

LEGAL SERVICES BOARD

The provision of Legal Aid has been a Territorial responsibility since 1971 when the Federal Government transferred the responsibility for the administration of justice to the Northwest Territories. At that time, the Legal Services Board was established and continues today with its responsibility for legal aid, court worker services and public legal education and information services throughout the Northwest Territories. The Board operates three legal aid clinics, one in each of Yellowknife and Inuvik providing both family and criminal law services and one in Yellowknife devoted to family law services.

The Legal Services Board is established as a corporation by the *Legal Services Act*, RSNWT 1988, c. F-4. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act*, RSNWT 1988, c. F-4.

Address of the Board

The head office of the Board is located on the 3rd Floor of the Panda II Centre, Yellowknife, NT, with a postal address of Box 1320, Yellowknife, NT X1A 2L9.

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act*:

1. To ensure the provision of legal services to all eligible persons;
2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and
3. To develop and co-ordinate Territorial or local programs aimed at:
 - (a) reducing and preventing the occurrence of legal problems, and
 - (b) increasing knowledge of the law, legal processes and the administration of justice.

Funding for the Legal Services Board

The cost of administering the *Legal Services Act* and providing legal services and other programs under the *Act* is paid out of monies appropriated for these purposes by the Legislative Assembly. The GNWT receives funding for the Legal Aid Program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Federal Government. The last funding agreement expired March 31, 2006. It provided for base funding of \$1,569,595 for these three areas and additional monies through an Investment Fund in the amount of \$402,732. The Investment Fund was set up by the federal government for a three-year period starting April 1, 2003, to meet unmet needs in Legal Aid services through innovation.

Negotiations between the GNWT and the Federal Department of Justice will determine the level of future Federal funding.

Any deficit incurred by the Legal Services Board in the past has been absorbed by the GNWT Department of Justice. Any change in that arrangement would mean requesting a supplementary appropriation from the Legislative Assembly.

THE BOARD OF DIRECTORS

Board Members

The members of the Board of Directors are appointed by the Minister of Justice of the Government of the Northwest Territories in accordance with section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2005/06 Board was composed of the following:

Danny Beaulieu	Chairperson, Representing the communities of Łutsek'e, Fort Resolution, Detah, N'Dilo, Fort Smith
Margaret Mackenzie	Representing the Tłjchq communities
Reg Tolton	Representing the Public Service
Albert Lafferty	Representing the communities of Fort Providence, Hay River, Hay River Reserve, Enterprise and Kakisa since April 2005
John Hazenberg	Representing the communities of Fort Simpson, Jean Marie River, Wrigley, Fort Liard, Nahanni Butte and Trout Lake since April 2005
Sheila MacPherson	Representing the Law Society of the NWT
Karen Hoeft	Representing Yellowknife until April 2005
Arlene Hache	Representing Yellowknife since February 2006
Shirley Kisoun	Representing the communities of Inuvik, Aklavik, Fort McPherson, Tsiigehtchic
Gilbert Thrasher	Representing the communities of Paulatuk, Ulukhaktok, Sachs Harbour, Tuktoyaktuk
Judy Tutcho	Representing the Sahtu Region until April 2005
Alphonsine McNeely	Representing the Sahtu Region since Dec 2005

Board Meetings

The Legal Services Board of the NWT met on four occasions:

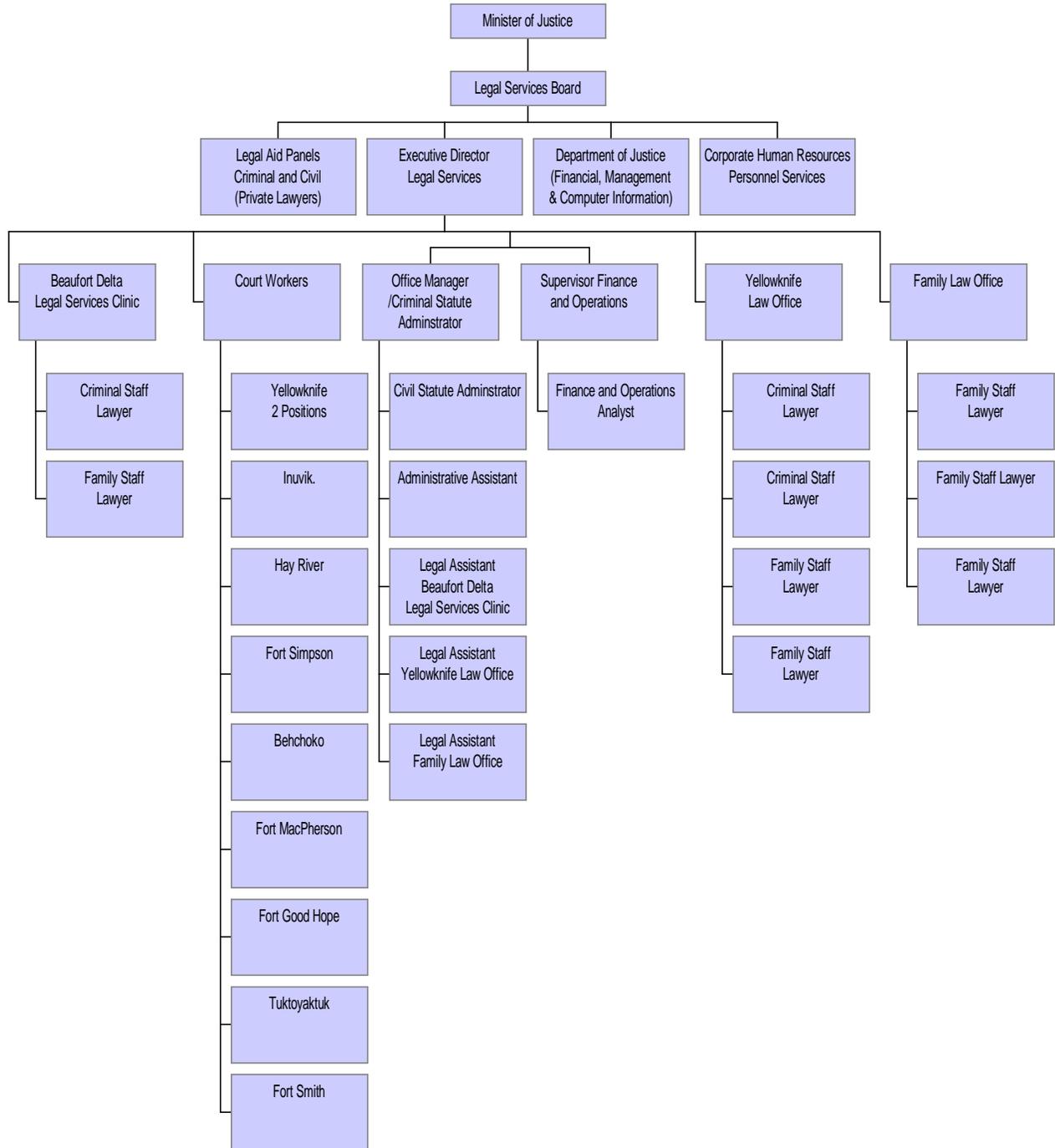
April 29 & 30, 2005	Yellowknife
September 22-24, 2005	Yellowknife
December 9 & 10, 2005	Yellowknife
February 21, 2006	Yellowknife (special meeting by teleconference to deal with an appeal matter)

The September meeting was also a special meeting to consider proposed changes to the *Legal Services Regulations*.

Mandate of the Board of Directors

The Board sets policies for the provision of legal services, hires the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters and hears appeals in cases where legal aid has been denied, lawyers require more hours than are permitted by the regulations or policies, or lawyers feel their accounts have been reduced improperly. The Board has additional prescribed powers under section 11 of the *Legal Services Act*.

Legal Services Board of the NWT Organizational Chart March 31, 2006



COURT WORKER PROGRAM

In the Northwest Territories, court workers provide a wide range of assistance to people who may interact with the justice system. Their primary duty is to assist clients in applying for legal aid and to ensure that the applications and supporting documentation are provided to the Legal Aid office. They also provide general information and referrals to appropriate resources both within and outside the justice system. Some court workers may provide limited representation to individuals who do not have a lawyer. These workers advocate for the most part in Justice of the Peace Court, generally by providing assistance with guilty pleas and the resulting sentencing hearings and occasionally with simple trials. They also assist counsel in Territorial and Youth Court by ensuring that clients and witnesses attend court, assist with translation and communication, and assist with information gathering and interviewing of clients. Court workers may occasionally assist a client with a guilty plea and sentencing in Territorial Court.

Court workers also play a vital role with public legal education. This service is provided through their daily activities with clients providing information and guidance with respect to the court system and through their referral work. The court workers also provide legal education through their work with school classes, justice committees, and promote the program by attending at community career fairs, putting public announcements on community radio and providing information at seminars and programs they may participate in at the community level. Some court workers also sit on community inter-agency committees.

The Legal Services Board has eleven court workers in ten communities in the NWT. Ten are Board employees and one provides services under an agreement with the Hamlet of Ulukhaktok.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for Public Legal Education and Information in the Northwest Territories. Public legal information has been disseminated in a number of manners, both formally and informally.

The most obvious manifestation of our efforts is the Law Line, a call-in information line staffed by local lawyers. The service operates Tuesday and Thursday evenings, from 6:00 to 8:30 pm and is available toll-free to residents of the Northwest Territories. Volunteer lawyers are provided with a reference binder and are asked to limit their responses to basic legal information, rather than providing legal advice.

Basic legal information is routinely provided by the staff and lawyers at our legal aid clinics. In addition, we publish a variety of pamphlets which provide information regarding individual rights and remedies, court proceedings, and local resources which are available to our clients. During this fiscal year the Board has been

working jointly with the Department of Justice to produce a family law manual and brochures. Publication of the material is expected in the next fiscal year.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People who receive legal aid assistance must complete a legal aid application. The Board uses standard forms and court workers are trained to take the applications in person or by telephone. Unless applicants provide evidence that they are in receipt of social assistance they are required to provide detailed financial information and to provide documentary backup. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts, and assets. This information is used to determine an individual's eligibility for legal aid.

Once the application has been completed and all the required financial information has been provided, the staff will review the applications in detail to determine the applicant's financial eligibility. An eligible applicant is assigned to duty counsel in the case of a criminal matter or goes into a rotational assignment process in the case of family and civil law matters. If an applicant is not financially eligible a notice of denial is sent to the applicant immediately. All applicants have the right to appeal a denial to the Executive Director and finally to the Legal Services Board.

In certain situations, the staff may determine that, using the criteria set out in the *Act* and *Regulations*, an applicant is able to make a contribution to the cost of their legal aid coverage. In these cases a conditional authorization for legal aid is given to the applicant that requires a specific contribution in order to obtain legal aid coverage. Usually applicants have a certain time period in which to make their contributions. Some applicants are assessed a contribution which is to be paid on the completion of their file as it is expected that there will be a financial gain for the client at the end of the matter. This often arises in cases involving division of matrimonial property and some wrongful dismissal cases. In any case involving property division applicants are subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund and are not used to offset the cost of legal aid generally.

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act*, is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The

Board does exercise discretionary rules and policies when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s) then the Board will extend coverage.

The Legal Services Board has an arrangement with the Director of Child and Family Services, Department of Health and Social Services, to recover the costs of appointing legal counsel for children when the Court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*.

LEGAL AID COVERAGE

Youth Applications – Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)

Legal services are generally provided to financially eligible youth who are charged with offences under the *Criminal Code* and who are required to make an appearance before a Territorial Youth Court Judge or if a matter is brought before the NWT Supreme Court or Court of Appeal. On occasion, legal aid coverage may be extended to cover matters in the Justice of the Peace Court.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter (s) are proceeding by way of summary conviction unless:

1. There is a reasonable possibility that upon conviction the youth may be incarcerated by way of open or closed or secure custody;
2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or
3. There exists, in the opinion of the Executive Director, special circumstances.

Adult Applications – Criminal Code

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences as set out in the Act and Regulations.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who appear in court on docket days are presumed to be eligible for legal aid and are provided assistance for preliminary or straightforward matters that duty counsel can deal with in a summary fashion. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client will be asked to apply for legal aid in order to have legal aid continue to provide counsel.

Civil Applications

The *Act* authorizes the provision of legal aid services on a discretionary basis for many civil matters. The *Act* and *Regulations* specify that some civil cases are not covered. The Executive Director may refuse to authorize legal aid if the civil case is of the type that a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage are: Workers' Compensation appeals, residential tenancy appeals, and wrongful dismissal in certain cases.

Family Law Applications

Generally, legal aid is provided to eligible applicants in matters that involve family breakdowns when there are issues relating to children, spousal support, family violence or in matters relating to child protection.

After an application has been made for legal aid assistance involving a family law matter, a request goes out to one of the staff lawyers or family/civil law panel members for a legal opinion. The lawyer must advise the Legal Services Board as to the merits of the matter. If the opinion is that there is no merit in proceeding with the matter, the applicant will be provided with a Notice of Denial of Legal Aid with an explanation as to the reason for the denial.

Approved matters are usually assigned according to the date of application. An exception is made and matters are given priority in assignment when the client is facing a court date, the matter involves family violence or the client is facing child protection proceedings.

Residency and Reciprocity

A person not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction that require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is heard.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires work to be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns, to approved applicants, a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife are given priority for legal aid assignments in their community and the surrounding area because it is economically practical to do so. The eligible recipient does not have the right to choose a lawyer to represent them with one exception.

Choice of Counsel

Generally the applicant does not get to choose his or her lawyer. The exception is for those charged with offences for which the maximum penalty, if convicted, is life imprisonment. However, there is no choice of counsel where the applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel can choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Circuit Counsel

The *Legal Services Act* requires the Board to have at least one lawyer (circuit counsel) accompany the Supreme and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid on the circuit. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

APPEALS

There are a number of situations in which an applicant or a lawyer has a right of appeal from a decision made by the Executive Director. If an applicant is assessed a contribution or denied legal aid, the applicant can appeal the decision by providing written notice of his/her intention to appeal and the Executive Director shall bring the matter before the Board for an appeal hearing.

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required and the Executive Director is required to bring the matter to the Board for an appeal hearing. There is no right of appeal from the Board's decision.

LEGAL SERVICES CLINICS

Yellowknife Law Office

The Yellowknife Law Office provides two family law lawyers, two criminal law lawyers and one support staff member. The criminal law lawyers provided legal aid services mainly in the Yellowknife area and in the Tłıchǫ communities but also in other communities as needed. The family law lawyers provide services to clients across the Territory.

Beaufort Delta Legal Services Clinic

The Beaufort Delta Legal Services Clinic operates in Inuvik and has two lawyers and one support staff. The clinic provides services in criminal law and family law primarily in the Beaufort Delta region.

Family Law Clinic

The Family Law Clinic opened in October 2004 in Yellowknife with two lawyers and one support staff member. The Board decided to create a third position in this office at its December 2005 meeting. The staff lawyers provide services exclusively in the family law area to clients throughout the NWT.

ADMINISTRATION AND FINANCE

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are public servants in the Department of Justice. Consequently, the Legal Services Board is subject to the provisions of the Human Resources Manual of the Government of the Northwest Territories. The Department of Human Resources provides personnel services to the Board. It is the responsibility of the Board to determine which positions are necessary for the proper conduct of the Board's business.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is not audited separately from the Department of Justice. However an annual audit is completed for compliance with the Access to Justice Agreement with Canada.

Investment Fund

In addition to its base funding the Board, through the Department of Justice, obtained funding under the Investment Fund to assist with meeting unmet needs for the period 2003 to 2006. Unmet needs were identified in seven initial areas for the first year with the flexibility to shift to new areas over the life of the agreements.

The seven areas are:

- Access to Legal Aid in rural and remote areas
- Making the Beaufort Delta Court Workers members of the public service
- Making staff lawyers members of the public service
- Recruiting, hiring, and retaining family staff lawyers
- Investing in computer hardware and software
- Official language services
- Recruit, hire, and retain an Investment Fund Resource Officer

At the end of the third year of the funding cycle the Board has reported to the Federal Government and satisfied all reporting requirements under the Investment Fund Agreement. The Board has been able to significantly address some unmet needs over the past year using the funds.

LEGAL AID TARIFF

<u>Experience</u>	<u>Hourly Rates</u>	<u>Daily Rates</u>
Student at law	\$46	\$237
Less than 4 years	\$70	\$405
4-6 years	\$81	\$501
7-10 years	\$99	\$593
11 & more years	\$117	\$700

The rates are the same regardless of the level of court.

After hearing submissions from representatives of the private bar, the Board, at its December meeting, recommended to the Minister of Justice that the tariff be increased by 15% for both hourly and daily rates. The tariff has not been increased since 2001 and has not kept pace with increases in the cost of living or with increases given to government employees over that time period. The Board also felt that an increase might assist in attracting lawyers to legal aid work.

STAFF LAWYER SALARIES

Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2005-2006:

Legal Counsel I	\$ 73,535 to \$ 83,408
Legal Counsel II	\$ 79,775 to \$ 90,500
Legal Counsel III	\$ 86,619 to \$ 98,238
Legal Counsel IV	\$ 93,932 to \$106,546
Legal Counsel V	\$ 97,851 to \$ 110,983

STATISTICAL REPORTS FOR 2005/06

Number of Applications Received

Origin of Application	2003/04	2004/05	2005/06
Out of Territory	15	9	32
Beaufort Delta Region	312	242	349
Sahtu Region	39	82	76
South Slave Region	289	328	252
North Slave/Treaty 11 Region	74	133	150
Dehcho Region	89	9*	141
Yellowknife	704	630	519
Total	1522	1424	1519

*The Fort Simpson Office was not staffed for most of this year. Applications for this region were taken by Court Workers in Hay River, Fort Smith, and Behchokò.

Number of Applications Received By Case Type

Case Type	2003/04	2004/05	2005/06
Adult Criminal	766	696	742
Youth Criminal	62	75	111
Family	633	636	621
Civil	61	26	45
Total	1522	1433	1519

Number of Approved and Denied Applications By Case Type 2005/06

Case Type	Approved	Denied	Total
Adult Criminal	622	120	742
Youth Criminal	99	12	111
Family	359	262	621
Civil	13	32	45
Total	1093	426	1519

Number of People Assisted Under Presumed Eligibility 2005/06

Counsel	Adult	Youth	Total
Beaufort Delta - Staff Lawyers	132	61	193
Yellowknife – Staff Lawyers	451	148	599
Legal Aid Panel Lawyers	2362	804	3166
Total	2945	1013	3958

COURT WORKER STATISTICS 2005/06

Legal Aid Applications Taken

	<u>Aboriginal</u>	<u>Non-Aboriginal</u>
Adult Criminal Matters:		
CDSA (drug offences)	53	16
Criminal Code	604	77
Territorial Offences	32	0
s. 810 (peace bonds)	0	0
Appeal Sentence/Conviction	13	4
Other		
Total	706	97
Youth Criminal Matters:		
CDSA (drug offences)	0	0
Criminal Code	134	8
Territorial Offences	8	0
Appeal Sentence/Conviction	0	0
Other	3	0
Total	145	8
Family/Civil Matters:		
Divorce/Custody/Support	362	117
Child Welfare	72	2
Landlord/Tenant	6	0
Employment	4	0
S. 810/Restraining Orders	23	3
Other	53	16
Total	520	141
Total of Applications Taken	1371	246

Court Worker Appearances with/for Clients

	<u>Aboriginal</u>	<u>Non-Aboriginal</u>
Adult Criminal Matters:		
Territorial Court	82	10
JP Court	254	24
Territorial Offices		
Criminal Code	459	48
Total	795	82
Youth Criminal Matters:		
Territorial Youth Court	35	0
JP Court	4	0
Justice Circles	9	0
Total	46	0
Family/Civil Matters:		
Territorial Court	15	1
Supreme Court	1	0
Board/Tribunal	0	0
Total	16	1
Grand Total of Appearances	857	83

In 2005/06 Court Workers provided legal information and/or referrals to 8,639 aboriginal clients and 1,473 non-aboriginal clients. These numbers include both in person and telephone inquiries.

2005/06 Financial Report

ITEM	Actual Expense	Revised Budget	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	675,309	565,000	(110,309)
Administration Travel	8,501	4,000	(4,501)
Operations & Maintenance Expenses	129,512	48,000	(81,512)
Total Administration	813,322	617,000	(196,322)
Courtworkers			
Staff Wages and Benefits	806,967	836,000	29,033
Courtworker Travel	58,993	27,000	(31,993)
Operations & Maintenance Expenses	59,891	44,000	(15,891)
Total Courtworkers	925,850	907,000	(18,850)
Board Costs			
Honoraria	27,738	25,000	(2,738)
Travel, Accomodation, Meals	23,819	25,000	1,181
Other	12,872	-	(12,872)
Total Board Costs	64,429	50,000	(14,429)
Public Legal Education			
Lawline	2,208	2,000	(208)
Projects	-	-	-
Other	39,149	30,000	(9,149)
Total Public Legal Education	41,357	32,000	(9,357)
Legal Aid Staff Lawyers			
Staff Wages & Benefits	833,504	1,114,000	280,496
Legal Aid Staff Lawyer Travel	8,276	13,000	4,724
Operations & Maintenance Expenses	134,264	26,000	(108,264)
Total Legal Aid Staff Lawyers	976,045	1,153,000	176,955
Legal Aid Fees & Disbursements	1,558,635	1,740,000	181,365
SUB - TOTAL	4,379,637	4,499,000	119,363
TOTAL	4,379,637	4,499,000	119,363

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT

Panda II Centre – 3rd Floor
P.O. Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5320

Staff Law Office

Panda II Centre – 3rd Floor
P.O. Box 11028
Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

Beaufort Delta Legal Services Clinic

151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0T0
Tel: (867) 777-2030
Fax: (867) 777-3211

Family Law Office

Unit 44, 5014-49th Street
Centre Square Mall
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

Hay River Court Worker

105 – 31 Capital Drive
Hay River NT X0E 1G2
Tel: (867) 874-2475
Fax: (867) 874-3435

Behchokò Court Worker

General Delivery
Behchokò NT X0E 0Y0
Tel: (867) 392-6386
Fax: (867) 392-6387

Fort Smith Court Worker

P.O. Box 170
Fort Smith NT X0E 0P0
Tel: (867) 872-6568
Fax: (867) 872-3602

Yellowknife Court Workers

P.O. Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5230

Fort Simpson Court Worker

P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
Fax: (867) 695-7358

Tuktoyaktuk Court Worker

P.O. Box 200
Tuktoyaktuk NT X0E 1C0
Tel: (867) 977-2260
Fax: (867) 977-2154

Fort McPherson Court Worker

P.O. Box 304
Fort McPherson NT X0E 0J0
Tel: (867) 952-2756
Fax: (867) 952-2042

Ulukhaktok Court Worker

P.O. Box 157
Ulukhaktok NT X0E 0S0
Tel: (867) 396-8002
Fax: (867) 396-3256

Inuvik Court Worker

P.O. Box 1100
Inuvik NT X0E 0T0
Tel: (867) 777-2030
Fax: (867) 777-3211

Fort Good Hope Court Worker

P.O. Box 239
Fort Good Hope NT X0E 0H0
Tel: (867) 598-2762
Fax: (867) 598-2525