decide the respective rights of the parties.

While each department recognizes a role for the other in all three areas of international law, the difficulty lies in who should have the lead role in each. The most contentious area is that of international litigation as it relates to international disputes between states.

AUTHORITIES

Department of Justice

The Department of Justice generally provides legal services to the different government departments through lawyers at headquarters and lawyers working in the respective departments reporting to the Department of Justice. The Department of External Affairs is an exception to the rule in that it has traditionally provided its own legal services.

The Department of Justice Act provides that:

"4. The Minister of Justice shall:

(a) be the official legal adviser of the Governor General and the legal member of Her Majesty's Privy Council for Canada;
(b) see that the administration of public affairs is in accordance with law;
(d) ... generally advise the Crown upon all matters of law put to him by the Crown;"
..."

"5. The Attorney General of Canada shall:
...
(b) advise the heads of the several departments of the Government upon all matters of law connected with such departments; and
...
(d) have the regulation and conduct of all litigation for or against the Crown or any public department, in respect of any subject with the authority or jurisdiction of Canada...".

Department of External Affairs

The Department of External Affairs, contrary to most departments, has traditionally been responsible for provision of its own legal services. Because its legal branch concentrates more on international law, External Affairs has agreed to establish a unit of Department of Justice lawyers at External Affairs for the provision of domestic legal services.

As authority for legal services outside the Department of Justice, External Affairs referred the study team to an Order-in-Council of February 19, 1913 which originally provided the department with authority in legal matters. It is recognized that the Order-in-Council does not today represent the department's authority, but according to the department, it was the historical predecessor to the legal authority now provided under the Department of External Affairs Act. The 1913 order provided that a legal advisor be appointed with the following functions:

"To have charge of the legal work of the Department of External Affairs; to advise the Government and the department on questions of international law, the ratification, denunciation and interpretation of

treaties, and matters involving the Dominion's international and Imperial relations; to prepare the text of treaties, legislation and Orders-in-Council respecting Imperial and foreign affairs; and for Parliamentary material explanatory thereof; to prepare references to the International Joint Commission and similar arbitrarial tribunals, and to prepare the argument on behalf of Canada; to attend International and Imperial Conferences in an advisory capacity; to undertake confidential missions abroad as directed, and to perform other work as required."

The relevant provisions of the Department of External Affairs Act provide:

"11(1) The powers, duties and functions of the Minister extend to and include all matters over which the Parliament of Canada has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to the conduct of the external affairs of Canada, including international trade and commerce and international development.

(2) In exercising his powers and carrying out his duties and functions under this Part, the Minister shall...

(b) conduct all official communication between the Government of Canada and the Government of any other country...
(c) conduct and manage international negotiations as they relate to Canada...
(j) foster the development of international law and its application in Canada's external relations...".

The study team was also referred to the Royal Commission on Government Organization (the Glassco Commission, (Volume 2, 1962, Chapter 11), wherein the Commission supported independent legal services for the Department of External Affairs because international law "is distinctly different from the subjects of domestic and constitutional law with which solicitors in Justice and other Canadian departments must deal. International law is intimately bound up with high policy questions and relationships with other nations."

Department of External Affairs Position

External Affairs is of the view that it must maintain independent legal services from Justice due to its legal responsibilities as set out in the Department of External Affairs Act, specifically its responsibility to conduct and manage international negotiations and foster the development of international law.

It views public international law as a foreign policy function falling squarely within the department's mandate, but also recognizes a role for Justice. In the treaty area for example, External Affairs is responsible for negotiations and should also have the lead in their domestic application, but with input from Justice and other concerned departments.

Private international law is not so clearly a foreign policy matter, although at times it is difficult to distinguish from public international law. In practice, External Affairs leaves the lead role to Justice as External Affairs does not have sufficient resources to deal with it. Therefore, Justice plays the lead role but consults External Affairs.

The most contentious area is that of international litigation between states, which External Affairs views as foreign policy in another forum. When international matters go to international litigation, the lead should remain with External Affairs. It does not accept a solicitor/client relationship in this area. External Affairs must have control of the preparation and presentation of Canada's case. However, it does wish to consult Justice and benefit from Justice's resources.

Department of Justice Position

Justice recognizes that the existing situation is that External Affairs has the lead in public international law and Justice has the lead in private international law and there is consultation with the other in both areas. There is some concern however, as to the extent to which External Affairs should have the lead in public international law. There is no difficulty with such matters as Law of the Sea conferences, as the goal is to foster the development of international law. However, when dealing with legal disputes short of litigation, such as the legal interpretation to be given certain matters such as GATT

agreements, Justice does question how External Affairs could play a legal advisory role given the terms of the Department of Justice Act.

In international litigation, the difficulty is more fundamental. A lawsuit is a lawsuit and the expertise rests with Justice. Once a matter is beyond negotiations, the lead should be with the Department of Justice.

PRECEDENTS

The departmental jurisdictional differences in international litigation surfaced specifically in two matters: the Gulf of Maine dispute in 1980 and more recently, the La Bretagne dispute.

In Gulf of Maine, at issue was a boundary dispute between Canada and the United States. The two departments disagreed over which should have responsibility for presenting Canada's case. It was decided, with PCO involvement, that the Department of External Affairs should appoint the agent, but that counsel from each department should be involved.

In La Bretagne, at issue were the fishing rights of France in the Gulf of St. Lawrence. The Department of Justice did not recognize Gulf of Maine as a precedent, being of the view that each situation should be looked at on its own. The matter was resolved between the two departments by recognizing the agent role in External Affairs with an overview in preparing and arguing the case; senior Justice personnel would supervise and direct the marshalling of arguments and preparation of the case.

CONCLUSION

Each department recognizes a role for the other in international law and each describes the relationship as a partnership. Disputes such as occurred in Gulf of Maine and La Bretagne are exceptional but one must question the potential impact that they could have on Canada's future interests in international litigation in particular.

The alternatives to consider are to maintain the status quo or to resolve disputes between the departments.

Maintaining the status quo could be rationalized on the basis that disputes such as occurred in the "Gulf of Maine"

and "La Bretagne" cases are relatively infrequent and that when they do arise, issues are eventually resolved. The departments generally appear to have developed a working relationship and each recognizes the necessary participation of the other.

A solution could be attained through one of the following options:

a. recognize in External Affairs the lead responsibility for international law generally, with necessary input from Justice;

b. recognize in Justice the lead responsibility for international law generally, with necessary input from External Affairs;

c. confirm the lead responsibility for External Affairs in public international law, the lead responsibility for Justice in private international law and determine who should have the lead for international litigation -- again with necessary input from the other department in each area; and

d. have Justice provide all legal services to External Affairs including the area of international law, in a manner similar to what exists for most other federal departments, recognizing External Affairs as the client in international law.

The study team is of the view that the status quo is inadequate and that some change is required based on consideration of the arguments on both sides.

The options are to:

a. maintain the status quo, accepting that the occasional dispute can be resolved;

b. recognize in External Affairs the lead responsibility for international law with Justice participation;

c. recognize in Justice the lead responsibility for international law with External Affairs participation;

d. confirm the lead role in External Affairs in public international law, the lead role for Justice in private international law and determine who should have the lead in international litigation; and

e. expand the role of the Department of Justice unit at External Affairs to include international law as well as domestic law.

The study team recommends to the Task Force that the government consider expanding the role of the Department of Justice unit now at External Affairs to include legal services in international law. This would establish at External Affairs the same manner of provision of legal services as now exists in most federal departments and in the Department of Justice. By providing in-house counsel to External Affairs, this would be sensitive to External Affairs' concerns. It would in the study team's view resolve disputes between the two departments in international litigation where the relationship would be one of solicitor/client, with External Affairs because of its international obligations being the client, and with Justice having responsibility for the conduct of litigation through its litigation experts.

HUMAN RIGHTS AND THE DEPARTMENT OF JUSTICE

With respect to human rights, three of the departments involved are: the Secretary of State (which has the lead role), the Department of External Affairs and the Department of Justice. The relationship between the three departments has never been formalized in law. In 1984, Cabinet, however, did outline the role of the departments involved in human rights and confirm the lead role of Secretary of State.

In 1968, Cabinet designated the Secretary of State to serve as the central point of reference for the federal government's domestic interest in human rights and called upon that department to implement a continuing educational program to promote human rights in Canada. In 1975, the continuing Federal/Provincial/Territorial Committee of Officials Responsible for Human Rights was established to coordinate Canada's implementation of its obligations under international covenants on human rights with the department providing the chairperson. The department mainly promotes human rights through grants to voluntary groups and further educational activities as well as provides a supporting secretariat for the federal/provincial/territorial committee on human rights. The scope of the Human Rights program has been somewhat expanded with the coming into force of the Charter.

The Department of External Affairs is responsible for the development and pursuit of the international human rights policy of the Canadian government. This policy is developed in consultation with other Canadian departments and agencies concerned, and has as its broad objective the promotion of fundamental civil, political and economic rights on a global basis. The department pursues this policy through representation at the United Nations and its subsidiary organs, in other multilateral institutions, and in Canada's bilateral relations with individual states. Wherever appropriate, representations are made to national governments on human rights situations of general concern to the international community or of particular concern to Canada. External Affairs mainly provides Secretary of State with the expert advice necessary for effective response by Canada to its international obligations in the area of human rights.

Subsequent to the enactment of the Canadian Charter of Rights and Freedoms, the Department of Justice undertook a systematic review of all federal legislation to ensure compliance with the Charter. The Department of Justice also reviews proposed legislation to ensure it is compatible with the Charter. The department advises and cooperates with the Department of External Affairs and the Secretary of State in ensuring that Canada complies with international obligations and, with them and other departments involved, deals with complaints by Canadians to the United Nations. The Department of Justice also administers a Human Rights Law Fund to provide financial assistance to projects undertaken by non-governmental groups relating to human rights.

Justice has had, at times, diverging views with Secretary of State on its role in human rights. Justice feels that it should have a legal role that encompasses a fairly important policy function flowing from its lead role with respect to the Charter and any litigation that may arise out of the Charter. Justice is also of the view that it is not as responsive as it should be to Secretary of State requests in view of limited Justice resources. It feels that more mechanisms would have to be found in order to set priorities for Secretary of State requests. Secretary of State, on the other hand, believes that Justice is not a good forum for the formulation of policy on human rights issues as it is often in conflict with others as a result of its responsibilities for the enforcement of the Charter.

With respect to External Affairs, Justice takes the view that all human rights issues that have international implications only, such as responses to the United Nations, should be handled by that department, provided there are no domestic law implications. External Affairs agrees with this view.

The study team interviewed senior officials at Secretary of State, External Affairs and Justice and found that,generally, the relationship between the three departments works fairly well. Although not formalized in law, responsibilities are sufficiently defined so as to avoid overlap or duplication. Coordinating mechanisms such as the Interdepartmental Committee on Human Rights provide a forum for consultation of all departments involved in human rights issues. Officials agreed that from time to time confrontations arise but a solution is always found.

Statutory formalization of the human rights' Secretary of State/External Affairs/Justice relationship would be difficult to achieve as human rights questions very often have promotional/advisory elements (Secretary of State), domestic law/Charter implications (Justice) and international issues (External Affairs). The present structure is flexible enough to permit all government departments that have an interest in human rights to have an input on a given question while providing Secretary of State with the support it needs to exercise its leadership role. Also, other departments such as Employment and Immigration might wish to have their role formalized with respect to labour market issues that have an impact on human rights.

DEPARTMENT OF CONSUMER AND CORPORATE AFFAIRS

The Department of Consumer and Corporate Affairs (CCA) is involved in three major activities.

1. The Bureau of Corporate Affairs looks after:

   a. intellectual property, which includes:

      - patents;
      - trade marks;
      - copyrights; and
      - industrial design.

   b. bankruptcy matters; and

   c. the incorporation of federal companies and related matters.

2. The Bureau of Competition Policy concerns itself with:

   a. the administration and enforcement of the Combines Investigation Act, which deals with:

      - conspiracy with respect to trade;
      - mergers;
      - monopoly; and
      - pricing practices.

   b. the promotion of competition policy considerations;

   c. the economic and social significance of an effective competition policy;

   d. the development of federal economic policies;

   e. economic analysis of competition policy issues in support of the bureau's policy and enforcement activities; and

   f. the briefing of the minister regarding the representation of Canadian interest pertaining to competition and trade issues in the international fora.

3. The Bureau of Consumer Affairs is responsible for:

a. management services;
b. consumer services e.g. business relations;
c. aspects of the Energy Program;
d. legal methodology e.g. weights and measures; and
e. product safety.

The Department of Justice provides legal service to CCA, by assigning lawyers to that department. In doing so, Justice provides legal advice to CCA on litigation to be undertaken on consumer matters and participates in policy development pertaining to consumer and corporate affairs.

The major legal issue that exists between the Department of Justice and CCA with respect to intellectual property is in the area of investigation of trade functions. The Bureau of Competition Policy has the authority, by law, to investigate trade practices and yet when it finds that such practices infringe the law, it must turn the matter over to the Department of Justice. Justice then considers whether charges should be laid and if so, will select the lawyer who will conduct the prosecution. Where the lawyer is from the private sector, CCA will have to pay the lawyer's fee, travel and living expenses. The bureau is of the view that this is unfair and that Justice should pay the costs since the investigator's (CCA) file is turned over to Justice. CCA feels it is the function of Justice to make all the decisions thereafter, such as determining whether charges should be laid, selecting the lawyer and later, deciding whether an appeal should be taken.

The bureaus of Competition Policy and Bankruptcy, prior to 1967/68, were part of the Department of Justice. The question one would ask is whether they should be returned to the Department of Justice as a better rationalization of legal services and more specifically criminal prosecutions. No compelling reason has been found for doing so although there is some argument for and against such a propositon. Unless it is patently clear that such a move will increase efficiency and effectiveness, the status quo should be maintained in the view of the study team.

YOUNG OFFENDERS PROGRAM
Solicitor General Canada

OBJECTIVES

To ensure that the scheme of juvenile criminal justice provided for in the Young Offenders Act is implemented on a timely and effective basis.

AUTHORITY

The Young Offenders Act.

DESCRIPTION

The Young Offenders Act was given Royal Assent on July 7, 1982 and proclaimed in force on April 2, 1984.

The uniform maximum age provision became effective April 1, 1985.

The reforms introduced by the new legislation include:

a. statutory recognition of alternative measures (diversion);

b. adoption of the Criminal Code provisions governing pre-trial release and detention;

c. minimum age of criminal responsibility at 12 years of age and uniform maximum age at "under-18";

d. specific dispositional (sentencing) options that emphasize community-based sanctions and reparation to the victim;

e. determinate custodial sentences involving extensive judicial control of the administration of the disposition (there is no provision for parole or earned remission);

f. application of the Identification of Criminals Act to young people (fingerprints and photographs);

g. retention of youth court records for purposes of justice administration beyond the individual's

eighteenth birthday, subject to the records destruction provisions;

h. destruction of all records pertaining to an individual, providing he or she remains free of any subsequent convictions for specified periods of time following the completion of all dispositions;

i. open courts, permitting public attendance and full media coverage, except that the name and/or identity of young persons cannot be published;

j. rights to appeal that parallel those of adults; and

k. right to legal representation at all stages of a proceeding under the Young Offenders Act where a decision that may have adverse consequences for the young offender can be taken.

Statutory responsibility for the Young Offenders Act rests with the Solicitor General and the related federal activities/initiatives are discharged by the Solicitor General Secretariat, notably, the Young Offenders Directorate.

At present, the directorate consists of 26 person-years and the personnel complement is expected to increase to approximately 30 person-years when the administrative structures for the financial agreements are fully operational. In 1985/86, the directorate is accountable for roughly $160 million covering all of its activities.

The directorate is part of the Secretariat, Policy Branch and its structure reflects its major activities. As such, it is organized into four sections, reporting to the Director General.

Financial Administration Section: Responsible for the management of the federal/provincial cost-sharing agreements that are effective from April 2, 1984 to March 31, 1989. ($139 million has been allocated for transfer payments in 1985/86). The administration of this program requires that the directorate review and assess periodic claims submitted by provincial and territorial governments and ensure that appropriate annual audits and reconciliations occur.

Program Development Section: Responsible for the management (review of proposals, establishment of priorities, etc.) of two implementation support initiatives which expire March 31, 1986:

a. Program Development - A contribution fund ($5.6 million over three years) was established to assist in the implementation of the new Act; promote innovative juvenile justice services; and, encourage technology transfer of juvenile justice experience and expertise. This program is administered in conjunction with the Consultation Centre. The present activities focus mainly on service delivery to young offenders through private sector organizations and provinces. In total, 39 contribution agreements and contracts have been approved.

b. Communications - This initiative ($0.5 million over three years) was established to disseminate relevant Young Offenders Act material to the juvenile justice community and the public at large. One project, the Young Offenders Act Highlights booklet, has recently been revised.

Information Systems and Evaluation Section: Responsible for the development and management of two initiatives which expire March 31, 1985:

a. Systems Development - This program ($12 million over three years) was established to support the development by jurisdictions of Young Offenders Act-related record-keeping and information systems and to support the development of juvenile justice statistical surveys. Contribution agreements and project planning have been initiated in every jurisdiction.

b. Research and Evaluation - This program ($2.9 million over three years) was established to carry out and coordinate research in order to assess the impact of the new Act.

Policy Section: Responsible for the development of advice and the conduct of policy studies in response to ongoing and emerging juvenile justice issues, including legislative amendments. The section is also responsible for

the coordination of federal/provincial consultation mechanisms and the finalization of the cost-sharing agreements.

In March 1983, in anticipation of the proclamation of the new Young Offenders Act (April 2, 1984), the federal government initiated detailed discussions with provincial and territorial governments to redefine a mutually acceptable program of federal contributions in support of juvenile justice services. These negotiations culminated in the establishment of an "Agreement in Principle" with 11 jurisdictions and a conditional endorsement of the arrangements by the Province of Ontario by September 1984. Subsequently, a detailed "Memorandum of Agreement" was developed.

Final agreements have since been signed by Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, Ontario and Alberta, while the remaining jurisdictions, with the exception of Quebec, have indicated their intention to sign in the near future.

The essential elements of these agreements are as follows:

a. Fifty per cent cost-sharing of custodial services, including post-adjudication detention, and of alternative measures and judicial interim release programs;

b. Fifty per cent cost-sharing, less a base-year deduction, for pre-dispositional reports, assessments, screening, review boards and dispositional services;

c. implementation grants totalling $25 million;

d. implementation support funds for program development ($5.6 million), systems development ($10 million), and research ($3 million);

e. a five-year term: effective date of April 2, 1984, and expiry date of March 31, 1989;

f. a maximum annual payment of 1989/90 and subsequent years equal to 1988/89 transfers, in the absence of a revised agreement; and

g. the establishment of a continuing federal-provincial forum to ensure effective consultation and collaboration.

The principle that young offenders were to be held more accountable for criminal behaviour was accompanied by corresponding provisions in the Act according full rights to due process of law, including the right to counsel and improved access to legal aid. Young offenders legal aid services were treated as an aspect of criminal legal aid.

BENEFICIARIES

Young offenders, aged 12 to 17 years.

EXPENDITURES ($000)

	84/85	**85/86**	**86/87**	**87/88**
Cost-Sharing Contributions	112.1	146.1	171.4	181.4
Implementation Grants	12.5	12.5	-	-
Systems Dev.	5.7	5.4	3.5	1.5
Program Dev.	1.2	1.8	2.2	-
Research/Eval.	1.0	1.0	0.8	-
Communications	0.2	0.2	0.1	-
Capital Projects	2.0	6.0	2.0	-
O&M	1.4	1.6	1.6	1.6
Unallocated Balance	-	0.6	-	-
TOTAL	136.1	175.2	181.6	184.5
PYs	24	30	30	30

OBSERVATIONS

The Young Offenders Act and its implementation have been the subject of much debate between the provinces and the federal government. When the federal government passed the Young Offenders Act, it adopted a new philosophy for young persons by making them accountable for their behaviour and at the same time granting them rights. The Act put a heavy burden on the provinces by requiring them to keep custodial facilities separate and apart from adults, by granting the right to legal representation at all stages of a proceeding and by providing for the retention and destruction of youth court records.

Over the years, both levels of government have clashed over several issues. The first instance was the passage of the Act itself in the face of provincial concerns over matters which had broad cost implications for the provinces as well as a significant impact on the everyday administration of justice. Other issues include the negotiation of cost-sharing agreements, the postponement of uniform maximum age, the kinds of costs that are shareable, the duration of cost-sharing and the cost-sharing formula. Negotiations pointed out the need for reaching better consensus with the provinces on the nature of cost-sharing where the federal government passes legislation that affects the provinces in the administration of justice. More recently, provinces and the federal government have managed to agree on areas of amendments to the Act but the consultation process has not been satisfactory according to the provinces. No headway has been made since June and a further meeting of Deputy ministers is scheduled for early December to resolve differences on legislative amendments.

Of the six provinces and territories canvassed, most officials had concerns of some sort or other with the Act and/or its administration. One province, for instance, felt that the federal government was insensitive to the interest of the provinces in exploring possible amendments to the Act.

Some concerns were raised by two provinces who were not convinced that Ministry of the Solicitor General was the best forum to be used to put forward amendments to the Act. It was suggested that responsibility for the Act which sets out a criminal procedure for young persons might more properly rest with the Department of Justice which is already responsible for adult criminal policy. In addition, one province noted that there were no real linkages between this program and the agencies for which the Solicitor General has responsibilities.

On cost implications for implementation of the Act, most provinces felt it was too early to say what the actual amounts would be since the Act came into force only on April 2, 1984. The Young Offenders Directorate reports that only four of the six jurisdictions which have signed the agreement have submitted claims. Cost trends are therefore difficult to assess at this time as provinces are still in the process of making the transition to the Young Offenders Act.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Continue the program. Since the Act came into force only 18 months ago and provinces always believed it would be postponed, implementation has started slowly and no formal assessment has yet been made.

2. Review the federal/provincial consultation process. It seems from provincial accounts that consultations have not been satisfactory over the years. Consideration should be given to improving the consultation process by integrating federal/provincial discussions on young offenders with the discussions held regarding other aspects of criminal justice policy and administration. In considering this option, some thought might be given to relocating the program in the Department of Justice which is already responsible for adult criminal policy.

COURT CHALLENGES PROGRAM
Secretary of State

OBJECTIVES

This program would provide for the funding of important test cases involving federal and provincial language rights protected by the Constitution and of cases involving challenges to federal legislation, policies and practices based on certain sections of the Canadian Charter of Rights and Freedoms.

AUTHORITY

Cabinet decision plus a Memorandum of Agreement signed on September 25, 1985, by the Secretary of State with the Canadian Council on Social Development.

DESCRIPTION

The former Court Challenges Programs which provided funds for important test cases related to language rights (sections 16 to 23 of the Charter) expired on March 31, 1985. Under the former program, the Department of Justice provided advice to the Secretary of State as to the merit and funding of challenges under the Charter. The new program is privatized to a large degree since its operation is vested in the Canadian Council on Social Development. The actual operation of the program would be undertaken by an independent panel of the Council according to criteria, terms and conditions set out in the Memorandum of Agreement signed by the Secretary of State and the Council.

Under the new program, assistance may be provided to cases which test language rights based on the Constitution Act, 1867, the Manitoba Act or on sections 16 to 23 of the Constitution Act, 1982. It also covers funding for cases involving challenges to federal legislation based on sections 15 (equality rights) and 28 (equality of sexes) and on arguments based on section 27 (multiculturalism) and made in support of arguments based on section 15. Assistance would be provided to individuals and non-profit groups only for issues of substantial importance that have legal merit and that are of consequence for a number of people. Some limits exist; for instance, in dealing with equality cases priority is accorded to cases having national importance to

disadvantaged groups. Funding for contributions in 1985/86 is $1 million and from 1986/87 to 1989/90 is $2 million per year.

OBSERVATIONS

There is a possibility that the new program may overlap with the Native Test Case Litigation Program maintained by the Department of Indian Affairs and Northern Development and with aspects of legal aid, especially in those provinces which encourage group representation or public interest advocacy through their legal aid programs. In the view of the study team, when the Court Challenges Program is assessed, consideration should be given to whether, and to what extent, it has contributed to the withdrawal of similar or related activities that might otherwise have been undertaken by provincial or non-governmental agencies.

No assessment of this program is possible at this time as it is not yet fully operational. The program is to be reviewed in its fourth year of operation to determine the need for continuation beyond the fifth year.

COMPETITION POLICY ADMINISTRATION
Consumer and Corporate Affairs

OBJECTIVES

To provide administrative support and overall management direction to the Bureau of Competition Policy, and accountability for its financial resources.

AUTHORITY

Combines Investigation Act.

DESCRIPTION

Competition Policy Administration provides administrative and management functions for the Bureau of Competition Policy. The functions are:

a. General management including:

- receiving public complaints and requests for information and distributing them to the bureau for action;
- word processing and purchasing for the bureau;
- establishment of a budget to pay non-justice lawyers for presenting combines cases on behalf of the Crown, and to pay for intervention before regulatory bodies and for the service of combines experts;
- initiation and control of all staffing action; and
- tabulating and analysing time-keeping reports.

b. Planning and reporting for:

- official languages, affirmative action, and training and evaluation;

- information required by the Assistant Deputy Minister, Bureau of Competition Policy;

- main estimates and multi-year Operational Plans, strategies planning, environmental analysis, e.g. issue forecasting; and

- the annual report of the Director of Investigation and Research.

c. Policy development for:

- policies and practices regarding the Charter of Rights; and

- position papers to support the Minutes of Consumer and Corporate Affairs with regard to proposed amendments to the Combines Investigation Act.

BENEFICIARIES

The Bureau of Competition Policy.

EXPENDITURES ($000)

CPA	**81/82**	**82/83**	**83/84**	**84/85**	**85/86 (Apr-Sept)**
Salaries & Wages	795	813	834	868	457
Other O&M	300	285	215	260	119
Capital	--	--	--	--	--
Grants & Contribution	--	--	--	--	--
TOTAL	1,095	1,098	1,049	1,125	571
PYs	26.6	27.5	26.6	26.8	14

Bureau of Competition Policy	**81/82**	**82/83**	**83/84**	**84/85**	**85/86 (Apr-Sept)**
Salaries & Wages; and Other O&M	11,133	12,814	13,988	14,400	7,796
PYs	241	241	247	260	129

OBSERVATIONS

The Assistant Deputy Minister, Bureau of Competition Policy, is responsible for this program. One-third of the bureau's person-years are expended for administration and management functions while two-thirds are attached to Management Services.

Competition Policy Administration as such is not concerned with the enforcement of the Combines Investigation Act and merely acts as administrative support for the bureau's activities.

ASSESSMENT

This program reflects functions which are diffused throughout the bureau and is purely administrative in nature.

OPTIONS

The Competition Policy Administration is essential to support the operation of the bureau. The study team recommends to the Task Force that the government consider no change be made at this time.

JUDGES AND JUDGES' SPOUSES AND CHILDREN SALARIES/ALLOWANCES/GRATUITIES
Federal Judicial Affairs

OBJECTIVES

The program provides administrative support for all salaries, allowances and annuities paid to judges of the Federal Court of Canada and the Tax Court of Canada, and to all other federally-appointed judges. It covers gratuities to spouses of judges who die in office and pays annuities to spouses and children of deceased judges.

AUTHORITY

Parts I and III of the Judges Act.

DESCRIPTION

The responsibilities of the Commissioner for Federal Judicial Affairs (FJA) under this program include:

a. administration of the payment of judges' salaries (except those of Supreme Court of Canada justices) and annuities to retired judges and to qualified surviving dependents of deceased judges. This requires FJA to process and distribute pay-cheques to approximately 785 judges and to prepare Cabinet submissions for Orders-in-Council to grant annuities to retired judges or qualified dependents;

b. administration and approval of all matters respecting the payment to judges of all travelling, representational, conference, incidental, removal and other allowances. FJA processes all applications by judges for travelling, transfers, removal, etc. made under the Act or the regulations;

c. administration of records regarding medical, hospital and other insurance plans for judges and their dependents;

d. administration and approval of the payment of expenses incurred by judges serving as commissioners, arbitrators, adjudicators, referees, conciliators or mediators on a commission or inquiry; and

e. administration of all matters relating to the resignation or retirement of a judge -- FJA prepares cabinet submissions for Orders-in-Council to approve the resignation or retirement of a judge and fix the amount of his/her pension.

The number of person-years for the administration of this program for 1985/86 is six; total cost is $190,000. Judges salaries, benefits, pensions and other expenditures are estimated at $103 million for 1985/86.

BENEFICIARIES

There are approximately 1,100 recipients under this program made up of federally-appointed judges (salaries, etc), spouses of judges who die in office (gratuities), as well as spouses and children of deceased judges (annuities).

EXPENDITURES ($000)

	83/84	84/85	85/86
O&M	160	182	190
PYs	6	6	6

OBSERVATIONS

FJA was created in 1978 as an entirely separate organization from the Department of Justice to remove possible conflicts of interest for the department which regularly appears before the courts. Its overall purpose is to provide for the financial, personnel and administrative needs of the federal judiciary formerly provided by the Department of Justice.

Administrative matters with respect to the Supreme Court of Canada are handled by the Registrar of that Court who is totally independent from FJA.

OPTIONS

One possible option is to relocate the program in the Department of Justice.

However, since this function has not existed in the Department of Justice since 1978, it would be possible only by transferring existing FJA human resources to Justice. Such an initiative might be perceived as an attempt to interfere indirectly with matters affecting the judiciary and to deny judges a personalized service which they have now enjoyed for some time. The question of the independence of the judiciary is raised under the Administration/Federal Judicial Bodies Program.

The study team recommends to the Task Force that the government consider maintaining the status quo. This option would continue to recognize the judiciary's independence as well as the special needs of judges.

ADMINISTRATION - FEDERAL JUDICIAL BODIES
Federal Judicial Affairs

OBJECTIVES

The objective of this program is to provide common policy and management services to the judges' salaries, pension and annuities program, the Language Training Program and the Federal Court Reports Program.

AUTHORITY

Parts I and III of the Judges Act.

DESCRIPTION

FJA supervises the preparation of budgetary submissions for the Federal Court of Canada, the Tax Court of Canada and the Canadian Judicial Council which is chaired by the Chief Justice of Canada and is responsible for the continuing education of judges and the investigation of complaints against judges.

Under this program, FJA is generally responsible for providing policy direction, as well as financial and personnel administration services for the judges program. The staff also attends to the disbursement of salaries, allowances and annuities for judges and their dependents.

BENEFICIARIES

All 787 federally-appointed judges.

EXPENDITURES ($000)

	83/84	84/85	85/86
O&M	834	942	1,055
PYs	12	12	12

OBSERVATIONS

FJA was created in 1978 as an entirely separate organization from the Department of Justice to remove possible conflicts of interest for the department which regularly appears before the courts. Its overall purpose

is to provide for the financial, personnel and administrative needs of the federal judiciary formerly provided by the Department of Justice.

Most jurisdictions treat the administration of judges as part of their Department of Justice or Department of the Attorney General.

Some matters within the jurisdiction of FJA under the Act, such as the preparation of budget submissions for the Federal Court and the Tax Court, have been delegated to the Administrator of the Federal Court and the Registrar of the Tax Court under the general supervision of FJA.

Recent statements by the Chief Justice of Canada, as well as other statements by the Canadian Bar Association and Chief Justices have reiterated that the judiciary should be treated as an independent body to avoid placing it in any apparent or real conflict of interest. As a result of these statements, studies are currently underway in the Department of Justice on the independence of the judiciary and the appointment process for judges.

Because judges are not public servants, their benefits are governed by the Judges Act and related regulations rather than by statutes governing public servants. Policies, practices and administrative decisions made by central agencies for public servants do not apply and FJA needs to administer a statute unique to its clientele.

OPTIONS

1. Abolish the program.

   This alternative does not appear feasible since this is a statutory program which requires administrative support.

2. Relocate the program in the Department of Justice.

   This approach would be similar to the one used in the provinces and might have the advantage of combining existing resources in the Department of Justice. However, this may be perceived as an attempt to interfere indirectly with matters affecting the judiciary and to deny judges a personalized service which they have enjoyed for some time.

The study team recommends to the Task Force that the government consider maintaining the program.

This alternative would take into account the independence of the judiciary and recognize the special needs and status of federally appointed judges.

Special consideration should be given to the Department of Justice studies on the independence of the judiciary when they are completed.

LANGUAGE TRAINING
Federal Judicial Affairs

OBJECTIVES

The program seeks to assist federally-appointed judges in obtaining a working ability in both official languages plus a thorough knowledge of legal terminology so that they can perform some or all of their judicial functions in both official languages.

AUTHORITY

Pursuant to paragraph 45 d) of the Judges Act, the Minister of Justice has assigned to the Commissioner for Federal Judicial Affairs (FJA) the administration of the official languages training program for judges.

The amendment to the Criminal Code on language of trial and judicial decisions on language rights has created the need to prepare judges to preside in both official languages.

DESCRIPTION

Any federally-appointed judge who wishes to learn the other official language and who has the ability to do so may apply to the FJA Language Training Section. The applicants take a language aptitude test and meet with a language counsellor.

For instance, every year selected candidates may attend immersion sessions in French or English depending on their requirements. Candidates may also be given up to five hours a week of private tutoring between sessions. The estimated number of participants for 1985/86 is 240 for immersion sessions, 300 for private tutoring and one for total immersion.

In spite of limited human resources (four person-years), FJA meets the workload imposed by the present level of enrolment and the breadth of services offered. Meeting present objectives is made possible only by contracting out services. In large urban areas, FJA relies on teachers from the Public Service Commission (PSC) to give private tutoring, while in smaller communities FJA relies on private sector teachers.

BENEFICIARIES

Aside from federally appointed judges, 10 French-speaking, provincial judges from Ontario and Manitoba were allowed to attend, at provincial expense, a training session this year to specialize in French legal terminology.

EXPENDITURES ($000)

	83/84	84/85	85/86
O&M	977	1,106	1,225
PYs	3	3	4

OBSERVATIONS

The program, which started in 1969, was originally designed to expose federally-appointed judges to the other culture as part of the government's policy to extend services in both official languages. It has changed from general knowledge of the second language to specialization in legal terminology to enable a judge to preside in the other language.

The federal government has a leadership role in this area and the program is perceived as a component of the federal government's official languages policy in the area of justice.

There is some indication that the criteria used to establish the eligibility list for courses are not as strong as those used by the PSC and that not many candidates are refused training.

There has been no assessment of the program's effectiveness or efficiency to date.

OPTIONS

1. Abolish the program.

   This alternative is possible if one accepts that some areas in Canada do not require bilingual judges. When a trial in such an area is to be conducted in a language other than that of the presiding judge, a

judge from another district who is proficient in that language could be asked to preside. Enforcement of Criminal Code provisions on language of trial which make it compulsory in certain provinces to hold a trial in a language other than that of the presiding judge, would be difficult in provinces where no bilingual judges are to be found or where their level of language proficiency is not sufficient.

2. Amend the program to have judges' language training centrally administered by the Public Service Commission (as in the case of public servants) or by a private sector body.

   The PSC alternative would not take into account the special needs of judges who are not public servants and it might be construed as an interference with matters affecting the judiciary. The private sector option would be difficult to implement on the basis that it is a nationwide service provided to a very specialized clientele. Costs could run high if language training was totally privatized.

3. The study team recommends to the Task Force that the government maintain the status quo.

   This alternative would continue to give FJA the overall supervision for language training of its judges and, on the basis of experience, allow it to determine the needs of a very specialized clientele. It would ensure that good coordination exists with other initiatives in the area of training for judges. By contracting-out to the PSC language teachers in large urban centres, FJA is able to serve a larger number of judges in a more efficient way since it has only one office in Ottawa. This alternative also relies on the use of private sector teachers in smaller areas where the PSC has no office. Under this option, some consideration should be given to assessing the program and to having an independent evaluation of the program done which would take into account PSC standards used in assessing the candidates' ability to learn a second language as well as special needs of judges.

FEDERAL COURT REPORTS
Federal Judicial Affairs

OBJECTIVES

The objective is to publish in both official languages those decisions of the Federal Court of Canada which, in the opinion of the Executive Editor, are of sufficient significance or importance to warrant publication in the Reports.

AUTHORITY

Subsection 59(2) of the Federal Court Act provides that Reports of the Federal Court are to be published in both official languages.

Pursuant to paragraph 45 d) of the Judges Act, the Minister of Justice has assigned to the Commissioner for Federal Judicial Affairs (FJA), the administration of the translation, editing and publication of the Federal Court Reports.

DESCRIPTION

The judgments are received from the Federal Court. The Executive Editor reads each decision to determine if it merits being reported as a valuable precedent. The estimated number of written reasons for judgment is 850 for 1985/86 and the estimated number of cases published is 180 for a total number of 2,484 pages.

Once a case has been selected for publication, the judicial translation unit is notified and translations are received following judicial approval.

Cases are then assigned to legal editors for copy editing and headnote preparation. The edited manuscript is sent for typesetting to the Department of Supply and Services' (DSS) Printing Bureau. Galley and page proofs are proofread and corrected by the editorial assistants; only then is printing of the Reports authorized.

EXPENDITURES ($000)

	83/84	84/85	85/86
O&M	481	545	609
PYs	8	8	8

BENEFICIARIES

Beneficiaries have been identified by Order-in-Council as the members of the Federal Court of Canada, Chief Justices of the 10 provinces and two territories, judges, lawyers, and others across Canada who require access to the official reports of cases heard in the Federal Court of Canada.

OBSERVATIONS

As an official series, the Reports must be free of error in order for beneficiaries, who are mainly members of the legal community, to use them as a working tool. The reported number of errata for 1983/84 (latest figure) is one out of 1,350 pages published or .074 per cent.

In the provinces, court procedures are reported by various organizations which are not government controlled. Work is contracted-out and there is no evidence of direct control over publication or queries from editors to judges as in the case of the Reports where editors contact the judges directly to clarify any inconsistencies.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Abolish the program.

   This alternative is not possible in view of the present legal requirement that cases be reported.

2. Privatize the publication of the Reports.

   It would be difficult for a new organization to meet the required standard of producing reports that are literally free from error. Furthermore, the process of judicial translation which is unique to federal reports

is a very specialized, time-consuming and costly one. In view of the requirements, privatization would not be a commercially viable project.

3. Privatize only the printing of the Reports.

Under this option, the printing of the Reports would be contracted out. According to the latest figures provided to FJA, it costs $71.96 per page for printing by DSS plus $45.45 per hour for alterations to galley proofs. One commercial firm has quoted FJA $42.00 per page plus $20.00 per hour for alterations. On the basis of approximately 2,500 pages for 1985/86, this would mean a saving of at least $75,000 per year. This option was discussed in a 1979-study done by the Bureau of Management Consultants (BMC) which concluded that privatization in this area would be difficult because the DSS-tendering procedure for printing is complex. An updating of the 1979 BMC study could be done to see if the same conclusions still hold. This alternative would also require more coordination from the Executive Editor to ensure the same accuracy and level of control. Currently, FJA gets good service from DSS printing where reports are given a high priority.

4. Maintain the status quo.

This alternative would provide the legal community with an official series of high quality at a relatively low cost.

CENTRAL DIVORCE REGISTRY
Department of Justice

OBJECTIVES

To record all petitions for divorce and their dispositions, and to provide upon request all relevant information to avoid the possibility of courts in two different provinces proceeding on two similar actions for divorce.

AUTHORITY

The Divorce Regulations.

DESCRIPTION

This program, established on July 2, 1968, calls for all divorce courts (190) to transmit to the Central Divorce Registry, located in the Department of Justice in Ottawa, a form (Presentation of Divorce Form) containing the name, place, and date of birth of every petitioner for divorce and respondent.

The divorce courts also relay to the Central Registry the disposition of every petition for divorce. The information received by the Central Registry is input every second Thursday to computers owned and operated by a private sector contractor.

Every second Friday, the private sector contractor provides the Central Registry with a match-list which Central Registry clerks check to determine whether any petition pertaining to the same couple has been filed previously. If two petitions regarding the same couple were filed on the same day, the registrar will report that fact to the courts involved and to the Registrar of the Federal Court. If two petitions (duplicates) were filed not on the same day and in different jurisdictions, the court concerned with the later petition will not be issued with a clearance certificate. Both courts involved will be informed of the duplication and requested to advise the parties concerned through their lawyers. For security reasons, back-up tapes are prepared by the private sector contractor and sent to the Department of Justice for storage.

The program utilizes five person-years -- a registrar and four clerks -- to perform the tasks and respond to inquiries.

BENEFICIARIES

The beneficiaries of this program are the petitioners for divorce and corollary relief, family law practitioners, the courts, government and the general public.

EXPENDITURES

	81/82	82/83	83/84	84/85	85/86
Salaries & Wages	$93,083	$108,847	$103,291	$106,000*	$110,000*
Other O&M	$50,562	$40,454	$58,222	$46,845	$41,000
Grants & Contribution	--	--	--	--	--
TOTAL	$143,645	$149,301	$161,513	$153,845	$151,000

* estimated

OBSERVATIONS

The incidence of divorce has increased almost every year since 1968. There was a slight decrease in 1983 and 1984 presumably because potential petitioners are awaiting the passage of the new Divorce Bill.

Annually, the Central Registry authorizes the private sector contractor to release to Statistics Canada the information provided by the divorce courts upon dispositions of a petition, except, of course, the names of the parties.

The total current cost of the program is $150,000. It generates approximately 80,000 requests for clearance from the divorce courts. According to proposed legislation a fee of $10 per request will be levied. This will provide revenue of $800,000 for a profit of approximately $650,000, but collection will require an increase in personnel.

To date, the beneficiaries are satisfied with the administration of the program which is a federal responsibility. Over the past 16 years, the incidence of errors in the operation of the program has been low. Those

errors include incorrect certificates, incorrect data provided to Statistics Canada, etc. There is some complaint of the slowness or timeliness of the process but this is due to the slowness of the courts in transmitting the information to the Central Divorce Registry in the first place.

ASSESSMENT

All non-federal individuals interviewed about the Central Divorce Registry indicated that they were satisfied with it and, as a consequence, it should remain as is. However, when compared with another system that could deliver services more quickly in a more accessible mode they opted for the latter.

A previous consideration to locate the Registry in Statistics Canada was rejected by the Chief Statistician of Canada.

This is a relatively small program, half of which is contracted out to the private sector.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Maintain the status quo.

   The advantage of this option is the fact that the beneficiaries are satisfied with the program. The disadvantage pertains to the fact that it cannot respond quickly to increases in demand for services which will aggravate timeliness issues. In addition, modernization and updating to take advantage of technological advancement will be slow. When the amendments to the present legislation are introduced, the program should make a yearly profit of $650,000. Also, everyone agrees the program is currently well administered.

2. Privatize only the services component of the Registry.

   Privatization in this context means the contracting-out of all services being performed by the Central Divorce Registry. It does not mean contracting-out the authority or responsibility of the Central Divorce Registry.

   The advantages of this privatization scheme would be:

- a decrease in turnaround time for providing responses from three weeks to approximately three hours (the printout machines will provide the clearance certificates when appropriate);

- a possible reduction of the PYs in Justice as only minimum staff would be required to monitor the program and to take care of revenue, provide responses to the Minister of Justice on divorce matters, etc.;

- an incentive for the service contractor to increase its efficiency and effectiveness. No such incentive is built into the current system or status quo; and

- there would be no need to amend the regulations.

The disadvantage of this scheme is that the Central Divorce Registry would be venturing into new ground and this could create certain apprehension in the minds of both officials and beneficiaries, especially as the status quo does not generate much complaint and cost-recovery could be achieved once new legislation is passed.

LEGAL AID IN CRIMINAL CASES
Department of Justice

OBJECTIVES

To ensure that effective legal aid services to adults and young offenders are available to eligible persons on a uniform basis at reasonable cost to Canada and the provinces.

AUTHORITY

The annual Appropriation Acts, The Young Offenders Act, s. 11.

DESCRIPTION

Federal/provincial agreements respecting the provision of Criminal Legal Aid have been in place since 1972/73. Essentially, the agreements require the "provincial agency" to provide legal aid to eligible applicants in all serious criminal cases -- that is, in all indictable offences or in summary conviction matters where there is likelihood of imprisonment or loss of means of earning a livelihood.

Coverage under the federal/provincial agreement includes criminal appeals and proceedings pursuant to the Extradition Act and the Fugitive Offenders Act. For reasons of recividism (for similar offences) or because the applicant is not ordinarily a resident in one of the provinces or territories of Canada, a provincial agency may disentitle the applicant to legal aid the total amount of legal aid which the applicant has received from the provincial agency.

Until 1984/85, the adult criminal legal aid agreement included provision for legal aid to juveniles under the Juvenile Delinquents Act where there was a likelihood of imprisonment or loss of means of earning a livelihood, or where "special circumstances exist that warrant the provision of legal aid". Effective April 1, 1984, a separate (one-year) agreement was entered into with all provinces and both territories under the Young Offenders Act to ensure that legal aid was available to young offenders as required under section 11 of the Act.

The adult criminal legal aid agreements are ongoing, subject to termination by either party on one-year's notice and envisage periodic renegotiation of the financial provisions. The cost-sharing formula consists of two components: a base component reflecting 50 per cent of national shareable expenditures in 1982/83, and a growth component allowing for increases in the federal contribution of 50 per cent of the provincial increase in costs up to a ceiling of the percentage growth in the GNP minus 1 per cent. The ceiling was established as a result of a consensus reached at a First Ministers Conference in 1977 to the effect that the cost of social programs should be kept to a growth rate slightly less than the real growth in the economy.

BENEFICIARIES

Economically disadvantaged persons, including the working poor, accused of serious criminal offences, and young offenders aged 12 to 17 years.

EXPENDITURES ($000)

	82/83	83/84	84/85	85/86	86/87
O&M	89.5	89.5	120	289	309
Contributions (Adults)	28,900	30,000	45,800	54,000	42,300
Contributions (Young Offenders)			2,500	7,600	15,000
PYs	2.75	2.75	2.75	8	8

OBSERVATIONS

Legal aid in criminal matters is now essentially regarded as a right for financially disadvantaged persons in Canada because of federal legislation, (e.g. due-process provisions of the Charter of Human Rights and Freedoms, the Young Offenders Act, s.11.) The cost of this service, which is delivered by the provinces, has escalated from $11 million in 1973/74 to an estimated $90 million in 1985/86.

The provinces are unsatisfied with the criminal legal aid cost-sharing formula. Under the current formula (which has a ceiling on the federal contribution related to

percentage increases in the GNP minus 1 per cent), the federal contribution has fallen to approximately 46 per cent of national criminal legal aid costs.

The provinces seek 50/50 open-ended, cost-sharing in all areas of legal aid in the view that the federal government should "share the risk" in meeting the demand for legal aid services created by the mandatory coverage requirements in the federal-provincial agreement. The federal government, for its part, is concerned with retaining some control over its expenditures since it has no direct control over the administration of legal aid or the methods of delivering this service.

There is growing evidence that the cost-per-case of delivering legal aid in some legal aid programs relying extensively on the private bar is very high (two-to-three times greater) compared with most public defender programs.

Civil legal aid is cost-shareable under the Canada Assistance Plan as an "item of special need" provided to needy individuals under the "assistance" provisions of the scheme. CAP has effectively become a vehicle for underwriting the cost of provincial legal aid programs on an open-ended basis, resulting in substantial financial advantages to participating provinces without any significant increase in service. The current federal contribution to civil legal aid under CAP is approximately $22 million.

The federal government has not taken a consistent approach to cost-sharing legal aid. While there is a ceiling on the federal contribution to criminal legal aid, civil legal aid is cost-shared under the Canada Assistance Plan on a 50/50 open-ended basis. There is a ceiling on the Young Offender legal aid cost-sharing formula (.40 per capita) but other services under the Young Offenders Act are being cost-shared on an open-ended 50/50 basis.

There is strong evidence to indicate that the working poor are not being adequately serviced by legal aid (or at all in some provinces). Because of increasingly restrictive financial eligibility requirements in the provinces, some persons below the poverty line are being refused legal aid.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. In view of the mounting evidence that some legal aid programs relying extensively on the private bar are experiencing high unit costs of delivering legal aid in comparison with public defender programs, the federal government should resist significant increases in its contribution to provinces exhibiting such trends until it is satisfied that the differences in cost are not the result of poor cost-effectiveness.

2. The federal government in its negotiations with the provinces should consider the proposition that the cost of providing legal aid through the private bar should not exceed the cost that would be involved if the services were to be provided by government directly through a public defender program. Individual provinces would remain free, as now, to select the approaches to delivering legal aid which are considered appropriate locally. Provinces which select a model that is appreciably more costly than average should be obliged an onus to show why the federal government should match its costs.

3. Consideration could be given to linking the criminal legal aid cost-sharing formula to the unit costs of delivering legal aid rather than per capita expenditures. Such a formula would be more responsive to the actual demand on individual provinces for legal aid services and enable both levels of government to compare the cost-effectiveness of different programs and different delivery models on an ongoing basis.

4. Consideration should be given to rationalizing all federal involvement in legal aid (criminal legal aid, legal aid for young offenders, and civil legal aid) under a single agreement. The agreement might be supported by complementary federal and provincial legislation as suggested by the CBA, but close consultation with the provinces would be required. The object, with or without legislation, would be to achieve agreement with the provinces on the standards to be achieved, the provision of stable funding to meet those long-term objectives and to end the ongoing

process of federal/provincial negotiation which has been more or less continuous in this area since the early 1970s.

5. Consideration could be given to developing a civil legal aid program to replace present cost-sharing of civil legal aid under the Canada Assistance Plan. A replacement program could include coverage requirements related to federal areas of interest (i.e. divorce, enforcement of maintainence orders, court-appointed counsel under the provisions of the Charter, federal administrative or quasi-judicial tribunals, etc.).

6. A federal/provincial review should be initiated into the extent to which the intended beneficiaries of legal aid (the poor, including the working poor) are excluded from service due to increasingly restrictive provincial financial eligibility requirements. Once the dimensions of this problem are known, proposals could be developed to ensure that this class of beneficiaries receives appropriate access to legal aid services. In the case of the working poor, consideration should be given to whether a form of government-subsidized prepaid legal services might be adapted to meet their legal needs.

COMPENSATION FOR VICTIMS OF VIOLENT CRIMES
Department of Justice

OBJECTIVES

To provide compensation to innocent victims of violent crimes. This program should now be viewed as part of a wider effort by both levels of government to improve justice for victims of crime, including criminal code amendments, modified procedural rules, increased emphasis on services for crime victims and the encouragement of community-based alternatives to the regular criminal court process and prisons.

AUTHORITY

Appropriation Act.

DESCRIPTION

In 1973, the federal government agreed to cost-share in provincially legislated and administered compensation programs. At that time, five provinces had legislation which provided compensation to victims of crime in limited circumstances. Effective January 1, 1973, six provinces entered into cost-sharing agreements with the federal government. As of 1985, criminal injuries compensation programs exist in every province and territory except Prince Edward Island.

Initially, the cost-sharing formula required the federal government to pay to the provinces the lesser of .05 per capita of the provincial population or 90 per cent of the compensation awarded. Effective April 1, 1977, a new formula required that the federal government contribute the greater of .10 per capita or $50,000.00, but not in excess of 50 per cent of the compensation paid. The provinces may, however, claim according to the old formula if it is to their advantage to do so.

The cost-sharing formula has not been revised since 1977 and the federal share of compensation in Canada has dropped from approximately one-third to 12.4 per cent in 1983/84.

In 1981, the federal/provincial Task Force on Justice for Victims of Crime was established to review comprehensively the needs of victims. The task force

reported in June 1983 with 79 recommendations. A federal/provincial working group was established to monitor the implementation of these recommendations and to help determine the respective roles of the federal and provincial governments in that process. The working group has prepared its report to ministers and deputy ministers. The role and resource issues will be determined by both levels of government.

Recently, the provinces have requested interim revisions to the cost-sharing formula under the Crime Compensation Agreements, suggesting an immediate move to 50/50 cost-sharing effective April 1, 1986. Given the completion of the work of the federal/provincial working group, the Department of Justice has taken the position that further revisions to the Crime Compensation Agreements should take into account the larger context of federal and provincial roles in relation to justice for victims of crime.

EXPENDITURES ($000)

Year	Total Comp. Paid	Fed. Contr.	Prov. Contr.	Total Pop.	Fed. % Cost	Fed. Per Cap. Cost
1975/76	4,412,067	1,020,515	3,391,552	21,859,000	23.1	.09
1976/77	6,221,600	1,111,690	5,109,910	22,046,000	17.9	.09
1977/78	6,560,156	2,115,864	4,444,292	22,336,000	32.2	.09
1978/79	7,258,238	2,190,870	5,067,368	22,518,000	30.2	.10
1979/80	9,201,070	2,178,510	7,022,560	22,702,000	23.7	.10
1980/81	12,032,914	2,244,444	9,788,470	22,935,000	18.6	.10
1981/82	14,523,993	2,329,723	12,194,270	24,219,000	16.0	.10
1982/83	18,573,760	2,406,306	16,167,454	24,509,900	13.0	.09
1983/84	19,710,725	2,440,992	17,269,733	24,889,900	12.4	.10
1984/85	-	2,549,000	-	-	-	-
1985/86	-	2,626,000	-	-	-	-

OBSERVATIONS

a. There are two basic rationales in Canada for criminal injuries compensation:

   - the Insurance Model is based upon the fact that crime exists and people will suffer injuries as a result of crime in our existing social system. The belief of those ascribing to this social model is that the liability resulting from crime should be shared;

   - the Humanitarian Model is a form of welfare based upon sympathy for the plight of the innocent victims who suffer as a result of a criminal act;

b. most jurisdictions employ the humanitarian model. In Manitoba and Quebec, the insurance model is employed in that the given awards are identical to the amount the applicants would have received from a workers' compensation board had the injury been received at a place of employment;

c. the majority of people who would have qualified to apply for compensation were unaware of their eligibility;

d. increased public awareness would result in more applications thereby adding to the strain already felt by victim compensation boards due to insufficient resources;

e. the amount of awards is affected by welfare benefits in some cases;

f. most jurisdictions have a ceiling on awards which has not kept pace with the cost of living;

g. Canadians travelling outside the country are not eligible for compensation for injuries suffered outside Canadian jurisdiction;

h. there are no residency requirements in Canada for applicants;

i. benefits vary from jurisdiction to jurisdiction. Non-pecuniary loss is not awarded in every jurisdiction;

j. applicants are not always encouraged to attend hearings;

k. generally, compensation for good samaritans imposes the prerequisite that they be acting lawfully;

l. police officers are generally entitled to apply for compensation;

m. victims of impaired drivers are not compensable under the federal-provincial cost-sharing agreement;

n. many cases take a long time to process; and

o. legal representatives are not present at all hearings.

BENEFICIARIES

Innocent victims of violent crime.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Reexamine the rationale for continuing federal involvement in this program in the context of the report of the Federal/Provincial Working Group on Justice for Victims of Crime.

   The program may be a candidate for elimination, with a possible reprofiling of the funds to help victims of crime in a manner that is more clearly focused in areas of federal responsibility. (The federal share of the cost of this program has declined to about 12 per cent. The nature of the program -- a quasi-civil compensation scheme -- raises questions about the basis of continuing federal involvement in the program, especially in light of the major increase in costs which could result from changes in the program's format or in its administration.)

2. Based on a humanitarian approach to compensation, provide for an increase in the proportionate federal share, with or without a ceiling on the federal contribution. A decision to increase federal participation in funding should be coupled with consideration of the following:

   a. development of an alternative method of funding (e.g. a fine surcharge scheme) to make the program, in effect, more self-supporting;

   b. improved publicity for the program to enhance public knowledge and the utilization rate;

   c. elimination of law enforcement officers from the class of beneficiaries entitled to receive compensation if the injuries were received while on duty, where comparable benefits are otherwise obtainable;

   d. expanding the range of damage that is compensable (i.e. property damage);

   e. a more uniform approach to permitting victim appearances at the compensation hearing;

   f. changes to the schedule of offences for which compensation is payable;

   g. automatic increases to the maximum awards permitted in various provincial programs;

   h. cost of living changes should be reflected in awards;

   i. more uniformity in the limitation periods for making application under provincial schemes (which vary from one to three years);

   j. increased provision for legal representation at compensation hearings and encouraging their attendance;

   k. greater uniformity in the allowances for pain and suffering in provincial programs;

   l. shortening the period of delay between the date of application and receipt of the award; and

   m. award good samaritans who act in good faith.

LAW REFORM COMMISSION OF CANADA

OBJECTIVES

The objective of the Law Reform Commission (LRC) is to study and keep under systematic review the laws of Canada with a view to making recommendations for their improvement, modernization and reform.

AUTHORITY

The Law Reform Commission Act R.S.C. 1970 c.23.

DESCRIPTION

The LRC makes recommendations to Parliament through the Minister of Justice pursuant to a general program of research approved in 1972. Since 1971, the commission has produced over 160 study papers, 34 working papers and 22 Reports to Parliament, 10 of which have been acted upon in whole or in part by means of government legislation.

The commission views its enabling legislation as providing wide objects and powers"... to permit it to do more than simply research the law... (i.e.) to examine the philosophical basis of our legal system, to analyse the present law and identify its defects, to take bold new approaches when recommending changes and to involve others, including members of the public in the process of law reform".

Accordingly, the LRC reports annually on its effectiveness in areas other than legislative implementation of its recommendations, including its influence upon law reform through research, public education resulting from discussion of its reports and working papers, as well as its influence upon judicial decisions and in bringing about changed conduct in the administration of justice.

The LRC is currently undertaking research in five broad areas including the substantive criminal law, criminal procedure, health and environmental protection of life issues, administrative law and means of making the law more easily understood through plain language legislation, simplified government, etc.

The LRC was established as an independent agency. Independence from government was thought to be important:

a. to ensure candor on the part of individuals and non-governmental organizations consulted by the commission on a confidential basis;

b. to ensure that areas of law that tend to be ignored by government because of their low public profile are kept current; and

c. to ensure that a balanced and objective view of the various law reform proposals are advanced on a non-partisan basis.

BENEFICIARIES

The public at large and persons involved in the administration of justice.

EXPENDITURES ($000)

	82/83	83/84	84/85	85/86
Operating Exp.				
Salaries	1,445	1,573	1,677	1,777
O&M	2,600	3,173	3,317	3,205
Capital	28	31	14	67
PYs	44	45	44	47

OBSERVATIONS

During its review, the study team was made aware of reports on the LRC prepared by the Audit Services Bureau in 1982 and, more recently, by the Auditor General, both of which were critical of the commission's failure to revise and update routinely its research program, apparently lax project management practices and the lack of provision for a formal effectiveness evaluation. While the study team is not in a position to verify all of the observations made in these reports, there appears to be considerable scope for improving the commission's effectiveness measured in terms of legislative implementation of its recommendations and the timely production of topical reports.

The broad view which the commission adopts of its mandate has resulted in reports that attempt to lead public opinion rather more than is the case with provincial commissions, especially during the first decade of its operation. This has had an adverse effect on the timeliness of the LRC recommendations in terms of legislative implementation and has resulted in the commission taking a more active role in encouraging public acceptance of LRC recommendations, unlike provincial commissions which confine their post-reporting role to clarification of their recommendations. The commission, however, emphasizes that its influence upon public knowledge of the law, judicial decisions and the conduct of personnel in the administration of justice is a very important part of its role.

Since 1972, the commission has not revised its original research program or submitted a supplementary or second program, despite some changes in its work. The Act does not specify any maximum intervals within which the commission's program must be updated and revised. At least one commission chairman has taken the view that the LRC is formally obliged to include projects recommended by the Minister of Justice for priority consideration only at the time its formal program is submitted to the minister for approval or revision pursuant to section 12(1)(c) of the Act. This provision is open to some interpretation, however, since the minister's authority to refer projects to the LRC should not be frustrated by the commission's failure to revise its program on a timely basis. In practice, there is generally good cooperation between the LRC and the minister.

There is no tradition of direct reference of projects to the LRC by the Minister of Justice. The governing legislation provides that the commission shall include in any program for studies prepared by it "any study requested by the minister to which, in his opinion it is desirable in the public interest that special priority should be given". Two references were made by the Minister of Justice (Expropriation; the Lord's Day Act) but not acted upon.

In 1980/81, the LRC agreed to participate in a joint undertaking with the Department of Justice and the Ministry of the Solicitor General in an accelerated review of the criminal law that would expedite the enactment of a modern Criminal Code. The Auditor General's report is critical of the management of the criminal law review process on the

part of both the LRC and also the Department of Justice which has pointed out that it "has no authority to compel compliance with any decisions of the Executive Committee of work plans by other members of the review".

Approximately 50 per cent of the work of the Ontario Law Reform Commission is the result of references from the Attorney General and somewhat more than 50 per cent of the work of the Manitoba Commission has come through directed references by the Attorney General in recent years. Both of these commissions report that between 75 and 80 per cent of their recommendations have been implemented by legislation.

The Ontario Law Reform Commission reports considerable success with its structure, that is, a relatively small core of full-time employees which monitors and prepares the work in progress by a larger number of independent, short-term contractors for commission meetings. The permanent staff also do a few "in-house" projects, usually where the report must be expedited and no extensive research is required.

While the importance of maintaining an effective core of permanent personnel is emphasized, law reform activity under the Ontario format has, in effect, been largely privatized due to the heavy reliance on independent contractors.

There is considerable support for a body to undertake longer term or more fundamental reforms which cannot be undertaken effectively by committees of the legislature or policy planning branches of the Attorneys General, which tend to focus on shorter term, crisis-oriented planning activities. Task forces or royal commissions are sometimes employed to report on short- to medium-term law reform issues that have a high public profile. There is wide support, however, for maintaining some stable structure to deal with the ongoing business of law reform in areas which cannot be dealt with by other means easily or on a cost-effective basis.

The existing legislation emphasizes the power in the Law Reform Commission to initiate projects. However, the capacity of the system of government to set aside its priorities for those selected by an independent body is extremely limited. The existing budget review process, annual reports to Parliament by the LRC and revisions to the commission's program of research only after long cycles of

work, provide an inadequate opportunity for Parliament and government to influence the commission's priorities.

In recent years, the commission, while maintaining its independence, has formed closer links with the Department of Justice and the Ministry of the Solicitor General. The LRC has also attempted to ensure that new projects are timely and it now consults more broadly and carefully to ensure that its final recommendations have more immediate practical significance.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Make no changes to the LRC, other than to require that the recommendations in the Auditor General's report be responded to adequately and on a timely basis. A follow-up audit and/or a full effectiveness evaluation would be required as part of this option.

2. Amend the LRC Act to provide for:

   a. regular review and updating of the LRC's program of research;

   b. progress reports, reviewable by the department and possibly the Justice and Legal Affairs Committee as well;

   c. project references by the Minister of Justice to the LRC;

   d. work scheduling more closely integrated with ministerial or government priorities;

   e. an opportunity for the Minister of Justice and also the Justice and Legal Affairs Committee to comment on LRC-initiated research before it is incorporated into a formal research program;

   f. a timely response by the Minister of Justice to LRC recommendations;

   g. narrowing of the commission's existing mandate to emphasize proposals for reform which can be acted upon within a reasonable period of time;

h. limiting the LRC's post-reporting role to clarifying its recommendations, where required; and

i. specific authority clarifying that the Minister of Justice may refer projects to the commission for consideration on a priority basis at any time.

If a timely amendment of the LRC Act is not considered feasible, the LRC should be invited to enter into a memorandum of understanding with the government on the above matters. The study team, however, doubts the long-term effectiveness of a memorandum of agreement and notes that an amendment to the Act would permit some reorganization of the LRC. A memorandum of agreement, however, could be initiated immediately and form the basis for subsequent revisions to the Act.

3. Reduce the size of the LRC by reducing the number of long-term employees (or contractors) to a core of generalists who would, in turn, closely monitor and work with a larger number of short-term contract specialists and project leaders to ensure the production of timely and effective reports. This model would ensure flexibility and maximum privatization of the commission's work-in-progress in line with the proposal for the LRC advanced by the Study Team on Regulatory Review.

4. Consolidate the LRC functions with government policy planning functions.

Consideration could be given to assimilating the work of the LRC, possibly within a branch of the Department of Justice which would focus on larger or longer term projects involving fundamental reexamination of particular areas of law. Care would have to be taken to ensure that such a branch was insulated from the more crisis-oriented demands of policy planning within government. Independent advisory bodies might be struck to facilitate proper consultation on the work in progress of that branch. The study team notes, however, that there appears to be widespread support for an independent body such as the LRC to undertake the ordinary business of law reform that cannot be undertaken by task forces or royal commissions on a cost-effective basis.

CANADIAN HUMAN RIGHTS COMMISSION

OBJECTIVES

To promote social change leading to equal opportunity for all by reducing discrimination. This is achieved by handling and processing complaints impartially, advocating the principles of human rights, and encouraging compliance with and understanding of the Canadian Human Rights Act.

AUTHORITY

The Canadian Human Rights Act, S.C. 1976-77, c.33 amended by S.C. 1977-78, c.22 and S.C. 1980-81-82-83, c.111, 143.

DESCRIPTION

The Canadian Human Rights Commission (CHRC) administers the legislation which applies to areas of federal jurisdiction, including federal departments and agencies, Crown corporations, interprovincial and international transportation, telecommunications undertakings, banks, companies dealing with radioactive materials, and interboundary pipelines. It maintains close liaison with similar provincial agencies which administer provincial human rights legislation.

The Canadian Human Rights Act prohibits discrimination on 10 grounds: race, nationality or ethnic origin, colour, religion, age, sex, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

The CHRC has a diverse, broad mix of powers and roles: it adjudicates, issues guidelines, provides policy advice to the government (e.g. regarding amendments to the Act), investigates, monitors and promotes the human rights issues under its purview through public education initiatives.

There are various options involved in the CHRC's operations once a complaint has been determined to fall within its jurisdictions. An investigation is conducted initially . The findings are submitted to the commission which can make the following decisions: not to take further action on the complaint; to dismiss the complaint; to appoint a conciliator to bring about a settlement; or to

approve settlements where agreement has been reached by the parties; or, appoint a tribunal. Part of the current omnibus legislative package before Parliament (Bill C-27), proposes that a panel independent of the commission establish a tribunal when the commission is satisfied an inquiry by such a tribunal is warranted.

The CHRC is composed of the Chief Commissioner and a Deputy Chief Commissioner who are full-time members and three to six other members who may be full- or part-time. Other than headquarters of the commission, there are seven regional offices (Halifax, Montreal, National Capital Region, Toronto, Winnipeg, Edmonton and Vancouver). The main organizational components are: complaints and compliance, public programs and research and policy.

BENEFICIARIES

In employment matters, the beneficiaries are those employees employed in federal bodies. Employers also benefit through the possibility of having their employment practices approved by the commission.

As to provision of services, all Canadians obtaining services from federal bodies subject to the Act are beneficiaries.

EXPENDITURES ($000)

	82/83	83/84	84/85	85/86	86/87	87/88
Operating Ex.						
Salaries	4,411	4,823	6,484	6,687	6,687	6,687
O&M	1,576	2,153	2,691	2,643	2,643	2,643
Other Exp.						
Revenue						
Subsidies						
Capital	105	390	32	14	14	14
PYs	127	138	156	159	159	159

OBSERVATIONS

This is the third study of the CHRC this year. The regulatory review study team examined the commission and prepared a report for the Task Force. Also, the Auditor General tabled his report on the commission on October 24, 1985.

The justice study team received similar comments from employers and service providers as did the regulatory review study team:

a. the economic cost of implementing CHRC recommendations as to special programs, plans and arrangements to reduce disadvantages suffered by some individuals;

b. the excessive amount of time it takes the CHRC to resolve a complaint, due to personnel changes and lack of resources to deal with complaints; the investigation and conciliation stages might be incorporated into one;

c. certain investigators play a missionary role for human rights rather than investigate objectively; there is the feeling that the investigator is in fact preparing the CHRC's case for the tribunal;

d. the employer has the financial burden of disproving allegations through statistics and studies when a complaint is made to the CHRC;

e. the commission requests employers' comments on commission initiatives, for instance, as they relate to equal pay for work of equal value, but the final document hardly incorporates any of the comments;

f. the CHRC's authority to appoint tribunals may result, according to certain employers, in loaded tribunals in favour of complainants when the commission has sided with the complainant; Bill C-27 will correct this situation; and

g. settlements of complaints should not be publicized by the CHRC as the employer is seen by the public as having been guilty. The employer often sees a settlement in the interest of both parties without accepting guilt. Publicity surrounding a settlement entices an employer to attend before a tribunal and "take his chances" rather than be found guilty without a hearing.

Contrary to the regulatory review team's comments, in one case, a major employer and service provider had no difficulty with the commission attending as a party before

tribunals to represent the public interest, as often the CHRC ensures that an unrepresented complainant has some representation.

Beneficiary concerns:

a. delays in the investigation of complaints sometimes make it more efficient for an individual to start an action in court under the Charter where possible, rather than complain to the CHRC;

b. an efficient CHRC with tribunals would be preferable to applications directly to courts because courts are perceived as more formal, more costly and generally more conservative;

c. if the CHRC used its authority more effectively to establish guidelines under subsection 22(2),matters could be more quickly resolved; and

d. there might be a privative clause in the CHR Act preventing review by the courts of tribunal decisions.

The justice team agrees with the regulatory review study team that the title Canadian Human Rights Commission is potentially misleading as the commission deals mainly with 10 grounds of discrimination in federally regulated bodies. The title may be misleading to individuals with human rights issues not falling within the scope of the CHRC's activities.

It was observed, and people consulted generally agreed, that the CHRC fulfills an essential function in carrying out its mandate. As noted by the regulatory review team, repeal of the Canadian Human Rights Act would leave a gap whereby federally regulated bodies would not be subject to provincial human rights legislation. The commission generally fulfills its functions fairly well with its limited resource allocation, the study team believes.

There appear to be some inconsistencies between federal bodies as to the rules with which employers must comply. For instance, the Canadian Transport Commission or the Department of Labour might make regulations on security or other matters with which employers must comply, but the employer might be found by the CHRC to be discriminating against certain individuals by complying.

The commission received 31,000 requests for information in 1984 of which 414 became complaints. This compares with 13,502 requests from September 1984 to October 1985 by the British Columbia Council, of which 302 became cases. It also compares with 22,001 requests to the Quebec Commission of which 412 became cases. In 1983/84, the Ontario Commission received 51,779 requests for information of which 1,599 new cases were opened. Ontario has 39 investigators to handle approximately 1,600 cases, whereas the CHRC has approximately 35 to handle 400 to 500 complaints received. Quebec has approximately 19 investigators to investigate approximately 300 new cases a year.

As noted above and in agreement with the Auditor General's report tabled October 24, 1985 and the Regulatory Review study team, there is considerable delay in investigating complaints. As of December 31, 1984, the CHRC had a backlog of 682 cases. The Auditor General's report looks at this problem in detail.

Delay might also be caused by the separation of the investigation and conciliation stages. Ontario combines both stages. It was noted that separation of the two stages might cause duplication as the coordinator has to learn what the investigating officer already knows. It is more time-consuming and may cause morale problems among personnel as the investigating officer may feel he or she should continue to be involved in the settlement process and the conciliation officer may be critical of the investigation.

As well as delay at the investigation and conciliation stages, there may very well be too many potential levels at which a human rights issue could be considered. When a complaint is received the potential levels of review are as follows:

a. investigation;
b. conciliation;
c. tribunal of one or two;
d. appeal to tribunal of three; and
e. application for review before the Federal Court of Appeal.

The commission may at any time establish a tribunal of one to three persons. If a tribunal of three is established, there is no further appeal before a tribunal.

Some observations were made that human rights hearings should be before the courts rather than a tribunal or that there should be a full appeal to a superior court rather than the limited right of appeal which exists under section 28 of the Federal Court Act.

There may be some overlap with provincial commissions in human rights education and research.

Some confusion exists in the public concerning which organization, among the CHRC and its provincial counterparts, should deal with complaints. However, it was observed that all human rights bodies are clear on their respective jurisdictions and cooperate in referring complainants to the proper body.

In the view of the study team, even with Bill C-27, there could still be a perception that a tribunal is not objective, as, pursuant to subsection 22(2) of the Act, the CHRC may issue guidelines expressing its opinion setting forth the extent and the manner in which a provision of the Act applies in a case or class of cases. Strangely, the tribunal is bound by the commission's opinion contained in the guideline.

There is some concern that Bill C-62, the new employment equity bill, may create the need for more personnel at the CHRC if it is required to oversee compliance by employers.

It should be noted that, overall, comments obtained were generally favourable to the CHRC and its activities. It was often mentioned that people at the commission are devoted to the cause of human rights and the commission does fairly good work with limited resources.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. To reduce delays in processing complaints:

    a. the CHRC could make greater use of guidelines under 22(2), but not bind tribunals;

    b. set regulatory or administrative time limits for investigations;

c. review rapid case resolution processes in existence in certain provinces;

d. look at the possibility of combining the investigation and conciliation stages; and

e. establish tribunals as soon as possible and, as a rule, with a panel of three.

2. To ensure independence of tribunals:

a. Bill C-27; and

b. tribunals should not be bound by CHRC guidelines on interpretation of the Act and the Act should be amended accordingly.

The CHRC could perhaps play a coordinating role with its provincial counterparts respecting education and research in human rights whereby all bodies could benefit from the efforts of other bodies. Overlap could also be avoided. Human rights commissions do currently meet on an annual basis.

3. Consider amending the title Canadian Human Rights Act.

The CHRC should give more consideration to the cost of compliance by employers with CHRC initiatives.

Further study should be undertaken to compare the relative merits of having human rights cases heard by the courts rather than tribunals, as is the case in certain jurisdictions.

PUBLIC LEGAL EDUCATION AND INFORMATION PROGRAM
Department of Justice

OBJECTIVE

The Public Legal Education and Information Program has three objectives:

a. to help improve access to justice, especially for disadvantaged persons, by improving the local availability of information, in a comprehensible form, about the law and the legal system;

b. to provide timely legal information to the public about the reform of federal laws for which the Minister of Justice is responsible and which have a major impact on the public; and

c. to help develop, through research and pilot project activity, means of making laws more comprehensible to the public.

AUTHORITY

The Appropriation Act.

DESCRIPTION

In May 1984, the Department of Justice was authorized to proceed with a Public Legal Information Program with the objectives outlined above.

To improve community access to justice by means of improved public legal education and information (PLEI), the department established the Access to Legal Information Fund:

a. to provide start-up funding to PLEI organizations in the four provinces and two territories where none then existed to encourage the development of a national PLEI network; and

b. to provide project funding to community associations and existing PLEI organizations to meet the legal information needs of disadvantaged groups such as the handicapped, women, Natives, youth and visual minorities.

A lawyer-editor was engaged to develop public legal information about justice and law reforms (e.g. sexual assault, divorce reform, etc.) with the aid of a small contract and publications budget and the assistance of the department's public affairs section.

As well, fundamental research has been undertaken into the ways to make laws more understandable and increase public involvement in law reform. In addition, a technical workshop is proposed with working experts (legislative draftsmen, plain language law exponents, public legal information specialists, etc.), to review the state of the art and identify ways of encouraging the enactment and dissemination of laws that have a major public impact in a more comprehensive form.

BENEFICIARIES

The Canadian public.

EXPENDITURES ($000)

85/86	86/87
1,105	1,255

OBSERVATIONS

Beneficiaries (four provinces, two territories) of the start-up core funding portion of the program have responded positively. Federal grants have been supplemented by local resources and plans are developing for local funding on termination of the federal grants (after three years). In the view of the study team, it is too early to measure the impact of this aspect of the program, but it should be viewed as successful if those provinces and territories involved maintain an effective public legal education and information program on termination of federal funding.

There is a significant risk of overlap and duplication both within the government and with the provinces. When the program was established, the Department of Justice met with the Ministry of the Solicitor General to outline its priorities and they have continued to communicate on a regular basis. Apparently they have been able to draw distinct lines of responsibility. Overlap or duplication may exist with other government departments or agencies, but have not been identified. Federal/provincial concerns

regarding PLEI are discussed in the course of other consultations through established committees. It is important, in the study team's view, to recognize that PLEI has implications for the administration of justice, a provincial responsibility.

Funding of $200,000 has been allotted to disadvantaged groups for 1985/86. Applications exceed available funds, partly as a result of a decrease in resources available elsewhere. Only short-term funding is available, usually for three years. Wherever possible, attempts are made to obtain third- and fourth-party financing or in-kind support.

A research component of the program is charged with the responsibility of measuring the effectiveness of the various components. The program is too new for any assessment to be made at this time.

The Bureau of Program Evaluation and Internal Audit is to review the effectiveness of the program within the first three years of its operation to determine whether it should be continued. Effectiveness of the program, therefore, cannot be ascertained at this time.

OPTIONS

The study team recommends to the Task Force that the government continue the program with monitoring in future to identify the extent to which it is successful in carrying out its mandate and to ensure that no overlap or duplication exists between the federal government and the provinces.