



**THE FEDERAL LEGAL AID RENEWAL STRATEGY
FORMATIVE EVALUATION
Technical Report**

December 2006

**Evaluation Division
Policy Integration and Coordination Section**



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EXECUTIVE SUMMARY

1. Introduction

Introduced in 2003 and covering three fiscal years, the Legal Aid Renewal Strategy (the Strategy) provides contribution funding for: criminal legal aid (adult and youth) in the provinces; criminal (adult and youth) and civil legal aid in the territories; innovations through an Investment Fund for both provinces (criminal) and territories (criminal and civil); immigration and refugee (I&R) legal aid in six provinces; and federal court-ordered counsel (FCOC) as required. As well, the Strategy included funding support for research to support ongoing policy development as well as for the development of civil legal aid pilot projects. More than \$377 million was allocated to the Strategy for the years 2003-04 to 2005-06. Funding for the Legal Aid Renewal Strategy was recently extended for one year (i.e., fiscal year 2006-07).

When the Strategy was implemented in 2003-2004, the Department of Justice (DOJ) developed a Results-based Management and Accountability Framework (RMAF) for the Strategy that included this evaluation study. Initiated in February 2005, the evaluation pursues four objectives:

- To assess the appropriateness of program design and implementation to support the achievement of the Strategy's objectives;
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented;
- To examine whether these improvements have contributed to increased program effectiveness;
- To provide program management with useful information for the future of the Strategy.

The methodology used to conduct this evaluation consisted of a document and file review and key informant interviews. To obtain a detailed understanding of the Legal Aid Renewal Strategy's components, a range of documents (official program documentation, project files and reports, policy papers, briefing notes, performance reports, funding program files, and research

reports) was reviewed primarily during the months of February and March 2005. Key informant interviews were conducted between April and June 2005 with representatives from the federal government, the provincial and territorial governments, and the legal aid plans. In total, 54 key informants were interviewed.

2. Background

The Legal Aid Project (2001-2003)

Recognizing the financial pressures on legal aid plans throughout the country and the importance of learning more about unmet needs in various areas of legal aid, the federal government implemented interim measures covering fiscal years 2001-2002 and 2002-2003 (the Legal Aid Project).

The first component of the Legal Aid Project consisted of additional financial resources provided to support criminal and youth criminal legal aid (and criminal and civil legal aid in the territories), and to address unique pressures in the area of I&R legal aid in six jurisdictions.¹

The second component of the Legal Aid Project consisted of a joint research program initiated by the Federal-Provincial-Territorial Ministers Responsible for Justice to examine long-term legal aid needs in Canada. A Research Secretariat with provincial, territorial, and federal representation was created to ensure the research was a federal-provincial-territorial partnership and that all jurisdictions would benefit. During this period, research identified unmet needs in criminal legal aid and described services provided in civil legal aid and developed and implemented pilot projects in criminal, family, and immigration and refugee legal aid.

3. Program description

The Legal Aid Renewal Strategy (2003-04 to 2005-06) includes six key components:

- ***Legal aid base funding***

In the provinces, the federal government contributes “base funding” for criminal and youth criminal legal aid that contributes to the costs of delivering legal aid services to economically disadvantaged people accused of serious criminal offences and facing the likelihood of

¹ The six jurisdictions are: British Columbia, Alberta, Manitoba, Ontario, Quebec and Newfoundland and Labrador.

incarceration, and to youths charged under the *Youth Criminal Justice Act* (YCJA). In the territories, this legal aid funding is provided in support of criminal and civil legal aid, through the as Access to Justice Services Agreements (AJAs) that also integrate funding for Aboriginal Courtwork and Public Legal Education and Information services.

– ***Immigration and refugee legal aid***

The federal government contributes funding, through the criminal legal aid agreements, to six jurisdictions to support the costs of providing I&R legal aid services. This funding supports the six jurisdictions in assisting and representing immigrants and refugees involved in the immigration and refugee determination system according to the legislative provisions of the *Immigration and Refugee Protection Act* (IRPA).

– ***Investment Fund***

The Investment Fund provides jurisdictions with additional funding that supports the development, implementation, and monitoring of legal aid innovations addressing unmet legal aid needs in the provinces (criminal) and territories (criminal and civil). Under this Fund priority is given to innovations addressing the needs of Aboriginal people, members of official language minority groups and members of visible minority groups as well as those with special needs; and those targeting service diversification –activities which support the provision of legal aid services (e.g., duty counsel) that focus on the needs of people at the “front-end” of the criminal justice system.

– ***Legal Aid Pilot Project Fund***

This Fund provides contribution funding to interested jurisdictions, through separate project funding agreements, for the development and implementation of effective and efficient civil legal aid approaches to address unmet legal aid needs in targeted civil legal aid areas of I&R, family and poverty law. Such approaches are expected to improve access to civil legal aid services, and inform federal, provincial, and territorial legal aid policy development and implementation.

– ***Federal court-ordered counsel cases***

Contribution funding is provided under separate funding agreements for cases in which the federal government is required by the courts to provide funded counsel to individuals who would

not otherwise qualify for legal aid and are involved in federal prosecutions. DOJ works collaboratively with the jurisdictions to manage these FCOC cases.

– ***Research***

The program of research is intended to support policy development in the area of civil legal aid by identifying the nature, extent, and patterns of civil justice problems; determining, within the limits of existing court data and secondary research, the numbers of unrepresented litigants and the experiences of unrepresented litigants; examining issues relating to the need for representation or assistance at federal administrative tribunals; and reviewing historical data and related information on federal funding for civil legal aid.

4. Program rationale

The Strategy was an opportunity to provide targeted funding and base funding in an attempt to improve legal aid services offered in Canada. This evaluation indicates that the targeted funding (Investment Fund, I&R and pilot projects, in particular) is addressing legal aid needs, while also providing some performance information. While this demonstrates that there are definite advantages to maintaining a targeted funding component in future legal aid agreements, a few jurisdictions indicated that they have limited capacity to develop and manage special projects. In addition, there are significant concerns about the sustainability of IF projects. Both the federal government and the jurisdictions acknowledged the need for a mechanism to continue funding for successful innovation.

At the same time, the base funding agreement is arguably a suitable mechanism for funding core legal aid services, though provincial and territorial governments are of the view that the current level of funding, which is essentially the same level as in 2001-2002, is insufficient, given that the cost of delivering legal aid has increased since then. The FCOC component of the Legal Aid Renewal Strategy is addressing the need for a mechanism to provide funded counsel in federal prosecutions involving individuals who would not otherwise qualify for legal aid..

5. Program design

The research conducted as part of the Legal Aid Project (2001-2003) helped to shape the three-year Strategy to some extent. In particular, the range of activities funded under the Investment

Fund and Legal Aid Pilot Project Fund components of the Strategy reflect many of the findings from the Legal Aid Project.

The Strategy is largely seen as appropriately structured to meet its current objectives. The use of a single legal aid agreement that covers all components of the Strategy except pilot projects was seen as largely appropriate when the Strategy was launched. The FCOC component is seen as an appropriate mechanism to address non-legal aid cases while also minimizing the inflationary pressure of other forms of state-funding of accused persons.

As it now stands, the Strategy is perceived to be sufficiently flexible, particularly in the range of activities it is able to support through components such as the Investment Fund and the Legal Aid Pilot Project Fund. However, the yearly allocation of funds, under both of these Funds, posed problems for some jurisdictions that would have preferred having the flexibility to re-allocate resources over a two- or three-year period when faced with unforeseen delays in project implementation.

The short duration of the agreements under the Strategy and under the Legal Aid Project (interim measures), three and two years respectively, has proven to be challenging. During the three years of the Strategy, considerable time and resources were devoted to negotiations on the funding distribution. Operationally, a five-year agreement would offer several advantages, including a greater level of funding predictability and opportunities for the Federal, Provincial, Territorial Permanent Working Group on Legal Aid (FPT PWG on Legal Aid) to focus on policy issues other than funding formulae. A challenge facing both the federal government and the jurisdictions when considering a five-year agreement is the lack of consensus at this point on a fair and equitable funding formula.

While the performance reporting requirements appear to be manageable for most jurisdictions, many of the jurisdictions are challenged by the lack of human and financial resource capacity to meet the federal requirements for accountability and performance reporting. Some jurisdictions are significantly delayed in providing the information required for payment under the base funding agreement. In addition, at the time of the data collection for this evaluation only half of the jurisdictions had submitted their interim reports for Year 2 and only a portion had submitted the key results reports on the pilot project funding.

6. Implementation

The Legal Aid and Policy Planning Directorates have provided effective support and management throughout the implementation of the Strategy's various program components. The availability and flexibility demonstrated by the staff from these two directorates were identified as important factors that contributed to the implementation of several program components in a relatively short period of time.

At the time of the evaluation, reporting on the Investment Fund and Pilot Project Fund was limited and consisted of descriptive information on the nature of services offered, the target groups, the early results, and implementation challenges. In addition, financial reporting on the base funding provided descriptive information including: the number of full services authorized and the types of charges for which representation and duty counsel services were provided. However, the lack of consistency in the reporting by jurisdictions, combined with the absence of adequate resources and capacity to collate and analyse the available legal aid data and the lack of agreed upon FPT performance measures, inhibits the federal government's ability to report on results.

7. Program effectiveness

While the relative share of the federal contribution to the cost of legal aid has been decreasing over the years, it still represents an important source of funding. By providing base funding, the federal government is securing commitment from the jurisdictions in the areas of criminal and youth criminal legal aid to provide at least a minimum level of service. The jurisdictions, on the other hand, are mainly concerned with increasing the base funding in order to improve the level of service provided by the legal aid plans. Some key informants were critical of the federal government's continued interest in starting new projects to address legal aid needs through initiatives like the Investment Fund and pilot projects rather than increasing core or base funding to provide more support for the existing programs.

In recognition of the special needs of the territories, federal funding to the territories is allocated through a unique agreement (AJAs) with each territory covering Aboriginal Courtwork and PLEI services and both criminal and civil legal aid. However, the territories continue to face many challenges in providing access to legal aid in the territories, including difficulties in attracting and retaining staff lawyers and few private bar lawyers being available to represent individuals in

some civil matters. Clearly, capacity to provide legal services continues to be a priority in many northern communities.

Jurisdictions appreciated the additional funding provided through the Investment Fund component of the Strategy to broaden their services or develop new services; however, they are seriously concerned about what will happen to these services once this funding terminates at the end of the Strategy. Further, while the objectives of this component appear to have been met, and more than 100 projects were implemented across Canada, as the current funding agreements are coming to an end, it is unclear if and how these newly developed services will be sustained.

I&R funding is supporting the provision of services that ensure fair representation during immigration or refugee determination proceedings. At this point, funding in support of the delivery of I&R legal aid services is distributed to the six jurisdictions providing such services.

The objectives of the Strategy for FCOC have been largely met and as a result the Department has been able to establish a systematic and more effective process to deal with the requirement for court-ordered counsel in federal prosecutions.

8. Implementation of recommendations from the 2001 Strategy

The recommendations of the 2001 summative evaluation included the following:

- clarify the role of federal government with respect to criminal and youth legal aid
- develop in consultation with the jurisdictions results-based objectives
- develop a performance measurement framework to provide consistent information
- explore in collaboration with the jurisdictions approaches to monitor coverage and access
- link federal funding to objectives
- work with other departmental stakeholders to assess the resource implications of changes to criminal law policy on the national system of legal aid
- build greater accountability and transparency.²

² See DOJ. (2001). Summative Evaluation of the Legal Aid Program for a detailed description of these issues and recommendations.

Key informants differed on whether the Strategy addressed the 2001 summative evaluation recommendations fully. Some jurisdictions argued that the federal vision on legal aid remains nebulous. Other key informants, particularly from the federal government, argued that the Strategy itself constitutes the foundation of the federal vision for legal aid, which is reflected by the types of activities funded. The implementation of other recommendations can be more readily assessed. For instance, the DOJ has identified results-based objectives for the Strategy, which were included in the RMAF developed in 2003. As well, the Department is proceeding with ongoing audits and this evaluation of the legal aid program.

9. Lessons learned

The following are some lessons arising from the evaluation:

- The lack of consistent reporting, particularly with regards to the base funding, has inhibited the federal government's ability to report on results.
- While targeted funding has allowed the provincial, territorial, and federal governments to address legal aid needs and to gather more results-based information on specific activities, such funding has not addressed jurisdictions' desire for funding to support core legal aid services.
- The Strategy's three-year funding time frame was insufficient for planning, implementing, and reporting on IF and pilot projects.
- The effectiveness of the PWG and its ability to focus on other mandated activities was compromised by the need to negotiate two short-term agreements over the course of five years.

1. INTRODUCTION

Introduced in 2003 and covering three fiscal years, the Legal Aid Renewal Strategy (the Strategy) provides contribution funding for: criminal legal aid (adult and youth) in the provinces; criminal (adult and youth) and civil legal aid in the territories; innovations through an Investment Fund for both provinces (criminal) and territories (criminal and civil); immigration and refugee (I&R) legal aid in six provinces; and federal court-ordered counsel (FCOC) as required. As well, the Strategy included funding support for research to support ongoing policy development as well as for the development of civil legal aid pilot projects. More than \$377 million was allocated to the Strategy for the years 2003-04 to 2005-06. Funding for the Legal Aid Renewal Strategy was recently extended for one year (i.e., fiscal year 2006-07). This document presents the findings of the Strategy's formative evaluation.

1.1. Context for the evaluation

In 2001, a summative evaluation was conducted of the Federal Legal Aid Program, the foundation for the Strategy. The study focused on the criminal legal aid agreements between the federal government and the provinces from 1996 to 2001 and explored the extent to which the agreements supported the national legal aid objectives and the evolving role of the federal government.³

When the current Strategy was implemented in 2003-2004, the DOJ developed a Results-based Management and Accountability Framework (RMAF). It identified the need for this evaluation, which was initiated in February 2005.⁴

³ DOJ Canada. (2001). Legal Aid Program: Summary, Recommendations and Management Response.

⁴ DOJ Canada. (2003). Results-based Management and Accountability Framework for the Legal Aid Program.

1.2. Scope and objectives of the formative evaluation

The focus of the current evaluation is the range of activities undertaken during the period covered by the Strategy (2003-04 to 2005-06). As required and applicable, the evaluation also considers activities undertaken during the interim period of 2001-02 to 2002-03.

This evaluation has four objectives:

- To assess the appropriateness of program design and implementation to support the achievement of the Strategy's objectives.
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented.
- To examine whether these improvements have contributed to increased program effectiveness.
- To provide program management with useful information for the future of the Strategy.⁵

Supporting the four objectives is an evaluation framework developed in consultation with an evaluation steering committee comprised of DOJ representatives. Appendix A includes the evaluation issues and questions.

1.3. Structure of the report

This evaluation report contains five sections, including this introduction. Section 2 describes the various components of the Strategy. Section 3 describes the methodology for this formative evaluation, and Section 4 summarizes the key findings. Section 5 presents the conclusions and lessons learned.

⁵ DOJ Canada. (2004). Request for Proposals for the Formative Evaluation of the Justice Canada Renewed Legal Aid Program.

2. THE FEDERAL LEGAL AID RENEWAL STRATEGY⁶

2.1. Background

In 2000, recognizing the financial pressures on legal aid plans throughout the country and the importance of learning more about unmet needs in various areas of legal aid, the federal government implemented interim measures covering fiscal years 2001-2002 and 2002-2003 (the Legal Aid Project).

The first component of the Legal Aid Project consisted of additional financial resources provided through a contribution funding agreement to support criminal and youth criminal legal aid (and criminal and civil legal aid in the territories), and addresses unique pressures in the area of immigration and refugee legal aid in six jurisdictions. Table 1 illustrates the resources allocated to this end.

Table 1: Interim funding measures (2001-02 and 2002-03)		
Description	Budget allocation	
	2001-02	2002-03
Support to criminal and youth criminal legal aid services in the provinces	\$ 9,500,000	\$ 9,500,000
Support to criminal and youth criminal legal aid, and civil legal aid services in the territories	\$ 500,000	\$ 500,000
Support to immigration and refugee services in Newfoundland and Labrador, Quebec, Ontario, Manitoba, Alberta, and British Columbia	\$ 10,000,000	\$ 11,500,000
Total	\$ 20,000,000	\$ 21,500,000

Source: Department of Justice

The second component of the Legal Aid Project consisted of a joint research program initiated by the Federal-Provincial-Territorial Ministers Responsible for Justice to examine long-term legal aid needs in Canada. To facilitate this process, a Research Secretariat with provincial,

⁶ The information contained in this section describing the Strategy primarily comes from the Legal Aid Renewal Strategy Performance Report 2004-2005, prepared by the Legal Aid Directorate, DOJ Canada (June 2005).

territorial, and federal representation was created to ensure the research was a federal-provincial-territorial (FPT) partnership and that all jurisdictions would benefit. This period of research identified an array of unmet needs, such as:

- persons without representation at bail hearings, entering pleas, final appearance, and sentencing, affecting the court process as well as outcomes for accused
- limited organized provision of *Brydges* duty counsel⁷
- limited capacity of legal aid systems to deal with accused with low levels of functioning that impede their ability to understand proceedings
- Aboriginal people, immigrants, visible minority groups, etc. facing cultural, linguistic, and other barriers accessing legal aid services
- persons in remote areas who are experiencing difficulty obtaining access to legal aid
- legal aid services not always available in the language of the official language minority
- a cost-effective approach to providing representation at all stages of the refugee claim process.

The funding allocated for research purposes during this period was almost \$2 million.

Resources were also allocated to support pilot projects in both criminal, family, and immigration and refugee legal aid.

2.2. Description of the Legal Aid Renewal Strategy

In 2003, following two years of interim measures, the DOJ launched the Federal Legal Aid Renewal Strategy. Covering three fiscal years (2003-2004 to 2005-2006), the Strategy aims to improve access to legal aid services, promote innovative approaches to address unmet legal aid needs, and support policy development in the area of legal aid using six key components:

⁷ In *R. v. Brydges*, [1990] 1 S.C.R. 190, the Supreme Court of Canada stated that any individual who has been arrested or detained has the right to be informed by the police of the availability of legal aid and duty counsel. For an analysis of *Brydges* duty counsel services, see Verdun-Jones, Simon. *A Review of Brydges Duty Counsel Services in Canada*, available on the DOJ's web site: <http://canada.justice.gc.ca/en/ps/rs/rep/2003/rr03lars-4/index.html>.

- base funding for criminal and youth criminal legal aid (and criminal and civil legal aid in the territories)
- financial support to immigration and refugee legal aid services
- an Investment Fund, to support innovative approaches to address unmet needs in criminal and youth criminal legal aid (and criminal and civil legal aid in the territories)
- a Pilot Project Fund, to test innovative strategies to address unmet legal aid needs in targeted civil legal aid areas
- funds to manage federal court-ordered counsel (FCOC)
- research

More than \$377 million was allocated to the Strategy over the years 2003-04 to 2005-06. Funding for the Strategy was recently extended for one year (i.e., fiscal year 2006-07).

The following sections describe the Strategy's individual components, as well as the interim measures that preceded the launching of the Strategy.

2.3. The Strategy's policy context

The provision of criminal legal aid services is viewed as a shared responsibility between the federal and provincial/territorial levels of government because each level of government has prosecutorial and constitutional powers as well as *Charter* responsibilities. It is constitutionally shared between the federal government, which has authority for criminal law-making power, and the provincial governments, who have the authority for the administration of justice. Since the early 1970s, the federal government has been supporting the delivery of criminal legal aid in the provinces and territories through contribution agreements.

The provincial governments have constitutional authority for the administration of justice and property and civil rights. The federal government supports the delivery of civil legal aid (including immigration and refugee legal aid) in the provinces through the Canada Social Transfer (CST) and in the territories, through the AJAs.⁸

⁸ Most of the jurisdictions do not agree that civil legal aid is funded under the CST.

2.4. Objectives of the Strategy

The main objectives of the Strategy are to enable the federal government, in cooperation with the provinces and territories, to:

- promote access to justice by:
 - supporting criminal legal aid assistance for economically disadvantaged persons, particularly in serious criminal matters and for those facing the likelihood of incarceration and for young persons pursuant to the *Youth Criminal Justice Act*
 - complying with federal legislation
 - promoting and protecting rights under the *Charter*
 - meeting the needs of a diverse population.
- support and promote alternative initiatives and innovative service delivery methods for criminal legal aid
- develop effective responses to current and emerging criminal legal aid issues

2.5. Components of the Strategy

The Legal Aid Renewal Strategy (2003-04 to 2005-06) includes six components:

2.5.1. Legal aid base funding

In the provinces, the federal government contributes “base funding” for criminal and youth criminal legal aid that contributes to the costs of delivering legal aid services to economically disadvantaged people accused of serious criminal offences and facing the likelihood of incarceration, and to youths charged under the *Youth Criminal Justice Act* (YCJA). In the territories, this legal aid funding is provided in support of criminal and civil legal aid, through the as Access to Justice Services Agreements (AJAs) that also integrate funding for Aboriginal Courtwork and Public Legal Education and Information services.

2.5.2. Immigration and refugee legal aid

Under the three-year agreement, funding flows annually to participating jurisdictions that provide immigration and refugee (I&R) legal aid.⁹ This additional legal aid funding¹⁰ supports jurisdictions in their role to assist and represent immigrant and refugee claimants through the immigration and refugee determination process according to the legislative provisions of the *Immigration and Refugee Protection Act (IRPA)*.

The federal contribution for I&R legal aid, distributed through the criminal legal aid agreements, is calculated on the basis of seven variables. Each variable represents a specific type of service provided by the Immigration and Refugee Board and the Federal Court of Canada. The distribution of federal resources is calculated using actual volume data on the services. Participating jurisdictions are expected to report the number of cases seen and managed under each variable and to report their annual expenditures on I&R legal aid. Canada's contribution cannot exceed 60% of a jurisdiction's expenditures for such services.

2.5.3. Investment Fund

The Investment Fund provides jurisdictions with additional funding that supports the development, implementation, and monitoring of legal aid innovations addressing unmet legal aid needs in the provinces (criminal) and territories (criminal and civil). Under this Fund priority is given to innovations addressing the needs of Aboriginal people, members of official language minority groups and members of visible minority groups as well as those with special needs; and those targeting service diversification –activities which support the provision of legal aid services (e.g., duty counsel) that focus on the needs of people at the “front-end” of the criminal justice system. Distribution of funding to provinces was based on a funding formula developed in collaboration with the jurisdictions.

2.5.4. Legal Aid Pilot Project Fund

The Legal Aid Pilot Project Fund aims to address unmet legal aid needs in targeted civil legal aid areas of I&R, family and poverty law by:

⁹ The participating jurisdictions are: British Columbia, Alberta, Manitoba, Ontario, Quebec, and Newfoundland and Labrador.

¹⁰ I&R funding is provided in addition to that allocated to the jurisdictions for civil legal aid under the CST.

- developing effective and efficient approaches to the delivery of civil legal aid services in these targeted areas
- improving access to civil legal aid services
- informing federal, provincial, and territorial legal aid policy development and implementation.

2.5.5. Management of federal court-ordered counsel (FCOC) cases

Where a criminal charge is serious, involves complex legal issues and there is a likelihood of incarceration upon conviction, a court may conclude that the Charter rights to a fair trial of an indigent person, unable or unwilling to obtain legal aid, will probably be infringed. When this occurs the remedy is a stay of proceedings until the prosecuting authority provides counsel for the accused (court-ordered counsel), at its expense. Governor in Council approved resources to permit management of court-ordered counsel in federal prosecutions. The provinces and territories agreed to manage and administer these cases and that they could access through the criminal legal aid agreements resources dedicated for federal court-ordered counsel.

2.5.6. Research

The program of research developed for the three-year Federal Legal Aid Renewal Strategy is intended to support policy development in the area of civil legal aid by pursuing a number of objectives:

- identify the nature, extent, and patterns of civil justice problems
- determine, within the limits of existing court data and secondary research, the numbers of unrepresented litigants and the experiences of unrepresented litigants
- examine the issues in relation to the need for representation or assistance at federal administrative tribunals
- review historical data and related information on federal funding for civil legal aid
- provide advice on the evaluation of pilot projects and legal aid renewal strategies.

The research budget under the Strategy is considerably less than what was invested previously under the Legal Aid Project. Federal respondents noted that the research findings from this earlier period are still relevant.

2.6. Program resources

Table 2 shows the total funding provided in the various components of the Strategy.

Table 2: The Federal Legal Aid Renewal Strategy (2003-04 to 2005-06)*				
Component Description	Resource Allocation			
	2003-04 (\$M)	2004-05 (\$M)	2005-06 (\$M)	Total (\$M)
Criminal and Youth Criminal Legal Aid - Provinces	89.328	89.328	89.328	267.984
Access to Justice Services - Territories	2.585	2.585	2.585	7.755
Immigration and Refugee Legal Aid	11.5	11.5	11.5	34.5
Investment Fund (Provinces and Territories)	15.0	25.0	20.0	60.0
Federal Court-ordered Counsel (CDSA)	1.7	0.525	0.753	2.978
Federal Court-ordered Counsel - Unique Legal Cases)	0.35 (Vote 1) 0.05 (Vote 5)	0.10 (Vote 1) 0.25 (Vote 5)	0.10 (Vote 1) 0.25 (Vote 5)	0.55 0.55
Pilot Projects	0.675	0.950	0.955	2.58
Research and policy development	0.145	0.13	0.138	0.413
Total	121.333	130.368	125.609	377.31

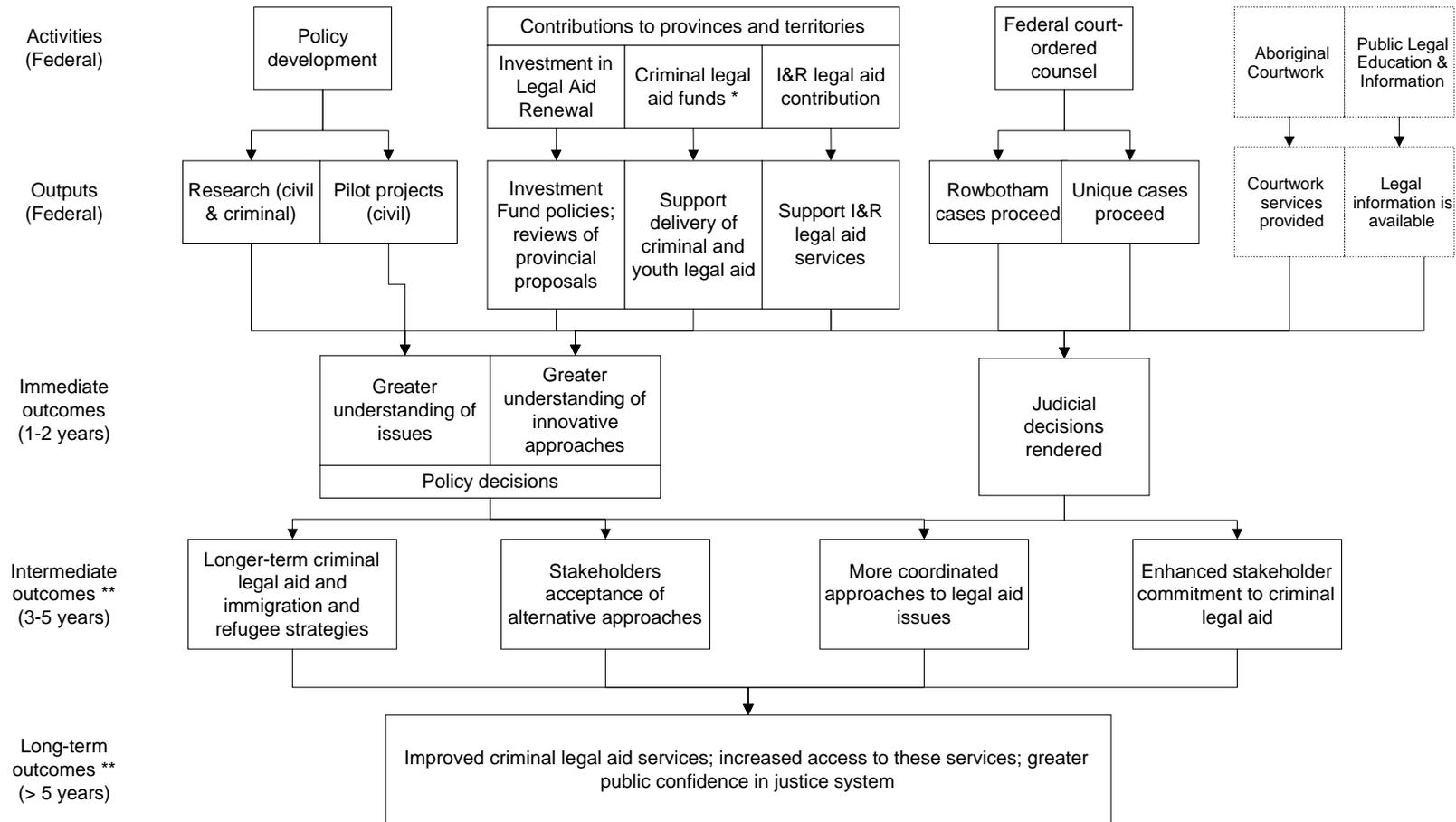
* Notes: Table does not reflect salary and O&M resources provided from the DOJ reference levels for the delivery of this program, resources allocated for legal aid as part of the Public Security and Anti-terrorism Initiative or the resources for extraordinary cases such as *Air India*.

2.7. Program logic

The logic model on the next page (Figure 1) shows the activities of each component of the Strategy. These produce a range of outputs that are largely the responsibility of the federal

government. Immediate outcomes, primarily greater understanding of issues and innovative approaches leading to policy decisions, were to have occurred in the first one to two years of the Strategy. The realization of intermediate outcomes will occur over the three to five-year period. This evaluation focuses on the extent to which activities have produced the required outputs and whether the outputs support the fulfilment of immediate outcomes.

Logic Model Federal Legal Aid Renewal Strategy



* Includes civil legal aid services in the territories

** Not reported on within the three-year time frame of the current legal aid agreements

Figure 1

3. METHODOLOGY

The methodology used to conduct this evaluation has two main components: a document and file review and key informant interviews.

3.1. Document and file review

To get a detailed understanding of the Federal Legal Aid Renewal Strategy's components, a range of documents were reviewed, primarily during the months of February and March 2005:

- official program documentation
- pilot project files and reports (available at the time of the evaluation)
- Investment Fund files and reports (available at the time of the evaluation)
- Permanent Working Group (PWG) on Legal Aid policy papers, conference documents, and meeting minutes
- briefing notes, QP notes, and Ministerial correspondence
- performance reports
- audit reports
- news clippings
- funding program files
- Summative Evaluation of the Legal Aid Program 1996-2001
- RMAF Legal Aid Project (2001-2003)
- RMAF/RBAF Legal Aid Strategy (2003-2006)
- research reports
- Canadian Centre for Justice Statistics publications and data

- cost-sharing agreements between the federal government and the provinces and territories
- legal opinions (subject to issues of privilege)
- national data on FCOC funding arrangements (total number of cases, total funding).

3.2. Key informant interviews

Key informant interviews were conducted between April and June 2005 with representatives from the federal government, the provincial and territorial governments, and the legal aid plans. The following table presents the distribution of key informants consulted. The interview guides are found in Appendix C. It should be noted that not all key informants addressed the entire range of evaluation issues. They were asked to address evaluation questions related to their roles, responsibilities, and expertise.

Table 3: Distribution of key informants consulted	
Key informant group	Number of individuals consulted
DOJ	12
Citizenship and Immigration Canada and the Immigration and Refugee Board	4
Provincial and territorial governments	16
Legal aid plans	22
Total	54

4. KEY FINDINGS

This section of the report combines information from the key informant interviews and the document review. The presentation of the findings follows the key components of the Strategy and also responds to the questions identified in the evaluation framework.

4.1. Base funding

4.1.1. Policy context

The cost of delivering legal aid services is increasing. While total national expenditures on legal aid have fluctuated over the years, they have been on an upward trend since 1999-2000. A number of factors have contributed to the rise in the cost of delivering legal aid, including the “introduction of new investigative technologies (DNA, wiretap evidence) that require complex and lengthy testimony.”¹¹

The interim funding, which included an additional \$10 million introduced in 2001-2002, was continued under the Strategy; yet the federal contribution as a percentage of total shareable expenditures has continued to decline. This underscores the increase in costs reported by provincial-territorial legal aid plans. As illustrated in Figure 2, the federal contribution currently stands at approximately 34% of total shareable expenditures. Provincial and territorial representatives believe that the federal contribution to base funding should rise to help cope with the rising costs of their services. Naturally, jurisdictions would like to negotiate long-term and stable base funding.

¹¹ DOJ Canada. Departmental Performance Report 2003-2004.

Federal contribution as a % of total shareable expenditures

(Source: Operations Directorate / Program Branch data)

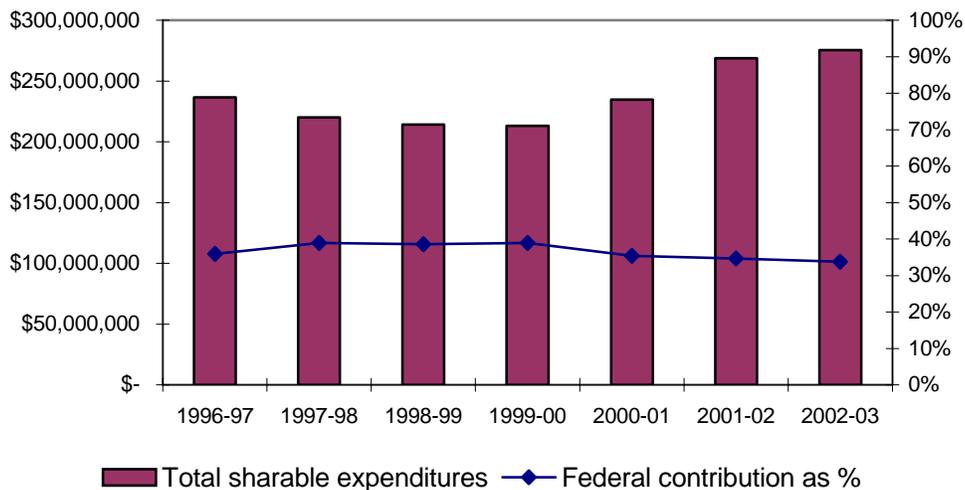


Figure 2

4.1.2. Contribution agreements – overview

Base funding is provided through contribution agreements the federal government uses in transferring funds to the jurisdictions. These agreements describe the federal contribution to base funding, the administrative procedures governing this contribution (submission of claims, payment schedules, etc.), and the reporting requirements. All parties view this as operationally effective, but not all jurisdictions support the allocation formula. No consensus exists on an alternative. The parties have elaborated guiding principles as a prelude to a review of the funding formula that all parties wish to see. Provincial and territorial representatives also see the three-year time frame in the contribution agreements as too short. By contributing to the operation of legal aid services, the federal government secures a commitment from the provinces and territories to a minimum national standard for criminal legal aid based on the likelihood of incarceration.

4.1.3. Funding formula renewal – principles

Under the current agreement, the federal contribution to base funding is distributed to jurisdictions on the basis of historical funding and population.

Since the negotiations concluded for the three-year agreement, the provinces and territories have been working towards the development of a fairer and more equitable funding formula.

Finding a fair and equitable funding formula is an important goal among the jurisdictions. Aside from the technical impediment just noted, the main difficulty is that no jurisdiction wishes to see its share of federal contribution reduced. As a result, provinces and territories tend to support any revised funding formula that increases (or stabilizes) their share of federal funding. At this point, funding formula revision would be challenging if the federal contribution were to remain at its current level. It is noteworthy that beyond the actual formula used to allocate federal funding, the principles also call for an increase in the federal contribution.

4.1.4. The administration of base funding

The Legal Aid Directorate administers the federal contribution to base funding. Every year, each jurisdiction must submit an audited financial claim, which provides information on the delivery of legal aid services during the preceding fiscal year. For criminal and youth criminal justice legal aid services, the reports must include the number of eligible persons or eligible young persons provided with legal aid, the types and nature of offences with which they were charged, and any innovations undertaken to improve service delivery.

According to respondents, the management and reporting of activities under the base funding is efficient. This process is essentially limited to the submission of descriptive information such as the number of full services authorized, the types of charges for which representation was obtained, and duty counsel services provided, required to authorize the payment of claims statements. Contributing to this efficiency is the experience all parties have gained over the last 30 years since the Legal Aid Program was first established.

4.1.5. Commitments secured through base funding

As part of their agreements, Canada and the jurisdictions recognize their responsibility to provide equitable access to legal aid to all eligible persons.

By entering into contribution agreements with provinces and territories, the federal government secures a commitment from the jurisdiction in the areas of criminal and youth criminal legal aid to provide at least a minimum level of service and to advertise the availability of services.

In authorizing the provision of criminal legal aid services, primacy is to be given to certain circumstances, such as an offence contrary to an Act or Regulation of Parliament where there is a reasonable likelihood that upon conviction, there will be a sentence of custody or imprisonment, and proceeding pursuant to the *Criminal Code*, the *Extradition Act*, or the *Fugitive Offenders Act*. Residents from other provinces or territories are eligible to receive legal aid services as are non-residents of Canada for proceedings under the *Extradition Act* or the *Fugitive Offenders Act*.

While the federal government is securing certain levels of service and jurisdictional commitment through the contributions agreements and base funding, jurisdictions maintain that they are facing increasing financial pressures resulting from the increased cost of legal aid delivery. While some of the key informants indicated that the two-year interim funding did help alleviate immediate pressures at that point, they are still in need of greater base funding.

4.2. Territories and AJAs

The territories receive a separate allocation of federal funding in recognition of the need for legal services in the territories and the cost of meeting that need differs in many ways from that of the provinces. As with the base funding provided to provinces, interviews with jurisdictional representatives confirm that the contribution agreement arrangement is effective and efficient. The AJAs allow the federal government to secure a commitment from the territories to certain principles on the access and level of legal aid services offered in the territories

4.2.1. The need for a separate structure

Respondents acknowledged that several challenges exist in delivering legal services to particularly remote Northern communities. In its 2003-2004 Departmental Performance Report, the DOJ emphasized the challenges experienced in Canada's North: "Effective delivery of legal aid in the North is compromised by a rapidly growing population, high crime rates and a lack of institutional infrastructure."¹² As they include direct support to civil legal aid, AJAs also

¹² DOJ. Departmental Performance Report 2003-2004.

recognize the specific challenges of delivering civil legal aid services in remote areas, with small populations, and few or no legal services available from private bar lawyers.

A few key informants emphasized that many of the services covered by the AJAs specifically target Aboriginal communities, which constitute a priority group for both the federal and the territorial governments. They also noted that Aboriginal people tend to be over-represented in the justice system. At the same time, a few questioned the rationale for a separate funding structure such as the AJAs. They were of the opinion that a funding structure used for the provinces should be sufficiently flexible to accommodate all regional differences.

4.2.2. The components of AJAs

The design of AJAs is unique because it includes three distinct programs for the North: legal aid, Aboriginal Courtwork, and Public Legal Education and Information. In general, key informants see these agreements as sufficiently flexible to meet the needs of the North. Some key informants added that having the three programs assembled into one agreement allows reallocation of resources to meet specific needs. Finally, as with provincial base funding, respondents in the North support the current contribution agreement model, but would like a five-year time frame.

4.2.3. Funding formula

The funding formula used to distribute the federal contribution to territorial base funding, while seen as appropriate for the current agreement, needs to be reviewed in the context of future contribution agreements. Interviews revealed that the current formula is largely perceived as a compromise to allow for the implementation of the Strategy and it was not to be used beyond the three-year agreement. As noted by the Department, “the territories and the Department are continuing to work towards developing a formula for distribution of legal aid funding among the three jurisdictions that better reflects the need for and the unique challenges of delivering legal aid services in Canada’s North.”¹³

While a large minority of territorial key informants indicated that the level of resources is still problematic, a few reported that they believe that the current level of resources is sufficient to carry out the terms of the AJA agreements.

¹³ DOJ, Legal Aid Directorate. (2005). Legal Aid Renewal Strategy, Performance Report 2004-2005, p. 7.

4.2.4. Administration of AJAs

The Policy Planning Directorate, within the DOJ, is responsible for the management of the AJAs. In addition, to support the implementation of AJAs, a working group separate from the PWG has been established. This working group allows the federal government, territorial governments, and legal aid entities to address any issue relating specifically to the territories.

The federal and territorial respondents view the overall management of AJAs as effective. The flexibility and the efforts of the DOJ to accommodate the unique circumstances of the North were acknowledged throughout the interviews. A large minority of territorial key informants also noted that having a separate working group for the territories has proven to be helpful. Federal representatives indicated that their territorial partners understand the expectations for service delivery and reporting, and that the Department is attempting to accommodate the territories, recognizing that they have limited resources and capacity.

4.2.5. Commitments secured through AJAs

By providing base funding to the territories, the federal government secures commitments from the territories on both civil and criminal legal aid. On adult criminal and youth criminal legal aid, the federal government has the same range of commitments from the territories as for the provinces. In addition, by providing direct base funding for civil legal aid, the federal government is securing a commitment from the territories that they will provide civil legal aid.

4.3. Investment Fund

4.3.1. Overview

The Investment Fund (IF) component supports one of the Strategy's main objectives, innovative service delivery of criminal legal aid. At the time of the evaluation, over 100 IF projects had been implemented, offering new services and new delivery approaches

The IF uses a business plan as the foundation for allocating funding and while jurisdictions reported some challenges with this process, it is largely seen as effective. On the one hand, this component has proven to be flexible in the range of activities funded; on the other hand, implementation caused some difficulties. Some jurisdictions have experienced challenges with the reporting, but all key informants stated that the Legal Aid Directorate offered effective

support throughout the implementation of this component. During the key informant interviews, the funding formula for IF raised few concerns.

4.3.2. Program objectives

The IF has the following specific objectives, namely to:

- improve access to legal aid services, particularly at the early stages of the criminal justice system
- address the legal aid needs of federal priority groups (Aboriginal people, members of visible minority groups, and members of official language minority groups)
- address other priorities such as service diversification, rural and remote service delivery, Public Legal Education and Information, and enhanced duty counsel service delivery
- address the needs of legal aid clients with special needs (i.e., clients who are young, have low literacy, skills, drug or alcohol dependencies or who suffer from untreated mental disorders).

The rationale for including the IF component in the Strategy was apparent to all key informants – this component supports innovation and responds to emerging needs in the area of criminal legal aid). It provides new approaches of delivering services, especially to individuals not typically well served, such as those in remote communities. Some key informants also emphasized that the projects addressed shared areas of interest between the federal government and the jurisdictions.

4.3.3. The funding process

As noted in Section 2, the findings of the research conducted as part of the Legal Aid Project identified unmet needs in several areas, such as: unrepresented accused, limited access to legal aid services by Aboriginal communities, immigrants, visible minorities and official language groups, and those living in remote areas. The DOJ developed the IF component to respond to these unmet needs.

An IF component was included in each of the legal aid agreements signed between the federal government and the jurisdictions. A funding formula allocated financial resources to each jurisdiction, which developed a business plan to describe how it intended to invest this funding. The business plan process included two stages. First, the Department invited each jurisdiction to submit a letter of intent including a description of the objectives, the expected results from the

implementation of its business plan, an outline of the unmet needs targeted by its projects, a list of proposed projects, a time frame, and an estimated cost. A committee made up of members of the Legal Aid and Policy Planning Directorates and the Research and Statistics Division reviewed the letters of intent for compliance with the objectives of the IF. Based on this initial review, each jurisdiction submitted a business plan that detailed each component included in the letter of intent.

Jurisdictions were expected to submit IF projects addressing some of the legal aid priorities agreed to by the PWG, including:

- Aboriginal people
- official languages
- visible minorities
- service diversification (increased or broader coverage)
- rural and remote
- youth
- criminal Public Legal Education and Information
- special needs
- enhanced or expedited duty counsel
- others (mental health court, legal aid for prisoners, etc.).

While it was mandatory that jurisdictions submit at least one official language project, they had the flexibility to select among the other areas that best suited the priorities of their jurisdiction.

Completing the business plan process has proved challenging for some jurisdictions. Limited resources and capacity, combined with the need to proceed expeditiously, put pressure on all jurisdictions, but more particularly so on smaller ones. A few key informants from the jurisdictions noted that the research from the prior Legal Aid Project helped them develop their business plans.

Some key informants expressed pleasure that the IF has been flexible on the types of projects covered and provided the possibility of revising one's business plan. However, a few key informants believed that IF criteria were not flexible enough to meet the priorities of their

jurisdiction. More than half of the jurisdictions have requested changes to their business plans since the Directorate originally reviewed them. Some of these changes involved budget adjustments; that is, transferring resources from one project to another. Others involved more extensive changes such as eliminating projects and occasionally replacing them. Generally, the focus and the priorities identified in the original business plan were respected.¹⁴

A significant concern expressed during almost all of the interviews related to the sustainability of the IF projects. Both the federal government and the jurisdictions acknowledged the need for a mechanism to continue funding for successful innovation.

At the time of the evaluation, no decision had been made on the continued funding of the IF projects beyond the Strategy's three-year time frame. Any decision on this matter will have significant ramifications for the jurisdictions; key informants emphasized the consequences of shutting down services that have responded to a need.

4.3.4. Funding Distribution

The provinces and territories agreed to the use of a number of variables to determine the distribution of the Investment Fund resources. These included variables such as the total Aboriginal population as determined by the Census of Canada and the number of persons charged under the *Criminal Code* and *Controlled Drugs and Substances Act*. Jurisdictions generally perceive the current distribution of IF resources to be adequate. The funding formula used specifically for the IF also raised no significant concerns during the interviews.

4.3.5. Administration of IF projects – financing and reporting

The ongoing administration of IF projects has been effective. By far the greatest concern expressed about the management of IF projects was the delay in launching these projects. Business plans were only approved late in fiscal year 2003-2004, and there was \$15 million to be spent in Year 1.

¹⁴ DOJ, Legal Aid Directorate. (2005). Legal Aid Renewal Strategy, Performance Report 2004-2005, p. 8.

The Department and jurisdictions collaborated on the IF reporting requirements, which called for three reports:

- Year 1 (2003-2004): a progress report, outlining the nature of project activities and linking them to funds expended
- Year 2 (2004-2005): an interim report that provides a comprehensive account of the project(s) activities and results to March 31, 2005
- Year 3 (2005-2006): a final evaluation report, to be submitted no later than June 30, 2006.

While most jurisdictions have submitted their IF progress reports for Year 1, only half of the jurisdictions had submitted their respective interim reports for Year 2 at the time of the evaluation. In developing their initial business plan, the Department encouraged the use of the funding to hire staff to monitor activities and prepare progress reports.¹⁵ Not all jurisdictions have followed this suggestion, and those with few staff and/or staff turnover have found the reporting process to be challenging. Stakeholders expressed a need for capacity-building in the provinces and territories to undertake reporting and, more specifically, performance measurement.

4.3.6. Range of projects funded

In total, the IF supported 122 projects with over 100 starting in the first year of the Strategy. A list and description of projects appear in Appendix C.

- Many projects support *Bridges* and duty counsel services with a view to improve access to legal aid services at the early stages of the criminal justice system.
- As required under the IF guidelines, jurisdictions have included a component on official languages.
- Initiatives address other PWG priorities such as rural and Northern services, public education, Aboriginal services, cross-cultural, youth.
- Some jurisdictions have reviewed their eligibility guidelines with a view to increase access to legal aid services.
- The territories have all implemented civil legal aid projects.

¹⁵ Legal Aid Directorate. (2003). Application for the Investment Fund.

The following table provides an overview of activities funded through the IF.

Table 4: Investment Fund projects overview	
<u>Please note:</u> a project may be included under more than one heading. For instance, a duty counsel service targeting Aboriginal people will appear under both duty counsel and Aboriginal priority group.	
Key legal aid areas	% of total projects
Duty counsel services (including services to special needs populations, such as Aboriginal people, youth, students, or individuals held in custody, increase of staff duty counsel, and the implementation of enhanced duty counsel services)	11%
<i>Brydges</i> services (including <i>Brydges</i> services offered in both official languages and/or other languages, after-hours and/or toll-free phone services, and increased <i>Brydges</i> duty counsel remuneration to ensure continued service delivery)	7%
Aboriginal communities (including staff counsel with expertise in Aboriginal issues, Aboriginal staff counsel speaking Aboriginal languages, duty counsel services targeting Aboriginal clients, and restorative justice initiatives)	13%
Official languages minority groups (including bilingual staff counsel, bilingual brochures, bilingual clinic staff, and establishment of a roster of bilingual lawyers)	12%
Minorities (including duty counsel and <i>Brydges</i> services targeted to minorities, interpretation services, and cross-cultural training)	2%
Rural and remote communities (including the use of video technology to submit applications and issue certificates, tariff incentives, web site enhancement, increased staffing in remote locations, use of satellite phones, articling student program targeting remote locations, and increased travel mileage allowance)	9%
Public legal education (including development of materials and services to homeless persons through street outreach services provided by criminal staff lawyers and community workers)	3%
Special needs	
Mental health (including partnerships between legal aid and mental health organizations to provide service and develop protocols for the provision of legal aid services to people with mental health problems, hiring of counsel with specialized expertise in mental health, and the provision of paralegal support at mental health locations)	2%
Youth (including youth courtworkers providing a range of services to youth, staff duty counsel lawyers dedicated to representing young persons in custody, training and information on legal aid for youth, and social worker to support accused youth)	7%
Other (including the development of expertise in driving under the influence cases, support to big cases and mega trials, and support to poverty and civil law services in the territories.	5%
Financial eligibility criteria (including the increase in financial eligibility guidelines, and the hiring of additional staff to facilitate determination of eligibility for legal aid)	3%
Administrative enhancement (including the implementation of computerized systems to improve statistical and accounting reports, and the development of computer capacity to report on legal aid projects)	3%
Access and service diversification (including the implementation of law lines, videoconferencing, establishment of new offices or positions, recruitment, training, organizational review, early case resolution, and assistance on major cases)	25%

Table 4: Investment Fund projects overview	
Please note: a project may be included under more than one heading. For instance, a duty counsel service targeting Aboriginal people will appear under both duty counsel and Aboriginal priority group.	
Key legal aid areas	% of total projects
Civil legal aid (including the hiring of additional staff lawyer and paralegal to provide civil legal aid services and legal assistance for family and non-family civil law, representing clients before administrative tribunals and boards, as well as providing summary advice)	4%
Investment Fund and evaluation support (including the hiring of staff and/or contractors to ensure the coordination and evaluation of projects)	6%

Source: IF business plans and progress reports

Jurisdictions have reported a number of challenges during the implementation of IF projects:¹⁶

- unexpected delays and performance failures with new information technology systems
- poor quality of audio and video links
- difficulties in recruiting suitable candidates for new positions funded through IF projects, particularly in northern and more remote locations
- limited capacity to adequately capture performance data
- limited organizational capacity to manage multiple IF projects
- unrealistic hiring time lines and work completion rates
- lack of contingency plans
- uncertainty on future funding of IF projects (after March 31, 2006).

4.4. Immigration and refugee

4.4.1. Policy context

The inclusion of an I&R component is consistent with the federal government’s goal of supporting the delivery of legal aid services in the area of I&R law. The objective of the federal government was to develop policy direction on I&R legal aid, including a vision of what

¹⁶ Information as reported by the jurisdictions in the 2005 Progress Reports and during key informant interviews.

services, legal and otherwise, should be made available as part of the immigration and refugee determination processes. Although I&R legal aid is provided, it is not necessarily a legal aid priority for many jurisdictions, especially those not providing I&R services. Even those jurisdictions offering I&R stressed that proceedings before the various tribunals of the Immigration and Refugee Board of Canada are the responsibility of the federal government (DOJ and Citizenship and Immigration Canada) and, accordingly, that I&R legal aid services should be funded entirely by the federal government. At the time of this evaluation, six provinces offering I&R legal aid services were receiving I&R funding: British Columbia, Alberta, Manitoba, Ontario, Québec, and Newfoundland and Labrador.

4.4.2. I&R component design

There is no consensus on the best structure for I&R services. Arguments were advanced in favour of maintaining this component in the current legal aid agreements, while other voices called for a separate agreement. A few key informants noted that the inclusion of I&R in an agreement that has historically focussed on criminal legal aid creates ambiguities. At the same time, some others commented that the current agreements are not exclusively criminal legal aid agreements and, furthermore, that a discrete agreement for I&R (or other civil legal aid components) would likely result in more protracted negotiations. Ultimately, some key informants emphasized that having I&R included in the agreements allows all jurisdictions at least the opportunity to participate, while acknowledging that in some jurisdictions, there is practically no demand for these services. Nevertheless, a small number of respondents contend that access to I&R legal aid remains uneven across the country.

4.4.3. Funding formula

Jurisdictions generally support the current funding formula for I&R but a few key informants expressed concern that, with the funding allocation largely based on the previous year of I&R volume, they could not cover new initiatives. In light of these considerations, the federal government explored policy options but these were not supported by participating jurisdictions.

4.4.4. Funding distribution

Every jurisdiction offering I&R legal aid services is entitled to receive a portion of the \$11.5 million available annually as part of the Strategy. As it currently stands, the federal contribution

to I&R is divided among participating jurisdictions on the basis of a funding formula that uses several variables, such as the total number of principal claims referred to the Immigration and Refugee Board and the total number of detention reviews completed.

The total demand for each service is to be based on figures provided by the Immigration and Refugee Board of Canada and by the Federal Court Administrative Services. Payments are to be based on figures for the preceding fiscal year. Any province or territory that provides I&R legal aid is entitled to a share of the total federal government contribution for I&R legal aid. However, the federal contribution toward I&R services cannot exceed 60% of total expenditures in a jurisdiction.

4.4.5. The administration of I&R

By all accounts, the ongoing administration of I&R component is considered to be effective. Participating provinces are expected to report by the variables used in the distribution formula, and, to this end, a revised claim form has been designed to facilitate the I&R reporting process.¹⁷ It should be noted that, at the time of the evaluation, only two jurisdictions (Ontario and Alberta) were able to fully report I&R details using the revised claim form.

4.5. Pilot projects

4.5.1. Policy context

While the Strategy focuses primarily on criminal legal aid, the inclusion of pilot projects has enabled jurisdictions that had participated in the two-year interim period to continue civil legal aid pilot projects commenced during this period. It also fostered the development of new pilot projects that offer legal aid services in family, poverty and immigration and refugee law matters.

4.5.2. Funding process

Pilot projects are outside the legal aid agreement framework. Separate contribution agreements between funding recipients and the DOJ (Legal Aid Directorate) were signed on the basis of proposals submitted by recipients. A range of applicants submitted proposals, including

¹⁷ DOJ, Legal Aid Directorate. (2005). Legal Aid Renewal Strategy, Performance Report 2003-2004, p. 11.

provincial and territorial governments, legal aid plans, non-profit organizations and professional societies or associations. Activities eligible for funding included short-term demonstration projects, consultations, conferences, workshops, symposia, seminars and training sessions. The maximum contribution allowed for a single project was \$300,000 per fiscal year.

Pilot projects included an evaluation plan identifying project outputs, expected outcomes, performance indicators, data sources, and a proposed methodology to support the evaluation. A few key informants explained that the large amount of administration and reporting required, limited the participation of some of the jurisdictions. A few added that the overall design was too cumbersome for the amount of money involved.

4.5.3. Administration of pilot projects

The ongoing administration of pilot projects was described as effective and key informants commended the support provided by the Legal Aid Directorate during the implementation of their projects. The predominant concern expressed pertained to the short time frame for submitting a proposal and reporting on activities. A few respondents thought that providing clearer guidelines and sufficient preparation time to provinces and territories wishing to submit a proposal would improve the administration of pilot projects.

The reporting requirements for pilot projects include three components: a progress report (due date varies among projects); a key results report, to be submitted in June 2005; and a final report, to be submitted in June 2006. At the time of the evaluation, only a portion of funding recipients had submitted their key results reports. The late start of these pilot projects clearly contributed to these delays.

4.5.4. Nature of projects funded

A total of 12 pilot projects were funded. Eight of these projects focused on providing access to legal aid in family law matters related to custody, access and maintenance, child welfare and child protection. Three projects focused on improving access to legal aid in the immigration and refugee law and the last concentrated on providing poverty law legal aid services.

4.5.5. Lessons Learned

The Legal Aid Directorate reported several lessons learned from the pilot projects. Regarding project management, the experience to date indicates that a five-year framework is minimally required to allow for sufficient activity implementation and reporting. As well, site visits bring a better understanding of the projects' results. Separate contribution agreements with funding recipients support a collaborative working approach. Pilot projects have enabled the DOJ to have a better understanding of civil legal aid and the context within which it operates. The lessons learned from the pilot projects have contributed to the development of the Department's legal aid policy framework.¹⁸

As described during key informant interviews, jurisdictions faced a number of challenges during the implementation of pilot projects:

- recruiting staff, particularly due to the tight time frame
- securing the level of expertise required by the projects
- selecting the appropriate program delivery organizations
- adjusting projects to meet a lower level of funding than requested
- having the legal aid plans responsible for the delivery of pilot even though they may not be providing the services.

4.6. FCOC and non-CDSA FCOC

The inclusion of a component in the Strategy that provides a systematic process to deal with FCOC is largely seen as effective. The Legal Aid Directorate added 18 new FCOC and non-CDSA FCOC cases to its caseload in 2004-2005.

4.6.1. The need for a structured approach to FCOC

The objective of this component of the Strategy is to reduce the incidence of FCOC and to contain the costs of court-ordered defence counsel. A managed fund to pay for FCOC is expected to contribute to confidence and certainty in the criminal justice process, as federal prosecutions

¹⁸ DOJ, Legal Aid Directorate. (2005). Legal Aid Renewal Strategy, Performance Report 2004-2005, p. 16.

are not delayed or compromised by the search for funding or a mechanism to pay court-ordered counsel.

4.6.2. Results to date

During the interim period (2001-2003), FCOC cases were managed on a case-by-case basis, drawing from financial resources from departmental reference levels and *ad hoc* Treasury Board submissions. The Strategy has provided dedicated funding for FCOC and a mechanism whereby jurisdictions or their legal aid service delivery entities administer FCOC in *CDSA* cases, in accordance with the prevailing legal aid tariff. This has reduced the incidence of federal duplication of the jurisdictions' mechanism to administer court-ordered counsel.

Since the Strategy's implementation, no jurisdiction has declined administration of FCOC cases; administrative assistance has been declined in the less frequent instances of FCOC in non-*CDSA* prosecutions.

4.7. Legal aid policy research

As explained earlier in this document, the results of the research conducted in 2001-2003 (the Legal Aid Project) guided the design of the Legal Aid Renewal Strategy. Some key informants emphasized the importance of research and of directly involving the academic community in legal aid research.

4.7.1. Impact of the Legal Aid Project on the Renewed Legal Aid Strategy

The intent of the Legal Aid Project, implemented as part of the 2001-2003 interim measures, was to gather information requested by the jurisdictions to learn more about the needs across the country. A Research Secretariat comprised of provincial, territorial, and federal representatives was to ensure that the research reflected the needs of the jurisdictions. The approach was to test new areas and use the findings to help with designing a new agreement. Nineteen research projects were funded, mostly focusing on areas of criminal, family, and I&R law (see Table 5).

Table 5 Overview of research projects	
Project characteristics	No. of projects (out of 19)
Criminal	8
Immigration and Refugee	3
Family	1
Poverty Law	1
Northern Territories	3
Prison Law	2
Legal Aid Cost Sharing in Australia	1

Source: Legal Aid Directorate

In addition, three synthesis reports were written, one for the eight criminal legal aid projects, one for the three territories projects and one for the three immigration and refugee projects. The complete list of research projects is included in appendix to this report.

What was learned during this research includes the following:¹⁹

- Unrepresented accused are present at all stages of the criminal justice system.
- Many accused entering the criminal justice system have difficulty understanding the process due to mental disorders, learning disabilities or substance abuse impairment.
- Visible minorities and refugees often have reduced access to criminal legal aid because of cultural and language barriers, and if convicted, may be subject to the additional sanction of deportation or denial of citizenship or family sponsorship.
- There are a number of challenges to providing legal aid in the North, such as remoteness, weather conditions, social problems, high costs, and many other challenges that exacerbate unmet legal aid needs.
- Legal representation or assistance by paralegals supervised by lawyers is required for most stages of I&R process.
- The availability of legal aid for family law matters varies enormously across the country.
- Inmates of federal penitentiaries lack access to legal aid for both administrative prison law matters and for other family and criminal law matters.

¹⁹ Based on a summary prepared by the Legal Aid Directorate.

- Legal aid for poverty law matters is available for only a limited range of matters in most jurisdictions and is not available at all in some.
- Minority official language services are not always routinely offered.
- Public legal education and information is needed, particularly by Aboriginal people, and immigrants and refugees.

In addition, the Legal Aid Directorate's research team supported the PWG's efforts to develop needs-based distribution formulas for criminal, AJA, and I&R. This work was initiated under the interim measures (Legal Aid Project) and continues on the criminal and AJA formulas. This research has included the identification of potential variables and construction of the databases, development of the formula models, production of formula scenarios representing varying combinations of variables and weights for purposes of policy analysis and discussion with the jurisdictions and the involvement in PWG discussions/negotiations concerning the distribution formulas.

The key informant interviews confirmed that the cumulative knowledge resulting from the Legal Aid Project was applied to the Strategy in its development. A few key informants noted that the research enabled the jurisdictions to explore how to improve service delivery and to gain new knowledge on legal aid needs. However, some key informants were of the opinion that too much research was done too fast, with the result that the research was used by the federal government, but not as much by the jurisdictions. Some key informants also noted that inadequate budgets limited their jurisdictions' ability to collect reliable and comparable information on unmet needs.

4.7.2. Research capacity under the Strategy

There has been limited capacity and funds to conduct research under the current Strategy. While the research results from 2001-2003 are still relevant and continue to be used for policy development, a number of research projects have also been initiated to support the development of the post-2006 federal legal aid strategy. These research projects include (complete list of research projects funded is included in Appendix to this report):

- Federal involvement in civil legal aid:
 - history of federal involvement in supporting civil legal in the provinces (in-house)
 - study of federal funding under Canada Assistance Program (CAP), the Canada Health and Social Transfer (CHST) and the CST

- review of CAP files related to federal funding for civil legal aid
- Immigration and Refugee
 - views of NGOs on the impact of the withdrawal of I&R services in BC
- Need for civil legal aid
 - national survey of civil justice problems
 - study of need for legal assistance at the appeal stages of federal social benefits tribunals,
 - study of civil justice problems in the territories.

Some key informants emphasized the need to do more research. They argued that funding for research should be stable and continuous. A few key informants also noted that research providing comparable data across jurisdictions would be helpful to the federal government and the jurisdictions in developing and targeting services.

4.8. Consistency of Strategy with federal and provincial priorities

4.8.1. Federal priorities

The Strategy supports the Department’s strategic outcome of “ensuring a fair, relevant and accessible justice system that reflects Canadian values.”²⁰ Legal aid is considered to be part of the broader federal objective of accomplishing this goal. A priority in achieving this is to promote “access to, and efficiencies in, the justice system,” so that “economically disadvantaged people involved in serious criminal matters have improved access to legal representation.”²¹ To this end, the Strategy targets specific groups that are consistent with this goal (Aboriginal people, official language minority groups, visible minority groups).

However, a few key informants indicated that the Legal Aid Directorate often appears to be working independently from the other sections of the Department and that the potential impacts on legal aid of changes or new initiatives in related policy areas (such as family law, victims of crime, trafficking of persons, etc.) have not always been considered. These key informants suggested that more consultation with the Legal Aid Directorate would be valuable. Then again, a small number thought this situation appeared to be improving.

²⁰ DOJ Canada. Departmental Performance Report 2003-2004.

²¹ Ibid.

4.8.2. Provincial priorities

The Strategy corresponds with some, but not all of the provincial or territorial priorities. Jurisdictions were involved in the two-year research initiative and participated in defining the criminal legal aid priorities. Nonetheless, many jurisdictions would have preferred to have fewer restrictions attached to some of the funding to address some of their own priorities. The provinces and territories are mainly concerned with increasing the base funding in order to improve the level of service provided by the legal aid plans. They are focused on the working poor who are still unable to access legal aid services, increasing tariffs for the private bar to encourage them to accept legal aid certificates and increasing salaries for staff lawyers. Some key informants were critical of the federal government's continued interest in starting new initiatives rather than increasing core funding to provide more support for the existing programs. Some jurisdictions shaped their priorities to fit the federal funding criteria.

4.9. The Permanent Working Group (PWG)

4.9.1. The role of the PWG

The activities of the PWG do not reflect its mandate, and there is neither consensus on the effectiveness of the PWG, nor agreement on the most appropriate representation for it. Most key informants believe that the role of the PWG is to provide a forum for jurisdictions to discuss legal aid issues and share best practices. Some key informants expressed concern that too much time is spent negotiating a funding formula.

The stated role of the PWG includes many dimensions:

- serve as a resource on issues of criminal, family, civil, administrative, I&R, and poverty legal aid; and on legal aid legislation, policies and programs
- provide advice on legal aid cost-sharing issues
- advise on the potential impact on legal aid of proposed legislative or policy proposals that come before deputy ministers
- develop possible approaches for consideration by jurisdictions and undertake research on legal aid
- identify ways to reform areas of law or justice policy or legal aid itself

- establish effective working relationships at both the federal-provincial-territorial officials' level and at local levels
- involve representatives of non-governmental organizations that have broad interest in the justice field in early and meaningful consultation on legal aid initiatives.

The actual role assumed by the PWG since 2001 has been largely influenced by the need to negotiate two consecutive sets of contribution agreements. Some key informants from the jurisdictions noted that the effectiveness of the PWG is weakened by the fact that the federal government comes to the table with ambiguous policy positions and, more generally, with a lack of a national vision for legal aid. Others had a somewhat different view; they argued that the federal government typically comes to the table with decisions largely made, leaving little opportunity for input from the jurisdictions.

4.9.2. Representation at the PWG

Opinions diverged on the effectiveness of the current representation around the PWG table. Some of the key informants believe that the PWG currently has the right representation around the table and that jurisdictions should have the flexibility to send who they think is best suited for the role. A few others were critical and indicated that:

- Too many actors are currently involved around the table, which has a negative impact on its efficiency.
- Different representatives should be selected to sit at the table.
- There should be some form of rotation and a greater use of sub-committees.
- Those sitting around the table should have the authority to make final decisions (some of the representatives currently sitting on the PWG, but not all, are at the Assistant Deputy Minister level).

Some respondents pointed out that there has been too much turnover of the federal co-chairs, thus creating uncertainty, but a few added that historically the co-chairs have been effective.

The Legal Aid Directorate has undertaken the role of secretariat to the PWG, and federal respondents described the resources expended on this task. The Legal Aid Directorate has a small team, which does the bulk of the work for the PWG; jurisdictions are invited to comment on it. At the same time, a few jurisdictions believe that the federal secretariat should be doing

more to support the role of the PWG. The territories have representation on the PWG and also have a separate working group. This is important to the territories because they don't always feel their influence at the PWG is significant. The territorial working group is smaller and enables them to focus on territorial issues specific to the AJAs.

4.9.3. Effectiveness of the PWG

Negotiation of two consecutive sets of agreements and a new funding formula for the period beyond 2006 has allowed the PWG few opportunities to address policy issues and a national vision on legal aid. Some key informants expressed frustration that all the work on designing a new funding formula has yet to produce results.

Many of the respondents emphasized the commitment of PWG members who are willing to make compromises to get to an agreement. However, others indicated that the PWG is largely a group with competing interests. Some respondents said that it was not possible to resolve the differences and this has resulted in the necessity to introduce a facilitator into the PWG meetings. So far, the feedback on having a facilitator involved in negotiations has been mostly positive; however, a few PWG members saw the need for a facilitator as a comment on how seriously the relationship has degenerated.

Many of the PWG respondents believe that in the event of a longer-term agreement, they could dedicate more time discussing policy issues relating to legal aid and more, generally, assuming the role described in the PWG's official mandate. Although the PWG had been involved in a number of policy development activities, such as developing the criminal legal aid base funding formula, establishing priorities for the Investment Fund and developing the Principles Document, many key informants from the jurisdictions believed that the federal government should do more to involve the jurisdictions in significant policy development work.

4.10. Management of the Strategy

4.10.1. Synopsis

The Department has partially implemented the management recommendations from the 2001 summative evaluation of the Legal Aid Program. Key informants are generally satisfied with the coordination and communication among the Strategy's program components and between Legal

Aid Directorate staff and the jurisdictions. Key informants advanced several structural changes that may improve the management of the Strategy. This section summarizes the essential findings under management, and the themes echo some of the observations presented earlier.

4.10.2. Overview of management recommendations from the 2001 evaluation

The recommendations included in the 2001 summative evaluation included the following elements:

- clarify the role of federal government with respect to criminal and youth legal aid
- develop in consultation with the jurisdictions results-based objectives
- develop a performance measurement framework to provide consistent information
- explore in collaboration with the jurisdictions approaches to monitor coverage and access
- link federal funding to objectives
- work with other departmental stakeholders to assess the resource implications of changes to criminal law policy on the national system of legal aid
- build greater accountability and transparency.²²

Key informants differed on whether the Strategy addressed these issues. Some jurisdictions argued that the federal vision on legal aid remains nebulous. Other key informants, particularly from the federal government, argued that the Strategy itself constitutes the foundation of the federal vision for legal aid, which is reflected by the types of activities funded.

The implementation of other recommendations can be more readily assessed. For instance, the DOJ has identified results-based objectives for the Strategy, which were included in the RMAF developed in 2003. In addition, the Department is proceeding with ongoing audits and this evaluation of legal aid.

²² See DOJ. (2001). Summative Evaluation of the Legal Aid Program for a detailed description of these issues and recommendations.

4.10.3. Coordination and communication

The coordination and communication mechanisms among the various Strategy components were deemed effective by most key informants. .

4.10.4. Implementation support by the Legal Aid and Policy Planning Directorate

Jurisdictions report that the Legal Aid and Policy Planning Directorates have provided the required assistance during the implementation of the Strategy and have shown flexibility in dealing with their requirements. Provinces and territories typically sought clarification on the IF projects (business plans, proposals, performance measurement, reporting, etc.), and key informants confirmed that the Directorates provided timely and complete responses. In general, this observation applies to the other components as well.

4.10.5. Time frame

The three-year period for the Strategy received heavy criticism from most of the respondents we interviewed. It was widely seen as insufficient for all components of the Program. For the IF and pilot projects, coupled with implementation delays, this has meant that required reporting is late, and projects within these two components will not report outcomes before the formal conclusion of the funding.

Furthermore, around half of the provincial/territorial PWG respondents indicated that they can ill afford the time and the financial cost of constantly being in negotiations. A five-year agreement is largely seen as more adequate to allow jurisdictions to better plan, and to more fully implement and assess project results.

4.10.6. Performance measurement

Performance measures are integral to results reporting and program renewal. The performance measures built into the Strategy are providing insight on the nature of services supported through the IF and the Legal Aid Pilot Project Fund. While only limited reporting was available at the time of the evaluation, these reports provide information on the nature of services offered, the target groups, early results, and challenges faced during the implementation. Compared to the other components, the reporting on IF and pilot projects provides marginally better

understanding of the services offered. However, the capacity to report varies by project; those started earlier are obviously in a better position to report than the more recent initiatives.

Base funding represents over 75% of the federal contribution to the provinces and territories for legal aid. The final claims are comprised largely of financial information, which does not provide information about the results of the funding.

At the time of the evaluation, there was only limited reporting:

The 2003-2004 Legal Aid Strategy Performance Report (June 2004) provided only limited information on targeted funding initiatives. In the first year, the start-up of projects was delayed because the required preparatory work, such as the negotiation and signing of agreements and the development of business plans, was, understandably, time-consuming.

The 2004-2005 Legal Aid Strategy Performance Report (June 2005) provides an update on the activities completed during that fiscal year, including a summary of what jurisdictions have reported (formally and informally) in relation to the IF and the pilot projects.

Seven IF and three pilot progress reports for the first full year of program implementation (2004-2005). It is premature to expect outcome information.

The overall level of reporting currently provided by the jurisdictions does not provide a complete understanding of legal aid services offered in Canada.

4.10.7. Auditing of claims

Conducting audits of legal aid claims allows for financial accountability and satisfies accountability requirements. However, a few key informants indicated that they are not clear as to why the federal government conducts its own audits, (on a rotating basis), in addition to provincial audits; key informants in the jurisdiction see this as a waste. However, federal key informants noted that conducting audits is a due diligence requirement, applicable to any federal department. These audits have been useful to show where there have been misinterpretations of the terms of the agreements.

5. CONCLUSIONS AND LESSONS LEARNED

This section of the report presents conclusions and observations emerging from this formative evaluation. The evaluation issues and questions (Appendix A) form the structure for this section.

5.1. Rationale

The Strategy's implementation signals a new federal approach to supporting legal aid in Canada. Based on identified unmet legal aid needs, the Strategy combines targeted and base funding in an attempt to improve legal aid services offered in Canada. As this evaluation indicates, the targeted funding (Investment Fund, I&R and pilot projects, in particular) is addressing unmet legal aid needs, while also providing some performance information. This suggests that there are definite advantages to maintaining a targeted funding component in future legal aid agreements.

At the same time, issues such as eligibility requirements or the range of services offered by legal aid plans are arguably difficult to address outside the base funding framework. So far, the Strategy has essentially maintained the interim funding introduced in 2001-2002. Since then, federal, provincial, and territorial governments agree that the cost of delivering legal aid has been increasing and that there is a need for an increase in base funding.

5.2. Program design

The research conducted as part of the Legal Aid Project shaped the Strategy to some extent. In particular, the range of activities funded by the IF and pilot projects components reflect many of the findings from the Legal Aid Project. The Strategy is largely seen as being appropriately structured to meet its current objectives. The use of a single legal aid agreement that covers all components of the Strategy except pilot projects was seen as largely appropriate when the Strategy was launched.

The Strategy is seen as sufficiently flexible, particularly in the range of activities it funds under the IF and the pilot projects. However, the yearly allocation of funds posed problems for some

jurisdictions that would have preferred having the flexibility to re-allocate resources over a two or three-year period when faced with unforeseen delays in project implementation. While acknowledging these difficulties, the Department has emphasized that this issue goes well beyond the Legal Aid Program and primarily relates to federal government-wide accountability policies and legislative requirements. In this context, it may be more effective to accommodate the funding parameters rather than attempting to change them. In practical terms, this would require that future funding allocations for components such as the IF (which includes a business plan review) or pilot projects (which require proposal review) be done on the premise that very little activity can be implemented during the first year and therefore, that funding should be allocated on that basis.

The three-year funding framework associated with the Strategy has proven to be challenging. Preceded by the two-year interim measures, this time frame has consumed considerable time and resources in negotiation processes. Operationally, a five-year agreement would offer several advantages, including a greater level of funding predictability and opportunities for the PWG to focus on issues other than funding formulae. A challenge facing both the federal government and the jurisdictions when considering a five-year agreement is the lack of consensus at this point on a fair and equitable funding formula and on the federal role in civil legal aid.

The overall performance reporting requirements appear to be manageable for most jurisdictions, subject to the other observation that many of the jurisdictions are stretched very thinly in management to provide the accountability and performance reporting.

5.3. Implementation

The Legal Aid and Policy Planning Directorates have provided effective support and management throughout the implementation of the Strategy's various program components. The availability and flexibility demonstrated by the staff from these two directorates were identified as important factors that contributed to the implementation of several program components in a relatively short period of time.

The performance measures built into the Strategy are providing insight on the nature of services supported through the IF and the Legal Aid Pilot Project Fund. While only limited reporting was available at the time of the evaluation, the reports on the Investment Fund and Pilot Project Fund provide information on the nature of services offered, the target groups, early results, and challenges faced during the implementation. For the base funding, descriptive information is

obtained on matters such as the number of full services authorized, the types of charges for which representation was obtained, and duty counsel services provided, which provides only a limited understanding of the efficacy of this component of the Strategy. The same observations largely apply to I&R funding, where the reporting done is largely focused on the data required by the funding formula, and not on the nature of services provided.

The research activities funded under the Legal Aid Project identified a series of unmet needs in criminal legal aid that are reflected in the IF structure. The Legal Aid Project also funded research activities and pilot projects in the area of civil legal aid, which continue to be supported under the Strategy. While the relative share of federal contribution to the cost of legal aid has been decreasing over the years, it still represents an important source of funding. By providing base funding, the federal government is securing commitment from the jurisdictions to meet the minimum standard of service as defined in the criminal legal aid agreements.

In recognition of the special needs of the territories, the funding is allocated through a unique agreement that covers a wider range of activities, including civil legal aid. Access to legal aid in the territories and more broadly access to any legal services in portions of the territories, remain a challenge. Clearly, capacity to provide legal services remains a priority in many Northern communities.

The Strategy has provided generous funding for new projects and jurisdictions are appreciative of the additional money that enabled them to broaden their services or undertake new initiatives. Interviews and reporting submitted to date indicate that IF projects are addressing unmet needs, particularly in the early stages of court proceedings. However, jurisdictions are seriously concerned about what will happen to the new services after the funding has run out. While the objectives of this component appear to have been met and more than 100 projects are now implemented across Canada, as the current funding agreements are coming to an end, it is unclear if and how these initiatives will be sustained.

I&R funding supports the provision of services that ensure fairness in representation in immigration or refugee matters. At this point, I&R funding formula is used to distribute the available funding among all participating jurisdictions.

The objectives of the Strategy for FCOC (and non-*CDSA* FCOC cases) have been largely met. The Department has established a systematic and more effective process to deal with FCOC. It must now address its organizational capacity to deal with non-*CDSA* cases.

The following are some lessons arising from the evaluation:

- The lack of consistent reporting, particularly with regards to the base funding, has inhibited the federal government's ability to report on results.
- While targeted funding has allowed the provincial, territorial, and federal governments to address legal aid needs and to gather more results-based information on specific activities, such funding has not addressed jurisdictions' desire for funding to support core legal aid services.
- The Strategy's three-year funding time frame was insufficient for planning, implementing, and reporting on IF and pilot projects.
- The effectiveness of the PWG and its ability to focus on other mandated activities was compromised by the need to negotiate two short-term agreements over the course of five years.

**APPENDIX A:
LIST OF EVALUATION ISSUES AND QUESTIONS**

LIST OF EVALUATION ISSUES AND QUESTIONS

The following table includes the list of all the evaluation issues and questions that guided this evaluation process.

Evaluation issues and questions
Rationale
1. What are the key policy issues affecting legal aid in Canada today?
2. What issues is the three-year Federal Legal Aid Renewal Strategy intending to address? How consistent are these with the priorities of the provinces and territories? With other DOJ policy priorities?
3. How is the Federal Legal Aid Renewal Strategy supporting the Department's efforts to promote and increase access to justice?
Program design
4. Is the structure of the initiative designed to meet its current objectives? Is the structure flexible enough to respond to emerging issues?
5. Is the support for immigration and refugee legal aid appropriately structured (as part of Criminal Legal Aid Agreements)?
6. Is the support for the Investment Fund appropriately structured (under the Criminal Legal Aid Agreements)?
7. To what extent has the two-year interim funding agreement shaped the policy direction for the current three-year agreement?
8. Is the three-year funding framework sufficient to support the program objectives and expected program results?
9. What is the role of the PWG? To what extent, if any, has this role changed since the last evaluation in 2001? How could its role be improved?
10. Are the current funding formulae (base funding, Investment Fund, immigration and refugee) adequate? Do they support federal objectives related to legal aid? Is the contribution to legal aid sufficient to secure the commitment of partners in supporting federal objectives? Is it sufficient to legitimize the policy role of the department?
11. Are the performance reporting requirements associated with the Federal Legal Aid Renewal Strategy adequate? (design and implementation) Too onerous?
Implementation
12. How well is the Legal Aid Renewal Strategy managed? Are the various elements of the program being administered effectively? Are the mechanisms for funding appropriate (criminal legal aid base, immigration and refugee etc.)? Are there governance issues related to the implementation of the Legal Aid Strategy?
13. How effective is the management of immigration and refugee legal aid issues?
14. How effective is the management of northern components (AJAs – criminal and civil legal aid)? Are the AJAs adequately resourced to support the achievement of program objectives?
15. How effective is the administration of the Investment Fund? (application process, quality of business plans, relevance of initiatives to objectives of the Fund, level of accountability, linkage to policy)
16. Is the FCOC being administered effectively? (application process, what is working well/what is not?)
17. Is the FCOC-ULC being administered effectively? (application process, what is working well/what is not?)

Evaluation issues and questions
18. Are the pilot projects being administered effectively? (application process, quality of proposals, relevance of projects to objectives of fund, accountability, appropriateness of funding mechanism, link to policy)
19. How have the activities of the Legal Aid Project (the two-year funding agreement) affected the implementation of the renewal strategy (relationship building among the partners, policy based on research findings, FPT negotiations on contribution funding, climate for discussions on Justice support for criminal, civil, and immigration and refugee legal aid)?
20. To what extent have the performance measures built into the program design facilitated a better understanding of the nature of services delivered across Canada? How is quality being measured? Are performance reporting requirements built into contribution agreements? What role does the current process of auditing claims under the contribution agreement play?
Program effectiveness
21. To what extent have the research and pilot projects funded under the two-year interim agreement increased knowledge and understanding of legal aid issues?
22. Have activities funded under the Legal Aid Strategy (Investment Fund, pilot projects, etc.) further increased the understanding (both in Justice and among the PT partners) of key legal aid issues?
23. To what extent has the Investment Fund contributed to addressing federal objectives? To what extent were the projects funded under the Investment Fund appropriate? What changes are needed?
24. What are the current issues regarding Immigration and Refugee Legal Aid? What is the capacity of the existing three-year agreement to respond to these issues (base funding, pilot projects, research, policy development)? What are the priorities that should be included in the long-term approach to managing immigration and refugee legal aid?
<p>25. What lessons can be learned from the renewal strategy?</p> <ul style="list-style-type: none"> - implications for an expanded mandate (immigration and refugee legal aid , civil legal aid) - program design - management - resource considerations (staffing) - policy framework (priorities for new agreements) - DOJ (legal aid and policy planning staff, other stakeholders)

**APPENDIX B:
DATA COLLECTION INSTRUMENTS**

Formative Evaluation of the Federal Legal Aid Renewal Strategy

Interview Guide for Key Informants (CIC)

Introduction

The DOJ Canada is proceeding with the formative evaluation of the Federal Legal Aid Renewal Strategy. The objectives of this evaluation are:

- To re-examine the rationale for the Legal Aid Renewal Strategy and its continuing relevance;
- To assess the appropriateness of program design and implementation to support the achievement of the Program's objectives;
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented;
- To examine whether these changes have contributed to increased program effectiveness;
- To provide Program Management with useful information for the next phase of the Program.

As part of this process, we will be interviewing a number of stakeholders, including representatives from federal departments, provincial and territorial governments and legal aid agencies, and other stakeholders. All information you provide is strictly confidential. You will not be associated with any comments, and all interviews will be reported in aggregate form only.

Program design

1. Please comment on the various components of the Legal Aid Renewal Strategy and indicate the extent to which you think that those components, individually and collectively, are structured to address the priorities that exist in your jurisdiction:
 - Criminal Legal Aid Agreements (base funding)
 - Access to Justice Service Agreements (base funding)
 - Immigration and refugee legal aid services (as part of the Criminal Legal Aid Agreements)
 - Investment Fund (included under the Criminal Legal Aid Agreements)
 - Research
 - Pilot projects
 - FCOC

- FCOC-ULC

How could the structure of the various components be improved?

2. Please comment on the current funding formulae for legal aid (base funding, Investment Fund, immigration and refugee). To what extent can federal objectives related to legal aid be supported based on these formulae? Is there a need to modify them? If so, how?

Implementation

As part of the interim period (2001-2002 and 2002-2003), DOJ launched a two-year research and policy development initiative, termed the “Legal Aid Project.” The goals of this project were to inform federal and provincial legal aid policy development and implementation, to develop innovative and flexible responses to unmet needs in legal aid, and to improve legal aid services.

3. In your opinion, how have the activities of the Legal Aid Project affected:
 - The implementation of the three-year renewal strategy?
 - The relationship building among partners?
 - FPT negotiations on contribution funding agreements?
 - The climate for discussions with partners on Justice support for criminal, civil, and immigration and refugee legal aid?
4. To what extent have federal departments and agencies interacted and collaborated on legal aid related issues? Can you identify the issues/topics involved (by department)? What cooperation has been provided? What specific obstacles have been encountered? What method of resolving these difficulties has been used? What are the successes?
5. How effective is the management of immigration and refugee legal aid issues? What are the current issues? What is the capacity of the existing three-year agreement to respond to these issues? Is this component appropriately resourced to support the achievement of program objectives?
6. What have been the major "lessons learned" to date in the implementation of this initiative?
7. Can you identify any other barriers or challenges in relation to the implementation of the initiative as intended?

Program effectiveness

8. What has been the effect of adding immigration and refugee legal aid to the criminal legal aid agreements on achieving federal and provincial/territorial objectives? What effect has it had on negotiating criminal contribution agreements? What steps should DOJ take to ensure that immigration and refugee legal aid issues are addressed in the next agreements?
9. Considering the total federal contribution (financial and other) toward supporting criminal legal aid, do you believe it is improving access to justice?
10. What are the key lessons learned to date from the three-year renewal strategy? (Please consider all components in terms of design, management, resource allocation, etc.) What changes could improve the effectiveness of the strategy?
11. Do you have any other comments about the Federal Legal Aid Renewal Strategy?

Formative Evaluation of the Federal Legal Aid Renewal Strategy

Interview Guide for Key Informants

Introduction

The DOJ Canada is proceeding with the formative evaluation of the Federal Legal Aid Renewal Strategy. The objectives of this evaluation are:

- To re-examine the rationale for the Legal Aid Renewal Strategy and its continuing relevance;
- To assess the appropriateness of program design and implementation to support the achievement of the Program's objectives;
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented;
- To examine whether these changes have contributed to increased program effectiveness;
- To provide Program Management with useful information for the next phase of the Program.

As part of this process, we will be interviewing a number of stakeholders, including representatives from federal departments, provincial and territorial governments and legal aid agencies, and other stakeholders. All information you provide is strictly confidential. You will not be associated with any comments, and all interviews will be reported in aggregate form only.

Rationale

1. In your opinion, what are the key legal aid issues affecting Canada today?
2. What issues are being targeted by the three-year Federal Legal Aid Renewal Strategy?
3. What is your understanding of the federal policy context associated with the three-year renewal strategy?
4. Is the three-year Federal Legal Aid Renewal Strategy linked to other DOJ policy priorities? With the priorities of the provinces and territories? Please explain your answer.
5. In your opinion, to what extent, if at all, are the objectives of the three-year renewal strategy helping the Department's efforts to promote and increase access to justice?

Program design

6. Please comment on the various components of the Legal Aid Renewal Strategy and indicate the extent to which you think that those components, individually and collectively, are structured to address the priorities that exist in your jurisdiction:
- Criminal Legal Aid Agreements (base funding)
 - Access to Justice Service Agreements (base funding)
 - Immigration and refugee legal aid services (as part of the Criminal Legal Aid Agreements)
 - Investment Fund (included under the Criminal Legal Aid Agreements)
 - Research
 - Pilot projects
 - FCOC
 - FCOC-ULC

How could the structure of the various components be improved?

7. In your opinion, is the structure of the three-year renewal strategy flexible enough to respond to issues affecting legal aid in Canada? Please explain your answer.
8. In your opinion, does the three-year funding framework support the achievement of program objectives?
9. To what extent have the research results and recommendations from the two-year funding agreement helped to shape the design of the current three-year legal aid renewal strategy?
10. What performance reporting requirements are in place? Are they adequate? What challenges, if any, exist in meeting the requirements?
11. What is the role of the PWG? To what extent, if at all, has this role changed since the last evaluation in 2001? What is working well/not so well? Can you give an example of how disagreement is resolved? How could its role be improved in the future?
12. Please comment on the current funding formulae for legal aid (base funding, Investment Fund, immigration and refugee). To what extent can federal objectives related to legal aid be supported based on these formulae? Is there a need to modify them? If so, how?

13. In your opinion, is the current federal contribution to legal aid sufficient to secure the commitment of PT partners in supporting federal objectives? If not, why not? Is the contribution sufficient to legitimize the policy role of the Department? If not, why not?

Implementation

As part of the interim period (2001-2002 and 2002-2003), DOJ launched a two-year research and policy development initiative, termed the “Legal Aid Project.” The goals of this project were to inform federal and provincial legal aid policy development and implementation, to develop innovative and flexible responses to unmet needs in legal aid, and to improve legal aid services.

14. In your opinion, how have the activities of the Legal Aid Project affected:
- The implementation of the three-year renewal strategy?
 - The relationship building among partners?
 - FPT negotiations on contribution funding agreements?
 - The climate for discussions with partners on Justice support for criminal, civil, and immigration and refugee legal aid?
15. The federal government launched the three-year Legal Aid Renewal Strategy in 2003, which includes increased base funding, support for immigration and refugee legal aid, Investment Fund, pilot projects, research, management of federal court ordered counsel, pilot projects and policy development. In your opinion, how have the activities associated with the Legal Aid Strategy contributed to ongoing FPT negotiations on contribution agreements?
16. What do you consider to be the key challenges in negotiating funding agreements (Criminal Legal Aid Agreements and Access to Justice Service Agreements)?
17. What are the coordination/communication mechanisms among the program components? Do these mechanisms maximize the achievement of program objectives? What has been your experience with the information-sharing aspect among program components? Has the information sharing been adequate, in your view? (If problems are indicated, what are they? Do you have any possible solutions for these problems?)
18. To what extent have federal departments and agencies interacted and collaborated on legal aid related issues? Can you identify the issues/topics involved (by department)? What cooperation has been provided? What specific obstacles have been encountered? What method of resolving these difficulties has been used? What are the successes?

19. What type of assistance has been sought by the jurisdictions during the implementation of each program component? Can you provide examples? Has your section been able to respond to all requests for information and assistance (in terms of expertise, human resources, access to requested information)? Have some jurisdictions sought more assistance than others? Specify.
20. To what extent have the jurisdictions been involved in the development of federal policy relating to legal aid? Have their contributions been valuable? Have any problems arisen with regard to their contributions (e.g., when their suggestions or recommendations are not followed)?
21. Is the FCOC being administered effectively? (application process, what is working well/what is not?) Is the FCOC-ULC being administered effectively? (application process, what is working well/what is not?) Is this component appropriately resourced to support the achievement of program objectives?
22. Are the pilot projects being administered effectively (application process, quality of proposals, relevance of projects to objectives of fund, accountability, appropriateness of funding mechanism, link to policy)? Is this component appropriately resourced to support the achievement of program objectives?
23. In your opinion, what has been the effect of having performance measures built into the program's design? To what extent have the performance measures built into the program design facilitated a better understanding of the nature of services delivered across Canada?
24. Do the current performance measures allow for the assessment of the quality of legal aid services provided? If so, how? If not, should it be a goal of the performance measurement strategy?
25. What role does the current process of auditing claims under the contribution agreement play?
26. What have been the major "lessons learned" to date in the implementation of this initiative?
27. Can you identify any other barriers or challenges in relation to the implementation of the initiative as intended?

Program effectiveness

28. To what extent have activities funded under the two-year interim agreement (2001-02 to 2002-03) increased the understanding of key legal aid issues? Have research activities been used to improve policy and funding options?
29. To what extent has the Investment Fund contributed to increasing the understanding of key legal aid issues?
30. To what extent has the funding for the pilot projects related to civil legal aid contributed to increasing this understanding?
31. What has been the effect of adding immigration and refugee legal aid to the criminal legal aid agreements on achieving federal and provincial/territorial objectives? What effect has it had on negotiating criminal contribution agreements? What steps should DOJ take to ensure that immigration and refugee legal aid issues are addressed in the next agreements?
32. Please discuss the extent to which you believe the Investment Fund has contributed to addressing federal objectives and the needs and priorities of the provincial/territorial partners. In your opinion, are any changes required to the Investment Fund to increase its effectiveness?
33. Considering the total federal contribution (financial and other) toward supporting criminal legal aid, do you believe it is improving access to justice?
34. In your view, are the funding allocations appropriate across jurisdictions? Please explain.
35. What are the key lessons learned to date from the three-year renewal strategy? (Please consider all components in terms of design, management, resource allocation, etc.) What changes could improve the effectiveness of the strategy?

Conclusion

36. Do you have any other comments about the Federal Legal Aid Renewal Strategy?

Formative Evaluation of the Federal Legal Aid Renewal Strategy

Interview Guide for Key Informants (IRB)

Introduction

The DOJ Canada is proceeding with the formative evaluation of the Federal Legal Aid Renewal Strategy. The objectives of this evaluation are:

- To re-examine the rationale for the Legal Aid Renewal Strategy and its continuing relevance;
- To assess the appropriateness of program design and implementation to support the achievement of the Program’s objectives;
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented;
- To examine whether these changes have contributed to increased program effectiveness;
- To provide Program Management with useful information for the next phase of the Program.

As part of this process, we will be interviewing a number of stakeholders, including representatives from federal departments, provincial and territorial governments and legal aid agencies, and other stakeholders. All information you provide is strictly confidential. You will not be associated with any comments, and all interviews will be reported in aggregate form only.

Program implementation

As part of the interim period (2001-2002 and 2002-2003), DOJ launched a two-year research and policy development initiative, termed the “Legal Aid Project.” The goals of this project were to inform federal and provincial legal aid policy development and implementation, to develop innovative and flexible responses to unmet needs in legal aid, and to improve legal aid services.

1. In your opinion, how have the activities of the Legal Aid Project affected:

- The implementation of the three-year renewal strategy?
- The relationship building among partners?
- FPT negotiations on contribution funding agreements?
- The climate for discussions with partners on Justice support for criminal, civil, and immigration and refugee legal aid?

2. To what extent have federal departments and agencies interacted and collaborated on legal aid related issues? Can you identify the issues/topics involved (by department)? What cooperation has been provided? What specific obstacles have been encountered? What method of resolving these difficulties has been used? What are the successes?
3. How effective is the management of immigration and refugee legal aid issues? What are the current issues? What is the capacity of the existing three-year agreement to respond to these issues? Is this component appropriately resourced to support the achievement of program objectives?
4. What have been the major "lessons learned" to date in the implementation of this initiative?
5. Can you identify any other barriers or challenges in relation to the implementation of the initiative as intended?

Program effectiveness

6. Considering the total federal contribution (financial and other) toward supporting criminal legal aid, do you believe it is improving access to justice?
7. What are the key lessons learned to date from the three-year renewal strategy? (Please consider all components in terms of design, management, resource allocation, etc.) What changes could improve the effectiveness of the strategy?
8. Do you have any other comments about the Federal Legal Aid Renewal Strategy?

Formative Evaluation of the Federal Legal Aid Renewal Strategy

Interview Guide for Key Informants (FCOC)

Introduction

The DOJ Canada is proceeding with the formative evaluation of the Federal Legal Aid Renewal Strategy. The objectives of this evaluation are:

- To re-examine the rationale for the Legal Aid Renewal Strategy and its continuing relevance;
- To assess the appropriateness of program design and implementation to support the achievement of the Program's objectives;
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented;
- To examine whether these changes have contributed to increased program effectiveness;
- To provide Program Management with useful information for the next phase of the Program.

As part of this process, we will be interviewing a number of stakeholders, including representatives from federal departments, provincial and territorial governments and legal aid agencies, and other stakeholders. All information you provide is strictly confidential. You will not be associated with any comments, and all interviews will be reported in aggregate form only.

Questions

1. Please comment on the Federal court ordered counsel (FCOC) / Unique legal cases (FCOC-ULC) component of the Legal Aid Renewal Strategy and indicate the extent to which you think it is structured to address the priorities that exist in your jurisdiction. How could the structure be improved?
2. What performance reporting requirements are in place? Are they adequate? What challenges, if any, exist in meeting the requirements?
3. Is the FCOC being administered effectively? (application process, what is working well/what is not?) Is the FCOC-ULC being administered effectively? (application process, what is

working well/what is not?) Is this component appropriately resourced to support the achievement of program objectives?

4. What have been the major "lessons learned" to date in the implementation of the FCOC / FCOC-ULC component?
5. Do you have any other comments about the Federal Legal Aid Renewal Strategy?

Formative Evaluation of the Federal Legal Aid Renewal Strategy

Interview Guide for Key Informants (Pilot Projects)

Introduction

The DOJ Canada is proceeding with the formative evaluation of the Federal Legal Aid Renewal Strategy. The objectives of this evaluation are:

- To re-examine the rationale for the Legal Aid Renewal Strategy and its continuing relevance;
- To assess the appropriateness of program design and implementation to support the achievement of the Program's objectives;
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented;
- To examine whether these changes have contributed to increased program effectiveness;
- To provide Program Management with useful information for the next phase of the Program.

As part of this process, we will be interviewing a number of stakeholders, including representatives from federal departments, provincial and territorial governments and legal aid agencies, and other stakeholders. All information you provide is strictly confidential. You will not be associated with any comments, and all interviews will be reported in aggregate form only.

Questions

1. Please comment on the pilot projects component of the Legal Aid Renewal Strategy and indicate the extent to which you think that this component is structured to address the priorities that exist in your jurisdiction. How could the structure be improved?
2. What performance reporting requirements are in place? Are they adequate? What challenges, if any, exist in meeting the requirements?
3. Are the pilot projects being administered effectively (application process, quality of proposals, relevance of projects to objectives of fund, accountability, appropriateness of funding mechanism, link to policy)? Is this component appropriately resourced to support the achievement of program objectives?

4. What have been the major "lessons learned" to date in the implementation of pilot projects?
5. Can you identify any other barriers or challenges in relation to the implementation of pilot projects?
6. To what extent has the funding for the pilot projects related to civil legal aid contributed to increasing the understanding of key legal aid issues?
7. Do you have any other comments about the Federal Legal Aid Renewal Strategy?

Formative Evaluation of the Federal Legal Aid Renewal Strategy

Interview Guide for Key Informants (Provinces and Territories)

Introduction

The DOJ Canada is proceeding with the formative evaluation of the Federal Legal Aid Renewal Strategy. The objectives of this evaluation are:

- To re-examine the rationale for the Legal Aid Renewal Strategy and its continuing relevance;
- To assess the appropriateness of program design and implementation to support the achievement of the Program's objectives;
- To examine the extent to which the recommendations made in the 2001 evaluation of the Legal Aid Program have been implemented;
- To examine whether these changes have contributed to increased program effectiveness;
- To provide Program Management with useful information for the next phase of the Program.

As part of this process, we will be interviewing a number of stakeholders, including representatives from federal departments, provincial and territorial governments and legal aid agencies, and other stakeholders. All information you provide is strictly confidential. You will not be associated with any comments, and all interviews will be reported in aggregate form only.

Rationale

1. In your opinion, what are the key legal aid issues affecting Canada today?
2. What issues are being targeted by the three-year Federal Legal Aid Renewal Strategy?
3. What is your understanding of the federal policy context associated with the three-year renewal strategy?
4. Is the three-year Federal Legal Aid Renewal Strategy linked to other DOJ policy priorities? With the priorities of the provinces and territories? Please explain your answer.
5. In your opinion, to what extent, if at all, are the objectives of the three-year renewal strategy helping the Department's efforts to promote and increase access to justice?

Program design

6. Please comment on the various components of the Legal Aid Renewal Strategy and indicate the extent to which you think that those components, individually and collectively, are structured to address the priorities that exist in your jurisdiction:
- Criminal Legal Aid Agreements (base funding)
 - Access to Justice Service Agreements (base funding)
 - Immigration and refugee legal aid services (as part of the Criminal Legal Aid Agreements)
 - Investment Fund (included under the Criminal Legal Aid Agreements)
 - Research
 - Pilot projects
 - FCOC
 - FCOC-ULC

How could the structure of the various components be improved?

7. In your opinion, is the structure of the three-year renewal strategy flexible enough to respond to issues affecting legal aid in Canada? Please explain your answer.
8. In your opinion, does the three-year funding framework support the achievement of program objectives?
9. To what extent have the research results and recommendations from the two-year funding agreement helped to shape the design of the current three-year legal aid renewal strategy?
10. What performance reporting requirements are in place? Are they adequate? What challenges, if any, exist in meeting the requirements?
11. What is the role of the PWG? To what extent, if at all, has this role changed since the last evaluation in 2001? What is working well/not so well? Can you give an example of how disagreement is resolved? How could its role be improved in the future?
12. Please comment on the current funding formulae for legal aid (base funding, Investment Fund, immigration and refugee). To what extent can federal objectives related to legal aid be supported based on these formulae? Is there a need to modify them? If so, how?

13. In your opinion, is the current federal contribution to legal aid sufficient to secure the commitment of PT partners in supporting federal objectives? If not, why not? Is the contribution sufficient to legitimize the policy role of the Department? If not, why not?

Implementation

As part of the interim period (2001-2002 and 2002-2003), DOJ launched a two-year research and policy development initiative, termed the “Legal Aid Project.” The goals of this project were to inform federal and provincial legal aid policy development and implementation, to develop innovative and flexible responses to unmet needs in legal aid, and to improve legal aid services.

14. In your opinion, how have the activities of the Legal Aid Project affected:
- The implementation of the three-year renewal strategy?
 - The relationship building among partners?
 - FPT negotiations on contribution funding agreements?
 - The climate for discussions with partners on Justice support for criminal, civil, and immigration and refugee legal aid?
15. The federal government launched the three-year Legal Aid Renewal Strategy in 2003, which includes increased base funding, support for immigration and refugee legal aid, Investment Fund, pilot projects, research, management of federal court ordered counsel, pilot projects and policy development. In your opinion, how have the activities associated with the Legal Aid Strategy contributed to ongoing FPT negotiations on contribution agreements?
16. What do you consider to be the key challenges in negotiating funding agreements (Criminal Legal Aid Agreements and Access to Justice Service Agreements)?
17. What are the coordination/communication mechanisms among the program components? Do these mechanisms maximize the achievement of program objectives? What has been your experience with the information-sharing aspect among program components? Has the information sharing been adequate, in your view? (If problems are indicated, what are they? Do you have any possible solutions for these problems?)
18. What type of assistance has been sought by the jurisdictions during the implementation of each program component? Can you provide examples? Has your section been able to respond to all requests for information and assistance (in terms of expertise, human resources, access

to requested information)? Have some jurisdictions sought more assistance than others? Specify.

19. To what extent have the jurisdictions been involved in the development of federal policy relating to legal aid? Have their contributions been valuable? Have any problems arisen with regard to their contributions (e.g., when their suggestions or recommendations are not followed)?
20. How effective is the management of criminal and youth criminal legal aid base funding? What are the current issues? What is the capacity of the existing three-year agreement to respond to these issues? Is this component appropriately resourced to support the achievement of program objectives?
21. How effective is the management of immigration and refugee legal aid issues? What are the current issues? What is the capacity of the existing three-year agreement to respond to these issues? Is this component appropriately resourced to support the achievement of program objectives?
22. Are the AJAs appropriately resourced to support the achievement of program objectives?
23. How effective is the administration of the Investment Fund (application process, quality of business plans, relevance of initiatives to objectives of the Fund, level of accountability, linkage to policy)? Is this component appropriately resourced to support the achievement of program objectives?
24. Is the FCOC being administered effectively? (application process, what is working well/what is not?) Is the FCOC-ULC being administered effectively? (application process, what is working well/what is not?) Is this component appropriately resourced to support the achievement of program objectives?
25. Are the pilot projects being administered effectively (application process, quality of proposals, relevance of projects to objectives of fund, accountability, appropriateness of funding mechanism, link to policy)? Is this component appropriately resourced to support the achievement of program objectives?
26. In your opinion, what has been the effect of having performance measures built into the program's design? To what extent have the performance measures built into the program design facilitated a better understanding of the nature of services delivered across Canada?

27. Do the current performance measures allow for the assessment of the quality of legal aid services provided? If so, how? If not, should it be a goal of the performance measurement strategy?
28. What role does the current process of auditing claims under the contribution agreement play?
29. What have been the major "lessons learned" to date in the implementation of this initiative?
30. Can you identify any other barriers or challenges in relation to the implementation of the initiative as intended?

Program effectiveness

31. To what extent has the additional funding provided under the two-year interim funding helped alleviate your immediate pressures on legal aid services?
32. To what extent have activities funded under the two-year interim agreement (2001-02 to 2002-03) increased the understanding of key legal aid issues? Have research activities been used to improve policy and funding options?
33. To what extent has the Investment Fund contributed to increasing the understanding of key legal aid issues?
34. To what extent has the funding for the pilot projects related to civil legal aid contributed to increasing this understanding?
35. What has been the effect of adding immigration and refugee legal aid to the criminal legal aid agreements on achieving federal and provincial/territorial objectives? What effect has it had on negotiating criminal contribution agreements? What steps should DOJ take to ensure that immigration and refugee legal aid issues are addressed in the next agreements?
36. Please discuss the extent to which you believe the Investment Fund has contributed to addressing federal objectives and the needs and priorities of the provincial/territorial partners. In your opinion, are any changes required to the Investment Fund to increase its effectiveness?
37. Considering the total federal contribution (financial and other) toward supporting criminal legal aid, do you believe it is improving access to justice?

38. In your view, are the funding allocations appropriate across jurisdictions? Please explain.

39. What are the key lessons learned to date from the three-year renewal strategy? (Please consider all components in terms of design, management, resource allocation, etc.) What changes could improve the effectiveness of the strategy?

Conclusion

40. Do you have any other comments about the Federal Legal Aid Renewal Strategy?

**APPENDIX C:
LIST OF RESEARCH PROJECTS**

List of research projects (2001 – 2003)

The following is a list of published research reports from the 2001-2003 legal aid research program (Legal Aid Project).

- A Review of Brydges Duty Counsel in Canada, Professor Simon Verdun-Jones
- A Study on Official Languages and Legal Aid in Canada, Prairie Research Associates
- Barriers to Criminal Legal Aid Access for Immigrants, Refugees and Visible Minorities, Canadian Council for Social Development
- Court Site Study of Adult Unrepresented Accused in Criminal Courts; Part I Overview, Robert Hann and Associates
- Court Site Study of Adult Unrepresented Accused in Criminal Courts; Part II Provincial Studies, Robert Hann and Associates
- Legal Aid Eligibility and Coverage in Canada, Canadian Council for Social Development
- Legal Aid in Criminal Matters in Rural and Isolated Areas of Canada's Provinces, Dr. Joan Nuffield
- Legal Needs of Women in Civil Law and Other Matters, Lisa Addario
- A Profile of Legal Aid Services in Family Law Matters, Canadian Foundation for Research on the Family
- An Analysis of Poverty Law Services in Canada, Social Planning and Research Council of British Columbia
- An Analysis of Immigration and Refugee Law Services, Social Planning and Research Council of British Columbia
- Immigration and Refugee Cost Drivers, Legistec, Inc.
- Representation of Immigrants and Refugee Claimants, Legistec, Inc.
- The Purchaser-Supplier Approach in Legal Aid, Professor Don Fleming
- Nunavut, Legal Services Study, IER Research and Planning Consultants and Dennis Paterson
- Legal Aid, Courtworker and Public Legal Education and Information Needs in the Northwest Territories, Focus Consultants

- Legal Aid, Courtworker and Public Legal Education and Information Needs in the Yukon, Focus Consultants
- Study of Legal Services provided to Penitentiary Inmates by Legal Aid Plans and Clinics in Canada, Prairie Research Associates
- The Legal Services Needs of Prisoners in Federal Penitentiaries in Canada, Therese LaJeunesse
- The Nature and Extent of Unmet Need for Criminal Legal Aid in Canada, A. Currie
- A Synthesis of Immigration and Refugee Legal Aid Research, A. Lawrence and Pauline de Jong
- Legal Services Provision in Northern Canada: Summary of Research in the Northwest Territories, Nunavut and Yukon, Pauline de Jong
- Program of Research in Legal Aid: 2001 to 2003, Summary Report

List of research projects (2003 – 2006)

The following is a list of research reports from the 2003-2006 period.

- A National Survey of the Civil Justice Problems of Law and Moderate Income Canadians: Incidence and Patterns, A. Currie
- Review of the Canada Assistance Plan: Civil Legal Aid Files, Dorothy Hepworth and Philip Hepworth
- Assistance and Representation for Appellants Under the Canada Pension Plan, the Old Age Security Act and the Employment Insurance Act, Legistec, Inc.
- Legal Services for Refugee Claimants: Perspectives of NGO's Providing Refugee Services, Social Planning and Research Council of British Columbia
- Civil Justice Problems Experienced by People in the Northern Territories, Focus Consultants (in progress)