

Law Commission of Canada

Performance Report

For the period ending
March 31, 2005

A handwritten signature in black ink, reading "Irwin Cotler". The signature is fluid and cursive, with the first name "Irwin" and the last name "Cotler" clearly distinguishable.

Irwin Cotler

Minister of Justice and Attorney General of Canada

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Section I - Overview

President's Message

It is with pleasure that I submit this Departmental Performance Report of the Law Commission of Canada for the period ending March 31, 2005. The activities detailed in this document were accomplished prior to my appointment as President. It would be, therefore, appropriate that I recognize the past President, Madame Nathalie Des Rosiers and the interim President, Bernard Colas, for their insight and contributions to the important work of this institution and the reform of law in Canada.

Throughout the past seven years, the Commission has developed a research agenda that encourages multidisciplinary approaches to law reform. The research agenda is organized around relationships: personal, economic, social and governance, as opposed to traditional legal categories. This approach allows for a broadening of the scope of the inquiry as well as for more fundamental questions to be asked.

The Commission remains committed to a vision that ensures that the promises of law become realities, that laws are not only coherently drafted, but that they meet the needs of all Canadians, both today and in the future. “Engaging Canadians in the renewal of law” is the mission of the Commission, which supports a participatory approach to law reform, where all citizens are invited to reflect and share their views. The work of law reform is one of on-going dialogue on the way in which law is lived by Canadians and how it can be improved to better fulfill their aspirations.

In 2004-2005, the Commission pursued work in many key areas that are particularly important to Canadians:

- **Indigenous Legal Traditions:** Research and consultations, partnerships and the co-sponsoring of a research initiative have supported the advancement of this key project leading to the release of a discussion paper later this year.
- **Governance Beyond Borders:** As the theme of this year's Roderick A. Macdonald contest for high school students, the project was provided with the unique viewpoints of today's youth. In addition, further consultation and research was conducted, as the Commission prepares to release a discussion paper.
- **The Vulnerable Worker:** The Commission published a discussion paper for this project during this reporting period. Consultations and additional research are now underway, with the view of a Report to Parliament being tabled in 2006.
- **Justice Between Generations:** Additional meetings, consultations and research were undertaken and the insights and perspectives received via consultations will inform the Commission's further work on this issue.

Once again, during this past year, the Commission has benefited greatly from the contributions and perspectives of Canadians. On behalf of the staff of the Commission, I would like to thank them, and we look forward to further input during 2005-2006.

A handwritten signature in dark ink, appearing to read 'Yves Le Bouthillier', written in a cursive style.

Yves Le Bouthillier
President

Management Representation Statement

I submit for tabling in Parliament, the 2005 Departmental Performance Report (DPR) for the Law Commission of Canada.

This document has been prepared based on the reporting principles contained in the Treasury Board of Canada Secretariat's Guide for the preparation of 2004-2005 Departmental Performance Reports :

- It adheres to the specific reporting requirements;
- It uses an approved Program Activity Architecture;
- It presents consistent, comprehensive, balanced and accurate information;
- It provides a basis of accountability for the results pursued or achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.

Name: Yves Le Bouthillier

Title: President

Date: September 15, 2005

Summary Information

Mission

The mission of the Law Commission of Canada is to engage Canadians in the renewal of the law to ensure that it is relevant, responsive, effective, equally accessible to all, and just.

Information about the Law Commission of Canada is available on its web site at www.lcc.gc.ca

Mandate

The mandate of the Law Commission of Canada is derived from the *Law Commission of Canada Act*, which came into force in April 1997. The mandate of the Commission is “to study and keep under systematic review, in a manner that reflects the concepts and institutions of the common and civil law systems, the law of Canada and its effects.”

The Commission is directed under section 3 of the *Law Commission of Canada Act* to focus on four orientations:

- **New Concepts of Law:** The Commission is to work toward the development of new concepts of law and new approaches to law.
- **Efficiency and Accessibility:** The Commission is to consider measures to make the legal system more efficient, economical and accessible.
- **Stimulating Critical Debate:** The Commission is charged with stimulating critical debate about the law and how it operates in Canadian society. It is encouraged to forge productive networks with academic and other communities to ensure cooperation and coordination in law reform initiatives.
- **Eliminating Obsolescence and Anomalies:** The Commission is to work toward the elimination of obsolescence and anomalies in the current law.

The *Law Commission of Canada Act* can be found on the Commission’s web site at www.lcc.gc.ca/en/about/lcca.asp.

Total Financial Resources

Planned Spending	Total Authorities	Actual Spending
\$3,322,000	\$3,514,000	\$3,419,000

Total Human Resources (Full Time Equivalents – FTEs)

Planned	Actual	Difference
11 FTEs	12 FTEs	+1 FTE

Performance in Relation to Prior Commitments

Strategic Outcome
The strategic outcome of the Commission is independent advice on reforming Canadian laws, institutions and procedures to ensure that they are aligned with the changing needs of individual Canadians and society.
Basis of the Performance Information
<p>In this document, results achieved are presented in a manner consistent with the prior commitments made as part of the 2004-05 Report on Plans and Priorities. Accordingly, the information on results achieved is presented by Key Target Areas, and not by the program activities of research and citizen engagement.</p> <p>The financial information in Section III is presented in relation to the entire Commission and for each of its branches. For 2004-05 the financial information is not presented by program activity.</p>
Key Target Areas
<p>To achieve its strategic outcome, the Commission conducts activities in four Key Target Areas. These Areas reflect issues of concern for Canadians and get to the heart of Canadians' relationships with the law and legal system. The areas can be described as follows:</p> <p>Personal Relationships Much of Canadian law is based on assumptions about how people organize their private lives, and how they relate to their partners, parents, children and others close to them. These assumptions may not adequately or accurately reflect the reality of current relationships. The Law Commission examines how laws can be designed to respond more effectively to Canadians' personal relationships.</p> <p>Governance Relationships Canadians are disengaging from public institutions, and are more sceptical about the capacity of institutions to respond to legitimate expectations. Increasingly, Canadians expect their public institutions to embrace values such as pluralism, choice and diversity. These expectations suggest a change in how Canadians perceive "citizenship". Increasingly, "citizenship" is perceived as active participation in democratic politics within the context of Canada's position in the global community.</p> <p>Economic Relationships The changing character of the workplace, the creation of new forms of property and wealth, the recognition of the significance of both paid and unpaid work, new methods of doing business, globalization, and the emergence of a knowledge-based economy, all have important consequences for those entering the labour market, and for those whose current employment is threatened. The Law Commission explores how best to structure law to enhance Canada's economic strength while protecting fundamental social values.</p> <p>Social Relationships Harmonious and healthy social relationships are built on trust, interdependence and respect. Disagreement and conflict are inevitable products of everyday life and human interaction. The law often relies on public institutions such as the criminal justice system and the police to resolve conflict and ensure security. Increasingly, however, Canadians are relying on more informal methods of conflict resolution and on private institutions to ensure their security.</p> <p>The Commission also continued work on a fundamental question involving all four key target areas: <i>What is a Crime?</i> The objective of this research is to identify why certain behaviours are conceptualized as crimes, and to determine the impact of this conceptualization on personal, social, economic and governance relationships.</p> <p>Past commitments are presented for each Key Target Area in the table on the next page.</p>

2004-05 Commitments by Key Target Area	Type	Planned Spending	Actual Spending	Results Achieved During 2004-05
Personal relationships Does Age Matter: Justice Between the Generations <ul style="list-style-type: none"> Conduct cross Canada consultations with youth groups, seniors' groups and policy makers. Participation in national and international fora. Additional research targeted at specific areas of law and public policy. 	Previously Committed	Not available*	\$201,872	<ul style="list-style-type: none"> Meetings and discussions with youth and seniors' groups, policy makers, academics and the general public on whether sometimes it might be better to use criteria other than age to impose responsibilities and prescribe eligibility to benefits and programs. Comments will inform the Report that will be submitted to Parliament. Additional research was completed on age distinctions in law and in insurance.
Governance relationships Electoral Reform <ul style="list-style-type: none"> Table a Report to Parliament that reviews the current electoral system and recommends that Parliament move toward an electoral system that better reflects Canada's democratic values. 	Previously Committed	Not available*	\$19,083	<ul style="list-style-type: none"> The Commission's report entitled: <i>Voting Counts: Electoral Reform for Canada</i> was tabled in Parliament with recommendations for reforming Canada's electoral system, including elements of proportionality, better representation of women, minority groups and Indigenous people, as well as youth participation and representation. The report examined various electoral system design issues and ways to implement and monitor a new electoral system in Canada. Recognition that no single measure will suffice to address the complex challenges facing Canadian democracy, and that electoral reform is necessary to energize and strengthen Canada's system of democratic governance.
Governance relationships Indigenous Legal Traditions <ul style="list-style-type: none"> Publish a discussion paper that will develop a broader framework for understanding and respecting Indigenous legal traditions. Create a partnership to sponsor comparative research in the areas of Indigenous corporate governance, Indigenous family property and Indigenous penal justice organizations. 	Previously Committed	Not available*	\$249,799	<ul style="list-style-type: none"> Research and consultations pursued on the question of protection and respect for Indigenous legal traditions in an increasingly pluralistic society. Partnership created to engage a researcher to draft a comprehensive background document that will feed a discussion paper expected to be completed in the fall of 2005. Co-sponsoring of the seventh annual legal and socio-legal research initiative, where Canadian scholars were invited to submit proposals for research papers on Indigenous legal traditions. As a result, the Commission awarded six research contracts to successful candidates.

2004-05 Commitments by Key Target Area	Type	Planned Spending	Actual Spending	Results Achieved During 2004-05
Governance relationships Governance Beyond Borders <ul style="list-style-type: none"> Conduct research to explore new meanings of 'citizenship' (Legal Dimensions Initiative). Publish an issue paper that will explore new concepts for understanding sovereignty in a world beyond borders and question the traditional, territorial model of governance. 	Previously Committed	Not available*	\$155,233	<ul style="list-style-type: none"> Two virtual scholars hired to write an issues paper on governance beyond borders. Draft paper presented at various events for feedback. Research on citizenship completed and publication planned for June 2006. Consultations and research conducted in preparation for the release of a discussion paper. Selection of Globalization: Canadians as Citizens of the World as the topic for the 2005 Roderick A. Macdonald Contest for high school student literature and art submissions.
Economic relationships Governance and Freedom of Choice <ul style="list-style-type: none"> Conduct empirical and theoretical research on diverse questions concerning respect for the freedom of choice of individuals and communities, particularly in the context of structural analysis of our law and society. 	Previously Committed	Not available*		<ul style="list-style-type: none"> The exploratory research on Governance and Freedom of Choice was not realized due to resource and funding constraints. There are no plans to realize such a project in 2005-06.
Economic relationships Leveraging Knowledge Assets <ul style="list-style-type: none"> Table a Report to Parliament. Pursue a partnership with the Uniform Law Conference of Canada with a view to modernize Canadian commercial law. 	Previously Committed	Not available*	\$28,154	<ul style="list-style-type: none"> The Commission's Report entitled <i>Leveraging Knowledge Assets – Reducing Uncertainty for Security Interests in Intellectual Property</i> was tabled to Parliament in the spring of 2004. The Report examines the legal and institutional reforms needed to facilitate secured lending based on intellectual property rights. An agreement was signed with the Uniform Law Conference of Canada for conducting research related to the examination of commercial law in Canada.

2004-05 Commitments by Key Target Area	Type	Planned Spending	Actual Spending	Results Achieved During 2004-05
Economic relationships The Bank Act <ul style="list-style-type: none"> Review aspects of the <i>Bank Act</i> that have been deemed redundant in recent years. 	Previously Committed	Not available*	\$34,538	<ul style="list-style-type: none"> The Commission tabled its Report <i>Modernizing Canada's Secured Transactions Law: The Bank Act Security Provisions</i> to Parliament in October 2004. The report examines the economic importance of an effective secured transactions regime and traces the historical evolution of the Canadian secured transactions law. The Report proposes three fundamental principles that can be used in assessing reform options, and recommends that the <i>Bank Act</i> security provisions, sections 427 to 429 be repealed.
Economic relationships The Vulnerable Worker <ul style="list-style-type: none"> Publish a discussion paper Organize a workshop Pursue work to enable workers in vulnerable positions to better participate in public policy and law reform. Participate in research projects in partnership with the Canadian Policy Research Networks. Publish research conducted for the Commission. Sponsor the Roderick A. Macdonald high school art and literary contest. 	Previously Committed	Not available*	\$213,863	<ul style="list-style-type: none"> Publication of the discussion paper: <i>Is Work Working? Work Laws that Do a Better Job</i>, where the Commission explores some of the changes that have occurred in the world of work and encourages Canadians to think about how the law might better respond to these transformations. Two events were held to celebrate the launch of the discussion paper: a noon-hour roundtable with business leaders, workers' organizations and unions, and an evening forum for workers. Numerous other consultations were held with various groups and other activities will take place in 2005-06. The Commission pursued its partnership with the Canadian Policy Research Networks concerning research projects on vulnerable workers. Additional research published for the Commission includes <i>Casualties of the Labour Market: Equity, Efficiency, and Policy Choice</i> and <i>Confronting the Norm: Gender and the International Regulation of Precarious Work</i>. The theme for the 2004 Roderick A. Macdonald art and literary contest for high school students was "Is Work Working? Work Laws that Do a Better Job". Thirteen students won prizes.

2004-05 Commitments by Key Target Area	Type	Planned Spending	Actual Spending	Results Achieved During 2004-05
Social relationships In Search of Security <ul style="list-style-type: none"> Table a Report to Parliament that will make recommendations related to the relationship between public police and private security and the implications this has on the lives of Canadians. 	Previously Committed	Not available*	\$86,241	<ul style="list-style-type: none"> The Commission contributed to a special issue of the <i>Canadian Journal of Criminology and Criminal Justice</i>, which highlighted some of the results from the Commission's highly successful international conference on policing and security. The University of Toronto Press released <i>Re-imagining Policing in Canada</i>, an edited collection of background research that was commissioned as part of the Law Commission's policing project. The Commission is continuing research to release a Report to Parliament in 2005, which will examine the emergence of networks of modern policing, question whether policing, in all of its manifestations, continues to reflect core Canadian democratic values and aspirations, and provide recommendations for reform aimed at ensuring democratic policing.
Social relationships Conflict Resolution: Toward Participatory Justice <ul style="list-style-type: none"> Conduct follow-up consultations with stakeholders to determine the degree to which the Commission's recommendations are implemented. 	Previously Committed	Not available*	\$55,747	<ul style="list-style-type: none"> The Commission continues to work with communities and stakeholders to advance concepts relating to participatory justice. The Commission sponsored and/or participated in activities and events, and partnered with various organizations, to promote participatory conflict resolution.

2004-05 Commitments by Key Target Area	Type	Planned Spending	Actual Spending	Results Achieved During 2004-05
What is a Crime? Following the release of its discussion paper <i>What is a Crime?</i> , the Commission selected six case studies to explore the implications of defining particular activities as criminal, and committed to the following: <ul style="list-style-type: none"> ▪ Finalize research on case studies. ▪ Publish a collection of research. ▪ Develop a national consultation strategy. ▪ Prepare for an international conference that will take place in 2005-06. ▪ Sponsor a graduate student competition titled "The Place of Justice". 	Previously Committed	Not available*	\$319,408	<ul style="list-style-type: none"> ▪ The Commission launched six multidisciplinary research projects that examine the factors that contribute to the definition of "unwanted" or "criminal" behaviour, and the mechanisms and techniques that are employed in response to certain behaviours. The six projects will be completed during 2005-06, and will address a range of issues, including: <ul style="list-style-type: none"> ○ Medical fraud and over-billing ○ The criminalization of welfare fraud ○ Information privacy ○ The legalization of gambling in Canada ○ The criminalization of Indigenous harvesting ○ Civility and Neighbourhood Order / Disorder in an Urban Setting ▪ A collection of research on <i>What Is a Crime?</i> was released by UBC Press in June 2005. ▪ Six graduate students prepared papers on The Place of Justice. These papers are currently in the publication process.
Follow-up activities relating to research projects conducted before 2004-05			\$74,764	
Exploratory research activities relating to projects started after 2004-05			\$206,407	
Citizen engagement activities during 2004-05			\$356,345	
General administration activities during 2004-05			\$1,417,546	

* The Commission did not previously allocate its 2004-05 planned budget in relation to individual commitments.

Overall Performance

Planning Approach

The Commission has an Advisory Council of up to 24 volunteers who reflect Canada's socio-economic and cultural diversity, and represent a broad range of disciplines. The Council provides advice on the Law Commission's strategic direction, long term research program, performance review and other relevant matters. Research priorities are established by the Commissioners, on the advice of the Advisory Council.

Study panels are appointed as needed to provide advice on specific research projects. Each panel is headed by a Commissioner and comprises volunteer experts from multiple disciplines and members of affected communities. To support the study panels, research contracts are awarded to recognized experts in the private sector and academia.

The Commission works with many organizations to conduct research, organize and participate in fora and conferences, and publish and distribute research material. The Commission regularly solicits research proposals, and formally assesses the relevance and value of the proposals received using elaborate selection criteria. For example, selection criteria include the need for demonstrated reform, feasibility of the research, ethical issues, risk factors, level of public interest, etc. Partnerships with research and professional associations are considered essential to leverage synergies with interested parties.

Operating Context

The past year saw the departure of the former President of the Law Commission, Nathalie Des Rosiers, and the former Executive Director, Dennis Cooley, both in the fall of 2004. Mr. Bruno Bonnevillie returned to the Commission as Executive Director in September 2004 to manage the day to day operations. Mr. Bernard Colas was Acting President until June 2005, when Mr. Yves Le Bouthillier was named President of the Commission.

Many factors can have implications on the performance of the Commission. These factors take the form of risk issues which are actively managed on an ongoing basis, and can be summarized as follows:

- Identification of relevant research topics
- Timing for the issuance of research reports
- Funding and ability to conduct broad consultations
- Ability to attract interested parties for research projects

Operating Budget Pressures

The Commission has been limited to the same overall budget since its inception in 1997, despite an increase in staff complement. Approximately \$250,000 needs to be reallocated from operations to salaries each year, and the operating budget has also been reduced by an additional \$120,000 over five years due to Expenditure Review. As a result of its funding shortfall, the Commission's ability to undertake projects and consult more broadly is limited.

Results Achieved

During the fiscal year 2004-05, the Law Commission of Canada successfully undertook multi-disciplinary research and engaged Canadian citizens in law reform. Many projects were a continuation of research previously started, leading to discussion papers, consultations and reports containing recommendations for law reform.

The main projects reflect the four complementary themes around which the Commission's work is structured: personal relationships, social relationships, economic relationships and governance relationships. These projects seek to make recommendations that allow Canadian law to respond to the following phenomena:

- **Does Age Matter: Justice Between the Generations** - Legislative rigidity that uses age as a marker and places obstacles in the way of intergenerational justice;
- **Electoral Reform** – The need to consider whether elements of proportionality should be introduced into our electoral system;
- **Indigenous Legal Traditions** – A greater recognition by our legal system of Indigenous legal traditions;
- **Governance Beyond Borders** – The impact of globalization on our system of governance;
- **Leveraging Knowledge Assets** – The legal and institutional reforms needed to facilitate secured lending based on intellectual property rights;
- **The Bank Act** – Recommendations to remove anomalies, anachronisms and redundancies in order to improve the efficiency of economic transactions;
- **The Vulnerable Worker** – The need to protect vulnerable workers in a constantly changing workplace;
- **In Search of Security** – The ever more significant role played by private security services in maintaining order and security;
- **Conflict Resolution: Toward Participatory Justice** – A greater use of participatory justice for individuals involved in disputes and for the Canadian legal system;
- **What is a Crime?** – Different methods of intervention designed to counter unwanted behaviour, and to search for strategies that are efficient and just.

The Commission was able to effectively deliver on all of its prior commitments, with the exception of its previously planned exploratory research on Governance and Freedom of Choice. Such research was not realized due to resource and funding constraints. There are no plans to realize such a project in 2005-06. No other changes in priorities occurred during the fiscal year 2004-05.

Benefits to Canadians

The work of the Commission serves to engage Canadians in the renewal of the law. The research and recommendations provide many benefits to Canadians, which are consistent with the Commission's mandate:

- Developing new concepts of law and new approaches to law;
- Making the legal system more efficient, economical and accessible;
- Stimulating critical debate about law and its impact on Canadian society; and
- Eliminating obsolescence and anomalies in the current law.

Alignment with Government of Canada Performance Areas

As part of its annual report to Parliament, the Government of Canada assesses its progress in six broad areas of federal involvement. The Commission's research and citizen engagement work contributes to these broad areas based on the outcomes that are sought. The following table provides a summary of the Commission's research projects which contribute to four of the six broad areas of federal involvement.

Government of Canada Performance Area	Law Commission of Canada Research Projects
Canada's Place in the World	<ul style="list-style-type: none"> ▪ Governance Beyond Borders
Canada's Economy	<ul style="list-style-type: none"> ▪ Leveraging Knowledge Assets ▪ The <i>Bank Act</i> ▪ The Vulnerable Worker
Society, Culture and Democracy	<ul style="list-style-type: none"> ▪ Justice Between the Generations ▪ Electoral Reform ▪ In Search of Security ▪ Conflict Resolution – Toward Participatory Justice ▪ <i>What Is A Crime?</i>
Indigenous Peoples	<ul style="list-style-type: none"> ▪ Indigenous Legal Traditions

Lessons Learned

Feed-back received by the Commission indicates that its direction remains sound and that research methodologies continue to be effective in achieving desired results.

Section II - Analysis by Key Target Area

Detailed Analysis of Performance

The Commission has one strategic outcome which is to provide independent advice on reforming Canadian laws, institutions and procedures to ensure that they are aligned with the changing needs of individual Canadians and society.

This section provides detailed performance information in relation to the Plans and Priorities that were set out in the Commission's Report on Plans and Priorities 2004-05. The information is presented in relation to each of the Key Target Areas. A description of the Key Target Areas is presented in the Summary Information section.

PERSONAL RELATIONSHIPS
Does Age Matter: Justice Between the Generations
<p>Commitment Context</p> <p>The objective of the research and discussion in this area is to explore how the law constructs personal relationships, and how it may, in consequence, palliate or exacerbate power imbalances that can lead to abuse and exploitation.</p> <p>In 2003-04, the Commission published a discussion paper titled <i>Does Age Matter? Law and Relationships between Generations</i>. For 2004-2005, the Commission committed to engaging Canadians in a discussion on the question, particularly Canadians that are not often called upon to participate in public debates – youth and older adults.</p>
<p>Main Activities Previously Committed</p> <ul style="list-style-type: none">▪ Conduct cross-Canada consultations with youth groups, seniors' groups, and policy makers. Participate in national and international fora in order to disseminate the ideas contained in its discussion paper and solicit feedback.▪ Conduct additional research targeted at specific areas of law and public policy involving debates surrounding issues of age and relationships between generations, for example, insurance, economic security, employment and human rights.
<p>Results Achieved During 2004-05</p> <ul style="list-style-type: none">▪ The Commission met with a number of groups across Canada. Youth groups, older adults' organizations, policy-makers, academics and the general public, were asked whether sometimes it might be better to use criteria other than age to impose responsibilities and to prescribe eligibility to benefits and programs. Comments will inform the Report that will be submitted to Parliament.▪ The Commission carried out additional research on transitions to retirement, child and youth labour issues, consent to health care and autonomy in seniors' institutions as well as two studies of age and insurance. Information on these topics and comments received throughout the consultation phase will inform the Commission's report that will be submitted to Parliament.
<p>Expected Outcomes</p> <p>The Commission's research and recommendations will provide policy makers with a framework for how to develop policy and law in a way that does not re-affirm stereotypes based on age. The results of this project are intended to lead policy makers to re-evaluate laws and policies that use age as a marker and that prevent people from participating fully in our society.</p>

GOVERNANCE RELATIONSHIPS

Electoral Reform

Commitment Context

In its investigation of what kinds and forms of law best meet the notion of citizenship and citizen capacity that underlies a liberal-democratic state, the Commission studied decision-making and institutions, both public and private, and explored processes for effective governance in a framework of openness and accountability.

Main Activities Previously Committed

- Table a Report to Parliament that reviews the current electoral system and recommends that Parliament move toward an electoral system that better reflects Canada's democratic values.

Results Achieved During 2004-05

- Tabled to Parliament the Commission's Report *Voting Counts: Electoral Reform for Canada*, which includes 23 recommendations for reforming Canada's electoral system. The recommendations include elements of proportionality, better representation of women, minority groups and Indigenous people, as well as youth participation and representation. The Report examined various electoral system design issues, and ways to implement and monitor a new electoral system in Canada.
- The Report recognizes that no single measure will suffice to address the complex challenges facing Canadian democracy. However, it has become apparent that the first-past-the-post electoral system no longer meets the democratic aspirations of many Canadians. Electoral reform is, therefore, a necessary step to energize and strengthen Canada's system of democratic governance.

Expected Outcomes

The Commission's report will help clarify the debate surrounding electoral reform by reviewing arguments advanced to justify change, evaluating their relevance and cogency, and proposing a strategy for electoral reform that will help invigorate Canadian democracy. The substantive recommendations put forward by the Commission will generate momentum among politicians and citizens to reform the electoral process.

GOVERNANCE RELATIONSHIPS

Indigenous Legal Traditions

Commitment Context

Although many communities in Canada demonstrate ongoing commitment to concepts and values from Indigenous laws and traditions, frequently such concepts and values have been ignored or overruled by non-Indigenous law. Canada has been able to benefit from the enrichment of two legal traditions, civil law and common law. It should also benefit more from the Indigenous heritage and legal traditions.

Main Activities Previously Committed

- Publish a discussion paper that will develop a broader framework for understanding and respecting Indigenous legal traditions, including the issue of institutional change, the capacity of Canadian governments and society to address it, and the choice of the tools to effect this change.
- Create a partnership between the Indigenous Bar Association, the Université de Montréal and the Law Commission to sponsor comparative research in three areas, Indigenous corporate governance, Indigenous family property and Indigenous penal justice organizations.

Results Achieved During 2004-05

- Research and consultations pursued on the question of protection and respect for Indigenous legal traditions in an increasingly pluralistic society. A partnership has been established with the Social Sciences and Humanities Research Council of Canada to engage a researcher from the University of Victoria as a Virtual Scholar In Residence, to draft a comprehensive background document that will feed a discussion paper which is expected to be completed in the Fall of 2005.
- Co-sponsoring of the seventh annual legal and socio-legal research initiative, where Canadian scholars were invited to submit proposals for research papers on Indigenous legal traditions. As a result, the Commission awarded six research contracts to successful candidates.

Expected Outcomes

This project will create the appropriate framework for more respectful relationships between Indigenous and non-Indigenous people in Canada, and in the process, contribute to the social and economic development of Indigenous communities and Canada.

GOVERNANCE RELATIONSHIPS

Governance Beyond Borders

Commitment Context

Globalization pressures are felt in many areas of our governance and an increasing number of Canadians recognize that they are "citizens of the world." The current legal framework is based on a territorial model of governance that may not respond to this changing perspective and the new realities of globalization. There is a perception that the current model is no longer sufficient to meet the governance needs of "Canadians as citizens of the world."

Main Activities Previously Committed

- Conduct research to explore new meanings of 'citizenship' (Legal Dimensions Initiative).
- Publish an issue paper that will explore new concepts for understanding sovereignty in a world beyond borders and question the traditional, territorial model of governance.

Results Achieved During 2004-05

- Two virtual scholars hired to write an issues paper on governance beyond borders. Draft paper presented at various events for feedback.
- Research on citizenship completed and publication planned for June 2006.
- Consultations and research conducted in preparation for the release of a discussion paper.
- Selection of Globalization: Canadians as Citizens of the World as the topic for the 2005 Roderick A. Macdonald Contest for high school student literature and art submissions.

Expected Outcomes

The Commission's research will lead to more creative thinking about the connections between national and international preoccupations within this era of globalization. It will provide an assessment of the tools and concepts of law used to face the impact of globalization.

ECONOMIC RELATIONSHIPS

Governance and Freedom of Choice

Commitment Context

This research examines how the concept of freedom of choice is a predominant feature of our political, social and legal thinking, but we rarely reflect on all the implications of this idea.

Main Activities Previously Committed

- Conduct empirical and theoretical research on diverse questions concerning respect for the freedom of choice of individuals and communities, particularly in the context of structural analysis of our law and society.

Results Achieved During 2004-05

- The exploratory research on Governance and Freedom of Choice was not realized due to resource and funding constraints. There are no plans to realize such a project in 2005-06.

Expected Outcomes

The Commission's project on Governance and Freedom of Choice will provide research in the areas of law and cities, reproductive technology, social regulation and Indigenous history.

ECONOMIC RELATIONSHIPS Leveraging Knowledge Assets
<p>Commitment Context</p> <p>The Commission conducted research to examine constraints on using knowledge assets such as intellectual property rights as security for investment purposes.</p>
<p>Main Activities Previously Committed</p> <ul style="list-style-type: none"> ▪ Table a Report to Parliament. ▪ Pursue a partnership with the Uniform Law Conference of Canada with a view to modernize Canadian commercial law.
<p>Results Achieved During 2004-05</p> <ul style="list-style-type: none"> ▪ The Commission's Report entitled: <i>Leveraging Knowledge Assets – Reducing Uncertainty for Security Interests in Intellectual Property</i> was tabled to Parliament in the spring of 2004. The report examines the legal and institutional reforms needed to facilitate secured lending based on intellectual property rights. ▪ An agreement was signed with the Uniform Law Conference of Canada for conducting research related to the examination of commercial law in Canada.
<p>Expected Outcomes</p> <p>The Report includes recommendations to remove ambiguities in Canadian federal law relating to security interests in intellectual property.</p>

ECONOMIC RELATIONSHIPS The Bank Act
<p>Commitment Context</p> <p>The <i>Bank Act</i> is fundamental to the regulation of commerce in Canada; yet there exist within the <i>Act</i> anomalies, anachronisms and redundancies.</p>
<p>Main Activities Previously Committed</p> <ul style="list-style-type: none"> ▪ Review aspects of the <i>Bank Act</i> that have been deemed redundant in recent years.
<p>Results Achieved During 2004-05</p> <ul style="list-style-type: none"> ▪ The Commission tabled its Report <i>Modernizing Canada's Secured Transactions Law: The Bank Act Security Provisions</i> to Parliament in October 2004. The Report examines the economic importance of an effective secured transactions regime and traces the historical evolution of the Canadian secured transactions law. The Report proposes a set of three fundamental principles that can be used in assessing reform options, and uses the principles to critically assess the strength and weaknesses of each reform proposal. Based on its analysis, the Commission recommends that the <i>Bank Act</i> security provisions, sections 427 to 429, be repealed.
<p>Expected Outcomes</p> <p>The Report provides recommendations to Parliament to remove from the <i>Bank Act</i> certain anomalies, anachronisms and redundancies in order to improve the efficiency of economic transactions.</p>

ECONOMIC RELATIONSHIPS

The Vulnerable Worker

Commitment Context

Economic security is most often associated with work. However, work encompasses more than a paid job and it does not always lead to economic security.

The Commission has, therefore, undertaken a project, with the goal of studying the ways in which the law allows people to attain economic security or the manner in which it impedes them in achieving this security. The law plays an important role in determining the types of work that are recognized, valued and rewarded, as well as those that are downgraded, poorly regarded and prohibited.

The Commission will attempt to determine if the law provides adequate and appropriate support for the promotion of economic security of those engaged in work in the broad sense of the term.

Main Activities Previously Committed

Research and discussion examining the ways in which the law allows people to attain economic security or impedes them from doing so, including the following activities:

- Publish a discussion paper.
- Organize a workshop titled "The New Realities of Work" at the annual meetings of the Canadian Bar Association.
- Pursue its work to enable workers in vulnerable positions to better participate in public policy and law reform.
- Participate in research projects in partnership with the Canadian Policy Research Networks.
- Publish research conducted for the Commission.
- Sponsor the Roderick A. Macdonald high school art and literary contest.

Results Achieved During 2004-05

- Publication of the discussion paper: *Is Work Working? Work Laws that Do a Better Job*, where the Commission explores some of the changes that have occurred in the world of work and encourages Canadians to think about how the law might better respond to these transformations. The discussion paper concludes with a number of ideas for the reform of Canada's work laws.
- Two events were held to celebrate the launch of the discussion paper: a noon-hour roundtable with business leaders, workers' organizations and unions, and an evening forum for workers. There were lively discussions at both events about the challenges of enhancing protections for workers in the current economic climate. Other consultations were held with various groups and more activities will take place in 2005-06.
- The Commission pursued its partnership with the Canadian Policy Research Networks concerning research projects on vulnerable workers.
- Additional research published for the Commission includes *Casualties of the Labour Market: Equity, Efficiency, and Policy Choice* and *Confronting the Norm: Gender and the International Regulation of Precarious Work*.
- The theme for the 2004 Roderick A. Macdonald art and literary contest for high school students was "Is Work Working? Work Laws that Do a Better Job". Thirteen students won prizes for their submissions.

Expected Outcomes

This research will provide not only a descriptive portrait of those workers who are having difficulty achieving economic security, it will also develop a useful framework for evaluating the various policy and regulatory options available. Based on cross-Canada consultations with Canadians about what they see as dominant trends and needs for work-related law and policy changes, the Commission aims to provide, in its final report, a sound empirical and theoretical basis upon which to engage in law reform.

SOCIAL RELATIONSHIPS

In Search of Security

Commitment Context

The objective of the Commission's research and discussion in this area is to explore the complex relationships that are emerging between public police and private security enterprises in Canada.

Main Activities Previously Committed

- Table a Report to Parliament that will make recommendations related to the relationship between public police and private security and the implications this has on the lives of Canadians.

Results Achieved During 2004-05

- The Commission contributed to a special issue of the *Canadian Journal of Criminology and Criminal Justice*, which highlighted some of the results from the Commission's highly successful international conference on policing and security.
- The University of Toronto Press released *Re-imagining Policing in Canada*, an edited collection of background research that was commissioned as part of the Law Commission's policing project.
- The Commission is continuing research to release a Report to Parliament in 2005. In addition to examining the emergence of networks of policing in Canadian society and how they have occurred, the Report will explore whether the current legal regulatory framework adequately reflects the realities of modern policing, and will question whether policing, in all of its manifestations, continues to reflect core Canadian democratic values and aspirations. The Report will also provide recommendations for reform aimed at ensuring democratic policing in the 21st century in Canada.

Expected Outcomes

This project will stimulate debate in the government, the media, in other policy forums and in policing institutions about the role of private security firms and how they should be regulated.

The Report to Parliament will identify the need for better communication and partnerships among the police and private security agencies, and will recommend steps to make this happen.

The Report will increase awareness among provincial registrars of initiatives undertaken in each jurisdiction and of approaches to regulating private security agencies, as well as a commitment to reconvene and continue discussions.

SOCIAL RELATIONSHIPS

Conflict Resolution: Toward Participatory Justice

Commitment Context

In 2003-04, the Commission tabled a Report to Parliament entitled *Transforming Relationships through Participatory Justice*. The Report examined the principles and practices of restorative justice and mediation.

Main Activities Previously Committed

- Conduct follow-up consultations with stakeholders to determine the degree to which the Commission's recommendations are implemented.

Results Achieved During 2004-05

- The Commission continues to work with communities and stakeholders to advance concepts relating to participatory justice. The Commission sponsored and/or participated in activities and events, and partnered with various organizations, to promote participatory conflict resolution, which included:
 - The Restorative Justice Week opening ceremonies and proclamation in Ottawa
 - RJ ArtsFest, an initiative of the Church Council on Justice and Corrections
 - A one-day forum on restorative justice with other organizations, including YOUNG CAN, a non-profit organization focussed on youth-led initiatives
 - A community forum entitled: *Engaging Us All in the Dialogue* in St-John's, Newfoundland and Labrador
 - The Ron Wiebe Awards Banquet, where persons who have advanced the cause of restorative justice in Canada are recognized
 - A project entitled *The Evaluation of a Restorative Justice Approach to Elder Abuse*, in collaboration with Prairie Research Associates

Expected Outcomes

The follow-up consultations will result in a greater awareness of the benefits of participatory justice process, for individuals involved in disputes and for the Canadian legal system as a whole.

OTHER TARGET AREA

What is a Crime?

Commitment Context

Apart from the four thematic areas forming the Commission's strategic plan, work has also been conducted on an issue with links to the four Key Target Areas. The objective is to understand the reasons why certain patterns of behaviour are identified under the concept of crime, and to check the impacts of such a concept on personal, social, economic and governance relationships, by assessing the various options available for regulating undesirable behaviour.

Main Activities Previously Committed

Following the release of its discussion paper *What is a Crime?*, the Commission selected six case studies to explore the implications defining particular activities as a crime, and committed to the following:

- Finalize research on case studies.
- Publish a collection of research.
- Develop a national consultation strategy.
- Prepare for an international conference that will take place in 2005-06.
- Sponsor a graduate student competition titled "The Place of Justice".

Results Achieved During 2004-05

- The Commission launched six multidisciplinary research projects that examine the factors that contribute to the definition of "unwanted" or "criminal" behaviour, and the mechanisms and techniques that are employed in response to certain behaviours. The six projects will be completed during 2005-06, and will address a range of issues, including:
 - Medical fraud and over-billing
 - The criminalization of welfare fraud
 - Information privacy
 - The legalization of gambling in Canada
 - The criminalization of Indigenous harvesting
 - Civility and neighbourhood order / disorder in an urban setting
- A collection of research on *What Is a Crime?* was released by UBC Press in June 2005.
- Six graduate students prepared papers on The Place of Justice. These papers are currently in the publication process.

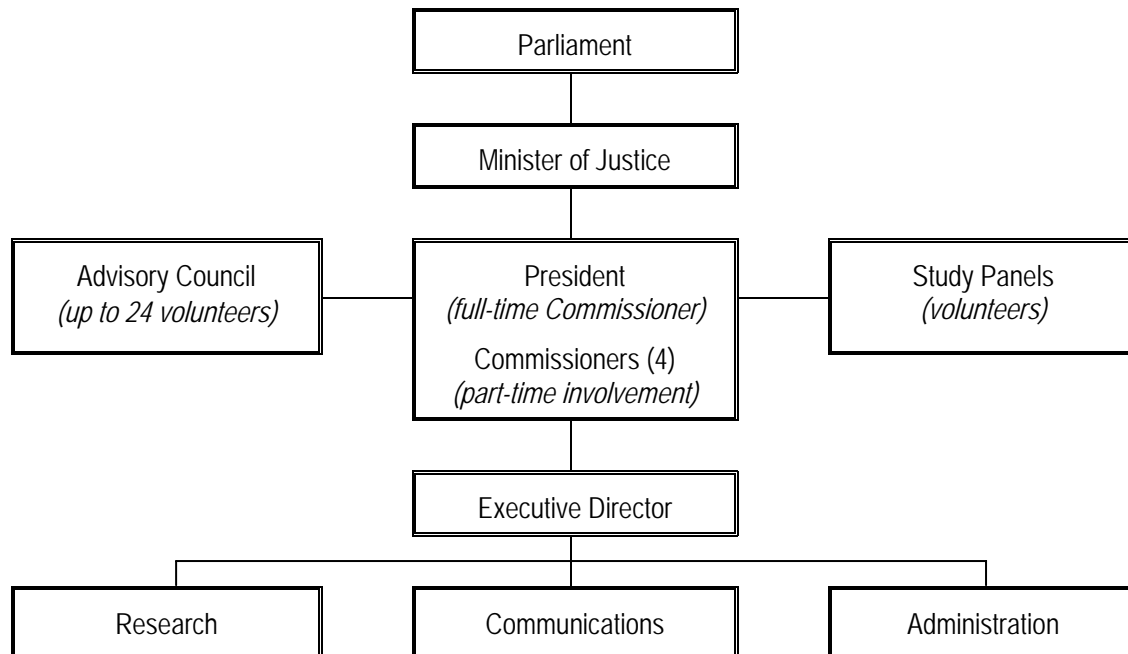
Expected Outcomes

As a result of the Commission's research project, Canadians will be able to reflect on the strategies used to confront unwanted behaviour, and to search for strategies that are efficient and just. The aim of the project is to provide policy makers with a framework that can be used to assess the consequences of choosing the criminal law and other intervention strategies as a response to unwanted behaviour.

Section III - Supplementary Information

Organizational Information

The Law Commission is an independent departmental corporation accountable to Parliament through the Minister of Justice. The Governor in Council appoints the President and four part-time Commissioners on the recommendation of the Minister for terms not exceeding five years. The Commission is supported by a small Secretariat headed by an Executive Director.



The Commission has an Advisory Council of up to 24 volunteers who reflect Canada's socio-economic and cultural diversity, and represent a broad range of disciplines. The Council provides advice on the Law Commission's strategic direction, long term research program, performance review and other relevant matters. Research priorities are established by the Commissioners, on the advice of the Advisory Council.

Study panels are appointed as needed to provide advice on specific research projects. Each panel is headed by a Commissioner and comprises volunteer experts from multiple disciplines and members of affected communities. To support the study panels, research contracts are awarded to recognized experts in the private sector and academia.

Changes in Leadership

The past year saw the departure of the former President of the Law Commission, Nathalie Des Rosiers, and the former Executive Director, Dennis Cooley, both in the fall of 2004. Mr. Bruno Bonneville returned to the Commission as Executive Director in September 2004 to manage the day to day operations. Mr. Bernard Colas was Acting President until June 2005, when Mr. Yves Le Bouthillier was named President of the Commission.

Challenges and Risk Management Practices

The Law Commission conducted an exercise with Commissioners to define the concept of risk and discuss various risk issues. The Commission has recently completed a review of its contracting procedures, and a risk-based internal audit and evaluation plan will be developed during 2005-06. It is expected that a program evaluation will be undertaken during 2005-06, and a management framework audit may also be undertaken.

Identification of Relevant Research Topics and Management of Projects

One important potential risk of the Commission relates to the identification of relevant research topics and the management of research projects. Guidance and advice is received from the Advisory Council on the relevance of proposed research. Study Panels are appointed as needed to provide advice on specific research projects. A consistent approach is used to request research proposals, which are then assessed for merit, including the credibility of the research partner and the complexity of the research proposed. Law Commission Research Officers manage research projects in relation to perceived risks, and review research reports thoroughly. Commissioners approve research reports prior to publication.

Timing for the Issuance of Research Reports

The timing for the issuance of reports impacts performance which can be reported in a given year. The issuance of reports can be affected by:

- The number of issues arising from consultations that require further study prior to the preparation of recommendations.
- The number of stakeholders to be consulted on a given topic and the ease with which groups and members of the public can be assembled for consultations.
- The small size of the Commission, staff and Commissioner turnover.

The volume of planned consultations is tailored to resources and budgets available. When further study is required, resources can be reallocated to the project, or partnership agreements can be entered into if another party is able to contribute.

Funding and Ability to Conduct Broad Consultations

Expanding the Commission's ability to consult with Canadians requires resources either in the form of funds for travel, promotion of events or appropriate electronic technology. The Commission has been limited to the same overall budget since its inception, despite an increase in staff complement. Approximately \$250,000 needs to be reallocated from operations to salaries each year, and the operating budget has also been reduced by an additional \$120,000 over five years due to Expenditure Review.

As a result of its funding shortfall, the Commission's ability to undertake projects and consult more broadly is limited. Since the Commission is a small Ottawa-based organization, linking to members of the public or stakeholders in regions of Canada depends on its ability to find an appropriate local partner with networks and to interest the local media. The production of discussion papers depends on early reactions to proposed topics by stakeholders, experts and members of the Commission's Advisory Council. The Commission's desire to be responsive to new and emerging issues results in a short planning timeframe for new projects.

Ability to Attract Interested Parties for Research Projects

The Law Commission's ability to form partnerships depends on determining a topic of mutual interest and agreeing to mutual responsibilities. The success of the Commission in attracting scholars from a variety of disciplines requires proactive marketing of an economic and socio-legal approach to law reform that goes beyond legal texts and analysis. Human resources must be available to build up a list of scholars in key areas related to the work of the Commission who can be advised of upcoming opportunities in their field.

Travel Policies

The Commission follows and uses the travel policies and guidelines issued by the Treasury Board Secretariat.

Statute Administered by the Law Commission of Canada

Law Commission of Canada Act (S.C., 1996, c. 9)

Contact Information

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Financial Information

Table 1: Comparison of Planned to Actual Spending

(thousands of dollars)

	2002-2003 Actual	2003-2004 Actual	2004-2005			
			Main Estimates	Planned Spending	Total Authorities	Actual
Law Commission of Canada	3,122	3,613	3,150	3,150	3,323	3,228
Less: Non-Respendable revenue	-	-	-	-	-	-
Plus: Cost of services received without charge	128	164	172	172	191	191
Net cost of Commission	3,250	3,777	3,322	3,322	3,514	3,419

Full Time Equivalents	12	12	11	11	12	12
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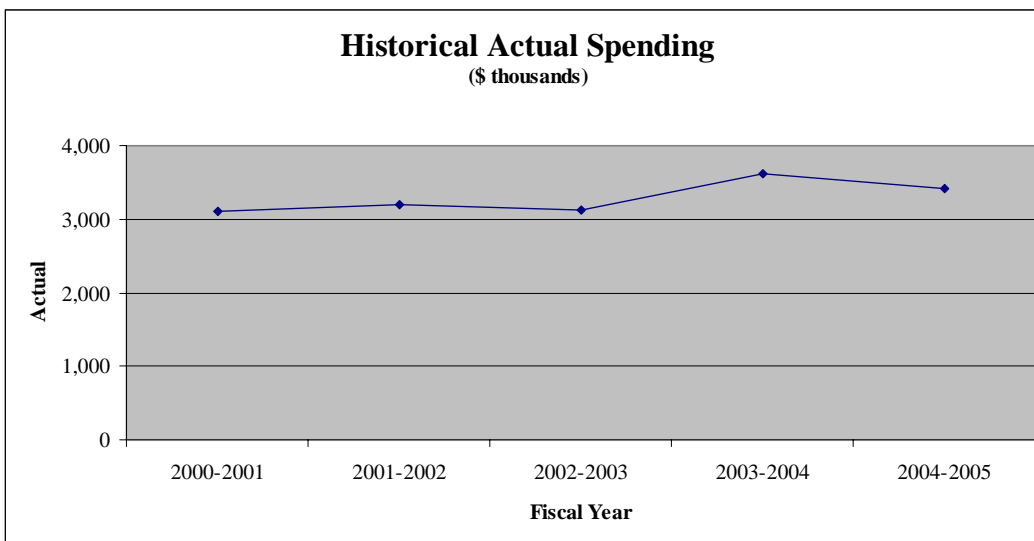


Table 2: Use of Resources

(thousands of dollars)

	2004-2005			
	Main Estimates	Planned Spending	Total Authorities	Actual
Budgetary				
Operating	3,150	3,150	3,323	3,228
Capital	-	-	-	-
Grants and contributions	-	-	-	-
Total: Gross Budgetary Expenditures	3,150	3,150	3,323	3,228
Less: Respendable Revenue	-	-	-	-
Total: Net Budgetary Expenditures	3,150	3,150	3,323	3,228
Non-Budgetary				
Loans, investments and advances	-	-	-	-
Total	3,150	3,150	3,323	3,228

The 2004-2005 Actual represents 97% of the Total Authorities. The difference of \$95,000 between the Actual and Total Authorities is primarily attributed to research projects being delayed to the next fiscal year.

Table 3: Voted and Statutory Items

(thousands of dollars)

Vote or Statutory Item	Truncated Vote or Statutory Wording	2004-2005			
		Main Estimates	Planned Spending	Total Authorities	Actual
35	Program expenditures	2,966	2,966	3,131	3,036
(S)	Contributions to employee benefit plans	184	184	192	192
	Total Commission	3,150	3,150	3,323	3,228

The 2004-2005 Total Authorities represent an increase of \$173,000 or 5.5% over the Main Estimates of \$3,150,000. This difference represents mainly funding received through Supplementary Estimates for the 2003-2004 operating budget carry forward and salary increases resulting from collective bargaining agreements.

Table 4: Net Cost of Commission

(thousands of dollars)

2004-2005	
Total Actual Spending	3,227.9
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada	107.5
Contributions covering employer's share of employee insurance premiums and expenditures paid by Treasury Board Secretariat	83.6
	191.1
<i>Less: Non-respendable Revenue</i>	-
2004-2005 Net cost of Commission	3,419.0

Table 9: Resource Requirements by Branch

(thousands of dollars)

	Recommendations on Law Reform	Total
Commissioners	354	354
Administration	988	988
Communications	671	671
Research	1,214	1,214
Actual	3,228	3,228

Section IV - Other Items of Interest

Shared Corporate Services and Systems

Since its inception in April 1997, the Law Commission of Canada has a Memorandum of Understanding (MOU) with the Canadian Human Rights Commission (CHRC), to receive corporate services in the areas of Human Resources Management, Financial Management, Assets Management and Information Technology.

As part of the MOU agreement, functional expertise, guidance and advice are provided by the CHRC to support the Commission's staff and operations on an ongoing basis. The agreement provides a cost-effective approach for functional services and shared systems between the Commission and the CHRC, and allows the Commission to focus more resources towards research and citizen engagement activities.