



**PUBLIC SAFETY, DEFENCE, AND IMMIGRATION PORTFOLIO  
EVALUATION  
Final Report**

**August 2015**

**Evaluation Division  
Corporate Services Branch**



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## ACRONYMS

ADAG	Assistant Deputy Attorney General
CBSA	Canada Border Services Agency
CIC	Citizenship and Immigration Canada
CSC	Correctional Service Canada
CSE	Communications Security Establishment
CSIS	Canadian Security Intelligence Service
DLSUs	Departmental Legal Services Units and Group
FTE	Full-time equivalent
IMC	Immigration Managers Committee
NCR	National Capital Region
ND/CAF	National Defence and the Canadian Armed Forces
NDRS	National Defence Regulations Section
NLCT	National Litigation Coordination Group
NSG	National Security Group
NSIC	National Security Intelligence Committee
NSLAG	National Security Litigation and Advisory Group
NSLT	National Security Law Team
PBC	Parole Board of Canada
PS	Public Safety and Emergency Preparedness (Public Safety Canada)
PSDI	Public Safety, Defence, and Immigration
RCMP	Royal Canadian Mounted Police
RPD	Refugee Protection Division
SLIC	Scratch Legal Issues Committee



## **EXECUTIVE SUMMARY**

### **1. Introduction**

This document constitutes the final report for the evaluation of the Public Safety, Defence, and Immigration (PSDI) Portfolio, whose mandate is to support the Minister of Justice and Attorney General of Canada in the provision of high-quality legal services to the Minister of Public Safety, the Minister of National Defence, and the Minister of Citizenship and Immigration. In so doing, PSDI assists these Ministers in fulfilling the mandates and responsibilities of the departments and agencies under their authority. In accordance with the 2009 Treasury Board *Policy on Evaluation*, the evaluation addresses both the relevance and the performance of the Portfolio. The evaluation covers the period from 2008/09 to 2013/14.

### **2. Description of the Portfolio**

The PSDI Portfolio is one of the six portfolios that the Department of Justice Canada established to structure and manage the range of advisory, litigation, and legislative services that its legal counsel offer in support of client departments and agencies. It includes three main components: the ADAG Office, including the National Security Law Team (NSLT) and the National Litigation Coordinating Team (NLCT); the nine Departmental Legal Services Units (DLSUs); and PSDI staff in regional offices.

At the end of the fiscal year 2013/14, the PSDI Portfolio operated with just over 750 full-time equivalents (FTEs). Regional offices had 432 FTEs; the DLSUs 209 FTEs; and the ADAG Office had 23 FTEs. The Department of Justice Canada allocated approximately \$86 million<sup>1</sup> to the PSDI Portfolio during that year.

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<sup>1</sup> This figure includes funds received through the Net Vote Authority.

### **3. Methodology**

In order to address the questions included in the evaluation matrix, the evaluation included the following methodological approaches: administrative file and document review; key informant interviews; 10 case studies and a web-based survey of legal counsel.

### **4. Evaluation Findings**

#### **4.1. Relevance**

##### **Continued need for PSDI services**

The work of the PSDI Portfolio is highly integrated in the ongoing operations of its client departments and agencies. The Portfolio helps these departments and agencies fulfill their mandates by providing critical legal support as they carry on their operations; implement new policies, programs, or legislative initiatives; or conduct litigation.

Throughout the evaluation period, the demand for PSDI services has steadily increased. Among the factors that contributed to this trend is the increasing complexity of legal issues faced by client departments and agencies, resulting in part from the desire to implement highly integrated solutions to emerging policy challenges.

In this context, there is a strong rationale for the support provided by the Portfolio. In files involving multiple departments and agencies or where there is a high volume of litigation (such as immigration law), there is a need for consistency, which in turn, requires efficient monitoring and coordination mechanisms. Evaluation findings indicate that the Portfolio has articulated a clear vision for the coordination of litigation work related to immigration and refugee files. However, the Portfolio has yet to articulate as clear a vision when it comes to other areas of law covered by its mandate.

##### **Responding to federal government priorities**

Fundamental changes to immigration and refugee processes, a wide-ranging law and order legislative agenda, and new measures related to national security and anti-terrorism have been some of the federal priorities that have mobilized considerable resources within the PSDI Portfolio. This work was carried out in addition to the ongoing operational support that the Portfolio provides to all its client departments and agencies.



## **Alignment with federal roles and responsibilities**

Under the *Department of Justice Act*, the Department of Justice is responsible, with few exceptions, to act as the legal advisor to all federal departments and agencies, to conduct litigation for or against the Crown and to draft legislation. This highly centralized structure facilitates a consistent approach to legal service delivery across government. PSDI performs this function on behalf of the Minister of Justice for the nine departments and agencies it serves.

### **4.2. Design of the PSDI Portfolio**

#### **Mandate of the Portfolio**

The mandate of the Portfolio is twofold. From an operational perspective, the Portfolio supports DLSUs through budget and resource allocations and the implementation of department-wide or portfolio-specific management initiatives. The Portfolio is also responsible for the management of the law pertaining to public safety, defence, and immigration matters. This is achieved through monitoring, coordination, and the provision of knowledge-specific tools and resources.

#### **Composition**

The composition of the Portfolio has evolved over the years, moving from a single entity focused on immigration matters, to a grouping of nine entities that covers a much wider set of law and policy issues. The current composition rests on a fairly strong rationale as there is a commonality of issues that the Portfolio's departments and agencies must deal with, namely those related to public safety and national security.

### **4.3. Outcome Achievement**

#### **Support provided by the Portfolio**

During the fiscal year 2013/14, the PSDI Portfolio actively managed approximately 25,000 files that required over 700,000 hours of legal work. Just over two-thirds (67%) of these hours were for litigation work, while 29% were for advisory work and the remaining 4% for legislative work. Citizenship and Immigration Canada exhibits the highest levels of litigation work in PSDI (with more than 10,000 files in 2013/14). The litigation was driven in part by legislative changes that addressed significant backlogs accumulated in relation to immigration and refugee applications made to the Immigration and Refugee Board. The Canada Border Services Agency,

the Royal Canadian Mounted Police, and the Correctional Services Canada also had a significant level of litigation work.

The vast majority of PSDI litigation files were rated as low or medium complexity and of low or medium risk. Approximately one percent of litigation files are considered high complexity or high risk.

The level of demand for advisory legal services depended to a significant extent on the policy initiatives in which PSDI departments and agencies are engaged.

### **Ability to meet client needs**

High-quality legal services have been defined as the extent to which the Portfolio meets client needs by providing legal services that are timely, responsive and useful. Both the results of the Client Feedback Survey conducted in 2011 and the findings from this evaluation point to a high level of satisfaction among client departments and agencies. Clients indicated that they participated in the assessment of legal risk and have used the legal advice they received to make more informed decisions. At times, they even assumed more legal risk as their decisions often take into consideration political, social, economic and other factors, in addition to legal concerns.

### **Impact of the coordinating and monitoring efforts**

During the evaluation period, the NLCT coordinated immigration files and provided significant support in litigation files related to immigration and refugee matters. It has also provided coordination support in non-immigration files, which are typically high profile and involve multiple client departments and agencies. The evaluation has found, however, that the involvement of the NLCT in non-immigration files does not rest on as clear a framework as that for immigration-related files. This has resulted in mixed views expressed from all lines of evidence about the NLCT and its contribution related to non-immigration files.

The NSLT has provided direct support to the ADAG in terms of her functional responsibility for advisory work and has contributed to the coordination of advisory work related to national security. Offering in-depth knowledge in national security matters, the NSLT has also provided direct support to some of the client departments and agencies involved in national security. The evaluation found that its highly specialized function and the fact that the NSLT has only been in operation since 2013, have meant that its role is not well understood by PSDI legal counsel. The NSLT's work does not appear to rest on a clearly articulated framework, which raises potential

challenges, particularly in relation to the other advisory work provided by DLSUs highly specialized in national security matters.

### **Access to required support and tools**

In addition to the assistance they receive from the Public Law Sector, PSDI legal counsel have access to a number of tools and processes that support the quality of their work and contribute to the consistency in the opinions provided on behalf of the Department of Justice Canada. The Department's legal knowledge portal (Justipedia), practice groups, and peer reviews are seen as being particularly helpful in this regard. In addition, legal counsel have access to some professional activities, although budgetary constraints have limited the ability of legal counsel to access more specialized training.

The one tool that has generally not been reviewed favourably is the legal risk assessment matrix, particularly for advisory files<sup>2</sup>. Even though litigators have been using the matrix as part of the iCase data entry process for a number of years, they do not appear to find it particularly helpful in managing their files. It should be noted, however, that the collection of risk assessment in iCase does support broader reporting purposes, at the Portfolio level.

The evaluation has noted some issues with respect to consistency in collecting iCase data that have yet to be addressed, particularly the need to standardize the approach used to open advisory files, and to record legislative and litigation support work.<sup>3</sup> These limitations aside, the Portfolio is able to access valuable data and information on the services it provides, which supports the ongoing management of the Portfolio, and accountability mechanisms such as this evaluation.

## **4.4. Efficiency and Economy**

The Portfolio has implemented measures to maximize the achievement of its results, while minimizing the use of its resources.

The implementation of the Law Practice Model, along with the framework provided by the Process Optimization initiative launched in 2012, has guided a number of efficiency measures within the Portfolio. Of particular significance is the benchmarking initiative applicable to immigration and refugee litigation files. Since these files mobilize the largest portion of resources within the Portfolio, they consequently present the largest opportunity for achieving

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<sup>2</sup> Since September 2013, it has been mandatory to enter risk information on advisory files into iCase.

<sup>3</sup> It is expected that the new iCase Protocol that was introduced in April 2015 will address these deficiencies.

greater efficiency. Early findings confirm that the benchmarking initiative is producing positive results. A greater proportion of immigration and refugee files are now completed with a lesser investment in legal counsel time. The Portfolio is pursuing the implementation of other sub-components of the benchmarking initiative and is collecting the required data to measure their impact.

At the time of the evaluation, it was too early to assess the results of other efficiency measures such as the multi-client protocol, the screening of client requests related to low complexity advisory matters, and the greater use of paralegals.

## 1. INTRODUCTION

This document constitutes the final report for the evaluation of the Public Safety, Defence, and Immigration (PSDI) Portfolio, whose mandate is to support the Minister of Justice and Attorney General of Canada in the provision of high-quality legal services to the Minister of Public Safety, the Minister of National Defence, and the Minister of Citizenship and Immigration. In so doing, PSDI assists these Ministers in fulfilling the mandates and responsibilities of the departments and agencies under their authority.

### 1.1. Scope and Objectives of the Evaluation

This is the first time that the PSDI Portfolio has been formally evaluated. This evaluation was completed in accordance with the *Policy on Evaluation*, which requires departments to evaluate all direct program spending, on a five year cycle.<sup>4</sup> The evaluation has covered both the relevance of the services offered by the Portfolio, and the extent to which the Portfolio has efficiently and effectively achieved its expected results. A detailed evaluation matrix is included in Appendix A.

The scope of the evaluation includes all activities undertaken by the PSDI Portfolio between 2008/09 and 2013/14, which includes those activities carried out by the departmental legal services units (DLSUs) included in the Portfolio, activities that regional offices of Justice Canada carry out for PSDI client departments and agencies, as well as activities undertaken by the Office of the Assistant Deputy Attorney General (ADAG). It should be noted that, while the Crimes Against Humanity and War Crime Section is part of the PSDI Portfolio, its activities are being evaluated separately. Similarly, the horizontal evaluation of the *Immigration and Refugee Protection Act* Division 9 is currently being led by the Department of Public Safety and Emergency Preparedness (also known as Public Safety Canada).<sup>5</sup> As a result, neither of their activities are discussed in this report.

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<sup>4</sup> Treasury Board of Canada. (2009). *Policy on Evaluation*, Ottawa, s. 6.1.8 a).

<sup>5</sup> Under the Federal Identity Program, the Department of Public Safety and Emergency Preparedness has been authorized to use the name “Public Safety Canada” for their communications with the public. For the purpose of this report, this name and the acronym PS will be used.

The evaluation was conducted between September 2013 and February 2015. The Department of Justice Canada's Evaluation Division directed the evaluation, with the support of a working group composed of representatives from the Portfolio's DLSUs and regional offices.

## **1.2. Structure of the Report**

This report contains five sections, including this introduction. Section 2 provides a description of the Portfolio. Section 3 describes the methodology used to address the set of evaluation issues and questions. Section 4 summarizes the key findings that have emerged from the data collection process, while section 5 provides the overall evaluation conclusions and recommendations.

## **1.3. Acknowledgement**

The contribution and collaboration of many individuals have made this evaluation possible. We wish to thank all of those who participated in data collection, provided information, and responded to inquiries.

## **2. DESCRIPTION OF THE PUBLIC SAFETY, DEFENCE, AND IMMIGRATION PORTFOLIO**

The PSDI Portfolio is one of the five portfolios that the Department of Justice Canada established to structure and manage the range of advisory, litigation, and legislative services that its legal counsel offer in support of client departments and agencies. This section includes a brief description of the PSDI Portfolio, including its components, management structure, and assigned resources.

Ultimately, the Portfolio is expected to deliver high quality legal support and services to its client departments and agencies, in accordance with the *Department of Justice Act*.<sup>6</sup> This work is expected to contribute to the Department’s strategic outcome: “A federal government that is supported by high-quality legal services.”<sup>7</sup> A detailed description of the PSDI Portfolio’s logic model is included in Appendix B.

### **2.1. Portfolio Components**

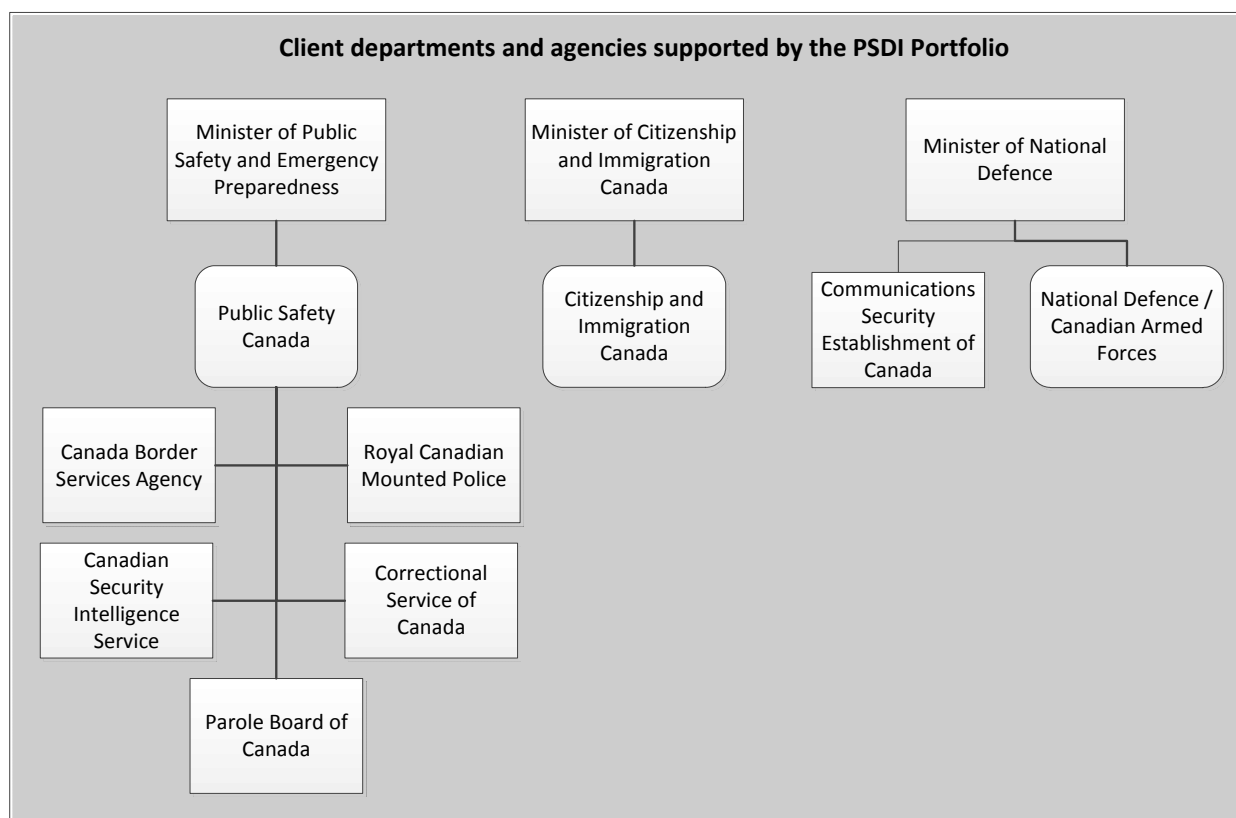
The composition of the Portfolio reflects the list of departments and agencies it is expected to assist.

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<sup>6</sup> *Department of Justice Act*, R.S.C., 1985, c. J-2, s. 5.

<sup>7</sup> Department of Justice Canada. (2014). *Report on Plans and Priorities 2014/2015*. Ottawa, p. 32.

**Figure 1: Client departments and agencies supported by the PSDI Portfolio**



As illustrated in Figure 1, there are three departments and six agencies (under the authority of three ministers), that are currently served by the Portfolio. This composition is largely the result of an incremental process that saw the Portfolio evolve to reflect significant changes to the roles and responsibilities of federal departments and agencies. Following the terrorist attacks perpetrated in New York in 2001, the August 2003 electrical blackout that affected Ontario and eight American states, the SARS epidemic, and the heightened focus on national security that was triggered, the federal government established in 2003 Public Safety and the Canada Border Services Agency (CBSA). In response to this, the Department of Justice Canada restructured what was, until then, a single-client portfolio focusing on immigration matters, to create the Citizenship, Immigration, and Public Safety Portfolio.<sup>8</sup> Later on, in 2009, the DLSU serving the Department of National Defence and the Canadian Armed Forces was added, which led to the current PSDI Portfolio composition. The Communications Security Establishment (CSE) of

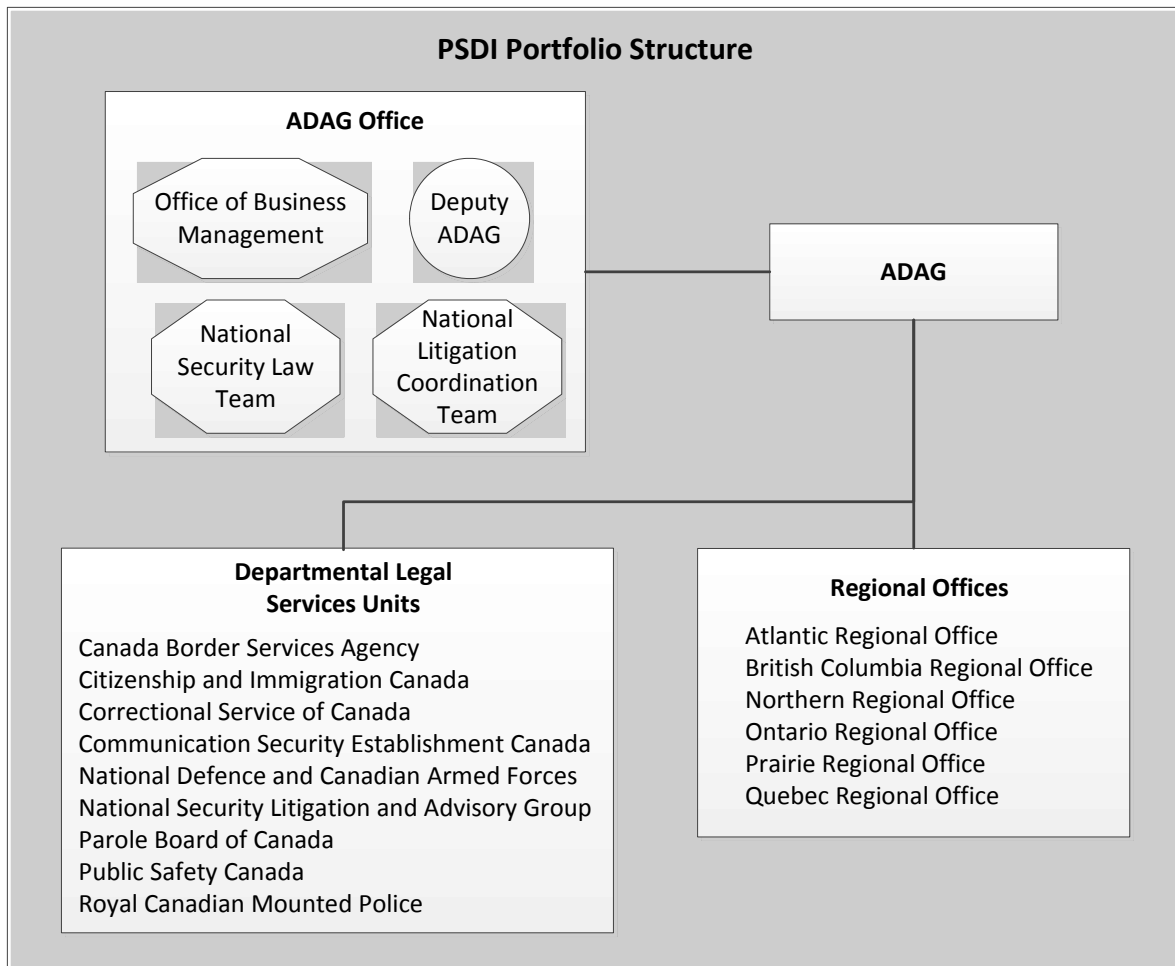
<sup>8</sup> The Citizenship, Immigration, and Public Safety Portfolio included the DLSUs serving CIC, the RCMP, CSIS, Correctional Services, the National Parole Board, and the Canada Border Services Agency.



Canada was added at the same time. The CSE DLSU is a centre of expertise on cyber-related matters.

As illustrated in Figure 2, the PSDI Portfolio includes three main components, and a number of associated sub-components.

**Figure 2: PSDI Portfolio Structure**



*The ADAG Office:* The Assistant Deputy Attorney General is responsible for the management, leadership, and direction of the DLSUs included within the Portfolio. She is also functionally responsible for all national security advisory services rendered by legal counsel (located within or outside the PSDI Portfolio), as well as for all work performed by legal counsel in regional offices when providing services to departments and agencies served by the PSDI Portfolio. The

ADAG is supported by a Deputy ADAG, an Office of Business Management, and the following two support teams:

- Established in 2013, the National Security Law Team (NSLT) assists the ADAG in carrying out her functional responsibility for all national security advisory work. The Team monitors relevant issues or cases related to national security; prepares legal opinions and briefing material; and provides other types of assistance as required.
- Initially established to coordinate immigration-related litigation cases, the mandate of the National Litigation Coordinating Team (NLCT) has been expanded to include the coordination of other sensitive and complex litigation cases involving departments or agencies served by the Portfolio.

*Department Legal Services Units:* The primary responsibility of DLSUs is to offer advisory legal services to their respective client departments and agencies. This advisory work may relate to the ongoing management and administration of programs or activities under the authority of the department or agency, internal operations (labour law issues, human resources, grant and contribution agreements, leases and contracts, etc.), advice on litigation proceedings initiated against or on behalf of the department or agency, or the design and implementation of new policy, programs, or legislative initiatives. Legal counsel within DLSUs may also provide direct support to litigators (typically located in a regional office) in large or particularly complex files. In practical terms, legal counsel in DLSUs largely act as the bridge between employees and managers of a given department or agency and the Department of Justice Canada.

*Regional offices:* The primary responsibility of legal counsel in regional offices is to carry out litigation services related to legal proceedings initiated against or on behalf of federal departments and agencies. As such, they are considered part of the PSDI Portfolio insofar as the litigation work they undertake involves departments or agencies included in the Portfolio. As already noted, this work may involve DLSU legal counsel who act as a liaison between the regional litigator and the client department or agency. Legal counsel operating in regional offices may also support the advisory work provided by the DLSUs.

In addition to these key components, the PSDI Portfolio collaborates with a number of other entities within the Department of Justice Canada:

- The Civil Litigation Section (Litigation Branch) undertakes some of the litigation work carried out for the departments and agencies in the PSDI Portfolio. Essentially, they act as the regional office for eastern Ontario and the National Capital Region (NCR). As such, it

complements the litigation work undertaken by regional offices. Other sections of the Litigation Branch such as the National Security Group and the International Assistance Group also regularly interact with PSDI.

- In addition to his management responsibility for the work carried out by the Civil Litigation Section, the ADAG-Litigation is functionally responsible for all litigation work relating to national security matters. In that capacity, he collaborates directly with the ADAG PSDI.
- Specialized units within Justice such as the Public Law Sector provide direct support to PSDI legal counsel (in both DLSUs and regional offices) when substantive issues of law require their expertise.
- The Senior Assistant Deputy Minister heading the Policy Sector is functionally responsible for all policy work related to national security. In that capacity, he collaborates directly with the ADAG PSDI.

## 2.2. Resources

At the end of the fiscal year 2013/14, the PSDI Portfolio operated with just over 750 FTEs. As indicated in Table 1, the largest number of FTEs was assigned to regional offices (432 FTEs), followed by the DLSUs (209 FTEs). The ADAG Office had 23 FTEs.

**Table 1: Level of FTEs (as of March 31, 2014)**

Components	FTEs <sup>1</sup>
<b>Office of the ADAG</b>	
• ADAG team	4
• Deputy ADAG team	3
• National Litigation Coordination Team	7
• National Security Law Team	5
• Office of Business Management	4
<b>Subtotal</b>	<b>23</b>
<b>Departmental Legal Services Units</b>	
• CBSA	35
• CIC	30
• CSC	18
• CSE	8
• ND/CAF	42

<b>Components</b>	<b>FTEs<sup>1</sup></b>
• NSLAG <sup>9</sup>	27
• PBC	2
• PS	15
• RCMP	32
<b>Subtotal</b>	<b>209</b>
<b>Regional Offices</b>	
• Atlantic	13
• Quebec	92
• Ontario	208
• Prairies	41
• British Columbia	76
• Northern	2
<b>Subtotal</b>	<b>432</b>
<b>Other groups</b>	
• Civil Litigation Section	85
• Public Law Sector	5
<b>Subtotal</b>	<b>90</b>
<b>Total</b>	<b>754</b>

*Source: Administrative data.*

1. All numbers have been rounded and the table excludes FTEs assigned to the War Crimes Section and to any other special initiatives.

The data included in Table 1 provides an overall sense of the level of resources assigned to the PSDI Portfolio. It is important to note that the level of resources fluctuates from year to year, and even within a single fiscal year. Section 5.3.2 (Efficiency and Economy) of the report further explores these trends.

In terms of financial resources, the Department of Justice Canada allocated approximately \$86 million to the PSDI Portfolio in 2013/14.<sup>10</sup>

<sup>9</sup> The National Security Litigation and Advisory Group of the Department of Justice has a mandate to provide select advice and litigation services related to security and intelligence matters to client departments and agencies located within or outside the PSDI Portfolio.

<sup>10</sup> Source: administrative data. This figure is the estimated budget allocated to the PSDI Portfolio in 2013/14. It includes the Vote 1 authority and spendable revenues that the Department collects in accordance with its Net Vote Authority. This budget also includes the resources provided to the War Crimes Section.

### 3. METHODOLOGY

This section provides a brief description of the methodology used to evaluate the PSDI Portfolio.

#### 3.1. Evaluation Approach

The approach to both the data collection and the analysis of evaluation findings reflects the nature of activities being undertaken by the PSDI Portfolio. Legal services provided by legal counsel operating within the operational framework of the Portfolio are expected to support the ongoing management and operations of a number of federal governments and agencies. Contrary to more typical *programs* or *initiatives*, these services are not meant to rectify an identified need or gap, or to fundamentally alter the conditions of a targeted group of individuals or communities. In fact, under many scenarios, these services are provided in order that client departments and agencies can proceed with programs and initiatives that respond to identified needs or priorities of the federal government. In that sense, it could be argued that PSDI activities assist federal department and agencies in carrying out their respective mandates.

Consequently, the data collection and analysis carried out as part of this evaluation assess the extent to which client departments and agencies are receiving the support they require to successfully carry on their activities. For instance, the ability of the Portfolio to respond in a timely and consistent manner to client requests and its ability to communicate legal risks in such a way as to allow client departments and agencies to make informed decisions are some of the indicators of success that the methodological approach has attempted to assess. In doing so, it is important to emphasize that evaluation activities were never meant to assess the quality of legal opinions developed by legal counsel. This would be well beyond the scope of this evaluation, and would detract from the fundamental goal of determining the extent to which client departments and agencies are receiving the legal support they require.

Both the data collection and analysis conducted as part of this evaluation align with the overall framework provided by the federal government's *Policy on Evaluation*, which expects the

evaluation to support ongoing accountability, to inform government decisions on resource allocation, and to support the ongoing management and improvement of the program.<sup>11</sup>

Finally, all research activities undertaken as part of this evaluation were administered in accordance with normal practices in the field of program evaluation, including the guidelines provided in the *Code of Ethics* and the *Evaluation Standards* of the Canadian Evaluation Society.<sup>12</sup>

## **3.2. Research Methods**

In order to assess the relevance and the performance of the Portfolio as detailed in the evaluation matrix included in Appendix A, the evaluation included a number of data collection activities that are described in this subsection.

### **3.2.1. Administrative file and document review**

The administrative file and document review covered both administrative and publicly available information. In addition to the 2013 PSDI Portfolio Evaluation Framework, the administrative file and document review includes the following:

- information from Justice's Intranet site
- memoranda of understanding with client departments
- data and reports from iCase
- financial data
- committee minutes
- business plans
- strategic review documents
- performance reporting
- information on training provided to counsel
- Justice Client Feedback Survey

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<sup>11</sup> Treasury Board of Canada. *Policy on Evaluation*, section 3.2.

<sup>12</sup> The *Code of Ethics* and the *Evaluation Standards* of the Canadian Evaluation Society are available at <http://www.evaluationcanada.ca/about-the-ce-designation>.

The list of publicly available information includes Departmental Performance Reports, Reports on Plans and Priorities, Budget Speeches, and Speeches from the Throne.

### 3.2.2. Key informant interviews

During the initial stage of the evaluation process, two preliminary group interviews were conducted with representatives of the PSDI Portfolio. The purpose of these interviews was to obtain contextual information that would complement the written information available at that point in time.

**Table 2: Distribution of Key Informant Interviews**

Source	Number of Interviews
DLSUs	24
Regional Offices	10
Client Departments	19
ADAG Office	6
Other stakeholders	9
Total	68

As part of the main data collection process, 68 interviews involving 83 individuals were conducted (Table 2). These included interviews with senior managers and staff from DLSUs, client departments, the ADAG Office, and other stakeholders (central agencies, Public Law Sector, Policy Sector).

Before being contacted, all key informants received a letter from Justice Canada, in both official languages, describing the purpose and nature of the research and inviting their participation. A follow-up was conducted to confirm a time and date for the interview. Once the interview was confirmed, key informants received the interview guide in advance of the interview, allowing them to prepare accordingly. The findings from key informant interviews were analyzed to identify trends and divergence among the selected group. That analysis was done with the support of NVivo software.

### 3.2.3. Survey of legal counsel

An anonymous and confidential survey of legal counsel from DLSUs and regional offices was conducted to obtain information on the Portfolio's performance, key issues and impacts. The survey was conducted online for a total of three weeks. During this period, two reminders were

sent to potential participants to increase the response rate. Using a stratified random sampling approach, 500 legal counsel received an email invitation that included a direct and protected link to the online survey questionnaire. As indicated in Table 3, 216 individuals completed the survey questionnaire, for a response rate of 46%.

**Table 3: Survey methodology summary**

Sample method	Stratified random sampling
Survey method	Online
Pretest date	October 8, 2014
Survey dates	Oct. 28–Nov. 14, 2014
Total invitations	500
Undeliverable	33
Net usable invitations	467
Completed surveys	216
Response rate <sup>13</sup>	46%

Once the survey was completed, open-ended responses were coded and the survey data was analyzed using SPSS, a statistical software package.

Table 4 includes a profile of respondents to the legal counsel survey. Overall, survey respondents are well distributed among the various subgroups of the Portfolio.

**Table 4: Profile of survey respondents**

Subgroups	Number	Percentage
<b>DLSUs</b>		
CBSA	17	16%
CIC	14	13%
CSC	7	7%
CSE	4	4%
ND/CAF	21	20%
NSLAG	17	16%
PBC	2	2%
PS	7	7%
RCMP	17	16%
<b>Subtotal</b>	<b>106</b>	<b>100%</b>

<sup>13</sup> The response rate is defined as Total completions/Net usable invitations.



Subgroups	Number	Percentage
<b>Regional offices</b>		
Atlantic	11	10%
Quebec	19	17%
Ontario	17	15%
Prairies	29	26%
British Columbia	26	24%
Northern	8	7%
<b>Subtotal</b>	<b>110</b>	<b>100%</b>
<b>Total</b>	<b>216</b>	

### 3.2.4. Case studies

Ten case studies were conducted as part of the evaluation. The purpose of these case studies was to illustrate how the Portfolio works in practice, particularly how legal counsel and client departments and agencies collaborate in the management of legal matters. In order to ensure that solicitor-client privilege was respected, a Department of Justice employee reviewed the legal files and completed standardized data collection templates, which are included in Appendix C. The interviews were based on the summary provided in these documents.

The selection of case studies was done to ensure a meaningful representation of the litigation and advisory work done by the Portfolio, and included files involving multiple clients and the Office of the ADAG. These case studies focused largely on closed files and included a review of the case file, followed by key informant interviews with both legal counsel involved in the case (from DLSUs, regional offices and the ADAG Office as applicable) and representatives from client departments and agencies.

### 3.3. Limitations

The evaluation faced a few methodological limitations, which are briefly described in this subsection.

#### 3.3.1. iCase data

iCase serves as the Department's web-based national application that supports the practice of law and the management of legal services provided by the Department of Justice Canada. For the

purpose of this evaluation, iCase data was used to document a number of evaluation indicators and to measure several dimensions of the work performed by the Portfolio. In doing so, however, some limitations relating to iCase data had to be considered. First, DLSUs do not use a consistent approach to opening advisory files, particularly for those files that require limited work. Some legal counsel have recorded this work under *general advisory files*, while others have opened a new specific advisory file. Secondly, the litigation support work provided by DLSUs does not appear to be recorded in a consistent manner. Some DLSUs record this work under the *advisory* category, whereas other DLSUs recorded this work under the *litigation* category. Such inconsistencies in data collection practices across the Portfolio can undermine the overall usefulness of the data collected.<sup>14</sup> Data for legislative services started to be collected in a comprehensive manner in 2010/11. In addition, late in the evaluation reporting process, the evaluation also discovered a problem with the coding of hours on legislative files in at least one DLSU. As a result, the evaluation looked at aggregate legislative data rather than examining the data by department. Finally, it should be noted that, as a result of recent changes made to iCase, it was not possible (at the time of the evaluation) to access data on the level of risks and complexity of advisory files. To mitigate some of these challenges, the evaluation is reporting advisory work largely on the basis of the hours worked, as opposed to the number of files actively managed, particularly when considering historical trends.

### **3.3.2. Interviews and survey**

Interviews with key informants and case study participants, as well as the survey of PSDI legal counsel, have the possibilities of self-reported response bias and strategic response bias. Self-reported response bias occurs when individuals are reporting on their own activities and so may want to portray themselves in the best light. Strategic response bias occurs when the participants answer questions with the desire to affect outcomes. To mitigate this limitation, multiple lines of evidence were used. In particular, the evaluation included client perspectives through the use of key informant and case study interviews, in addition to using Client Feedback Survey performance data.

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<sup>14</sup> In April 2015, the Department of Justice introduced a new iCase Timekeeping Protocol, which will regularize the coding of litigation support and other legal activities across the Department. Moreover, as part of the Legal Services Review, a working group is currently examining the challenges particular to recording advisory work and when to open a file, etc. This work will conclude in the fall of 2015.

### **3.3.3. Selection of case studies**

During each year covered by the evaluation, the Portfolio managed well over 20,000 active files. In this context, it was not feasible to obtain a representative sample of files to be used for case study purposes. Instead, the evaluation relied on the guidance of a working group to select files that represented various dimensions of the work performed by the Portfolio. Here again, the mitigation strategy consisted in using multiple lines of evidence and in ensuring that findings from the case study were properly contextualized and used for illustrative purposes.



## **4. EVALUATION FINDINGS**

This section of the report describes the evaluation findings related to the PSDI Portfolio. The information is based on findings collected from all lines of evidence.

### **4.1. Relevance**

Simply put, federal departments and agencies cannot operate without the support of Department of Justice legal services. The Office of the PSDI ADAG, DLSUs and regional offices together provide critical support to their client departments and agencies as they carry out their mandate, implement new initiatives and respond to issues having a legal dimension. These services and support have been particularly relevant in a context where national security has been among the federal government's list of top priorities. Moreover, activities of the Portfolio align directly with the roles and responsibilities attributed to the federal government. The following subsections further elaborate on these findings.

#### **4.1.1. Addressing the needs of the federal government**

##### **Overview of the need**

In 2013/14, legal counsel from the PSDI Portfolio spent approximately 475,000 hours managing litigation files for their client departments and agencies. They provided more than 200,000 hours of advisory work, in addition to investing more than 28,000 hours in legislative files. The Department of Citizenship and Immigration Canada alone faced more than 10,000 litigation cases. These numbers, among many others that are further explored in this report, serve to illustrate the extent to which legal support and services are integrated in the ongoing operations of PSDI client departments and agencies. Whether they relate to transactional or contractual activities, the assessment of legal risk associated with a new policy or legislative initiative, or the management of litigation files that range from low risk and low complexity to highly complex and sensitive, evaluation findings confirm that legal services provided by the PSDI Portfolio are essential to the ongoing operations of its client departments and agencies.

### *Trends affecting the demand*

A number of trends affect the need for services provided by the Portfolio. As noted by legal counsel who were interviewed as part of this evaluation, the complexity of some of the files they manage has steadily increased over the period covered by the evaluation. This opinion was also echoed by those legal counsel who participated in the survey. As illustrated in Figure 3, just over 70% of respondents agreed or strongly agreed with the view that the complexity of files they have been involved in has significantly increased over the past three to five years. This trend was slightly more pronounced among legal counsel working in DLSUs, as opposed to those working in regional offices, which reflects the fact that the majority of litigation files assigned to the Portfolio are of low and medium complexity levels.<sup>15</sup> The ADAG Office manages and closely monitors only a small minority of the total number of PSDI files, namely those of high complexity.

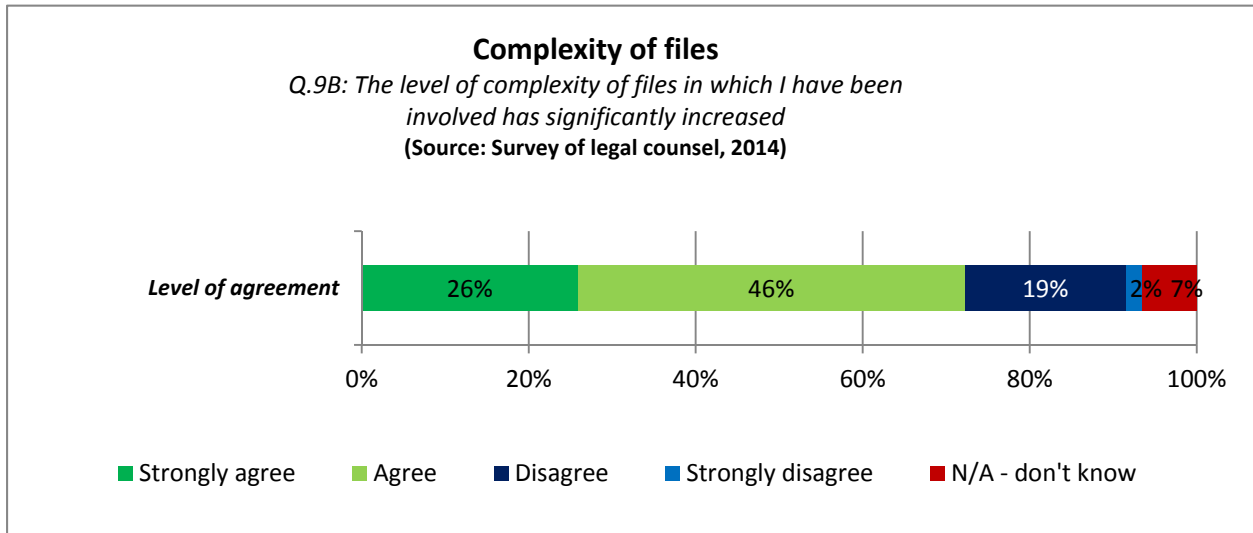
Evaluation findings point to a number of factors that have contributed to this increased complexity in files being managed by the Portfolio. For instance, a number of departments and agencies are facing policy or operational challenges where there are few, if any, precedents in law that could serve to assess the associated legal risks. Another dynamic identified during the interviews and case studies is the increasingly integrated approach adopted to tackle some policy or operational challenges, particularly in the area of national security. Finally, on the litigation front, a number of high profile cases involving PSDI client departments and agencies have raised complex constitutional issues that had to be addressed by appellate courts.<sup>16</sup>

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<sup>15</sup> For instance, according to iCase data, 80% of the litigation files that were active in 2013/14 were of low or medium complexity levels.

<sup>16</sup> Litigation work related to security certificates illustrates this trend, including high profile cases such as *Charkaoui v. Canada*. [2007] 1 S.C.R. 350, or *Canada v. Harkat*, 2014 SCC 37.

**Figure 3: Complexity of files**



Another trend that has had an impact on the demand for PSDI legal services is the level of legislative activities that occurred in Parliament during the period covered by the evaluation. The significant amendments made to the *Immigration and Refugee Protection Act*, the integration of the Passport Office within CIC, the *Canadian Victims Bill of Rights* initiative, and more recently, the tabling of Bill C-51, the *Anti-Terrorism Act, 2015*<sup>17</sup>, were some of the examples provided.

It was also noted during interviews conducted as part of this evaluation that the level of advisory activities has been triggered by the tabling in Parliament of Private Members' Bills. Over the period covered by this evaluation, their numbers have been increasing significantly.<sup>18</sup> The fact that these bills are not led by a department or agency (but may still have a direct impact on the department or agency's operations) has required a considerable level of effort on the part of some PSDI legal counsel.

Finally, a number of commissions of inquiry, such as the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182*, the *Arar Inquiry*, and the *Iacobucci Inquiry*, have had a significant impact on the need for legal support during both their proceedings and the required follow-up.

<sup>17</sup> While strictly speaking this legislation was not tabled during the evaluation period, it demonstrates that national security legislation continues to be a high priority of the federal government.

<sup>18</sup> See Sotiropoulos, E. (2011). Private Members' Bills in recent Minority and Majority Parliaments. *Canadian Parliamentary Review*. Autumn 2011, p. 35.

## **The need for coordination and monitoring**

### ***Overall rationale for ongoing coordination and monitoring***

There is a strong rationale for the coordination and monitoring of legal activities undertaken by legal counsel affiliated with the Department of Justice Canada, regardless of where they work. Some legal files involve multiple departments and agencies that may have varying or even competing interests or circumstances that have to be taken into consideration and resolved. In addition, legal opinions provided by legal counsel must be consistent and in accordance with the role attributed to the Minister of Justice to act as the official legal advisor of the Government of Canada as a whole.<sup>19</sup>

The same principle applies when various files raise similar legal issues and yet are managed by legal counsel located in different DLSUs or regional offices. Again, active monitoring and coordination activities<sup>20</sup> are required to ensure that legal positions put forward will be consistent among these different files and promote the best solution for the government as a whole. This reflects the ongoing commitment of the Department of Justice Canada to “speak with one voice.” To achieve this may occasionally require choosing one position over another. Such decisions are taken by senior Justice officials, with the appropriate coordination support

Many positions within the Department of Justice are expected to support active coordination and monitoring efforts. As already noted in the description of the Portfolio, functional responsibilities for the advisory, litigation and policy work related to national security have been respectively assigned to the ADAG (PSDI), ADAG (Litigation), and the Senior Assistant Deputy Minister (Policy Sector). Also noted in the description of the Portfolio, the ADAG Office includes two teams (the NLCT and the NSLT) that are expected to support the coordination and monitoring of services offered to the Portfolio’s client departments and agencies.

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<sup>19</sup> S. 4 of the Department of Justice Act, R.S.C., 1985, c. J-2.

<sup>20</sup> In using the term active “monitoring and coordination” we mean that counsel engage in assessing the turning point in a file or issue, that is, when an issue or file changes risk level or complexity or reaches a tipping point requiring senior counsel or official involvement or counsel with legal expertise in a given area. In addition, they actively engage in supporting and fashioning a response or legal position with other colleagues, reconciling different legal views and client positions when possible.



#### 4.1.2. Responding to federal priorities

During the period covered by the evaluation, activities of the federal government were driven by a number of broad policy priorities including, predominantly, economic recovery and security (the latter component engaging the PSDI Portfolio directly). In the June 2011 Speech from Throne, the Governor General stated that “our government will move quickly to reintroduce comprehensive law and order legislation to combat crime and terrorism”.<sup>21</sup> Legal counsel and representatives from client departments and agencies who were interviewed as part of this evaluation have repeatedly emphasized how much this law and order agenda has mobilized resources. Numerous legislative initiatives have been associated with this policy priority, including tougher sentences for certain types of crimes and the *Victim’s Bill of Rights*.

The title of the government’s 2013 Speech from Throne, “Prosperity and opportunity in an uncertain world”, reflected the continued priority given to law and order, and the national security agenda.<sup>22</sup> In it, the government restated its commitment to fundamental changes to the *Criminal Code* to punish crime and better protect victims of crimes. It also committed the government to renew the Canada First Defence Strategy, to pursue fundamental reforms to the immigration system to eliminate backlogs, to better protect refugees, and to reform the *Citizenship Act* — all policy goals that involve PSDI client departments and agencies.

#### 4.1.3. Alignment with federal roles and responsibilities

Parliament has specifically assigned to the Minister of Justice the role of official legal advisor to all federal departments and agencies.<sup>23</sup> More specifically, the Department of Justice Canada must support the Minister in his capacity as Attorney General of Canada, by conducting litigation for and against the Crown and by advising “the heads of the several departments of the Government on all matters of law connected with such departments.”<sup>24</sup>

There is a strong rationale for centralizing legal services within the Department of Justice Canada, as opposed to allowing each department to contract its own legal counsel. In the early 1960s, the *Royal Commission on Government Organization* (commonly referred to as the

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<sup>21</sup> Canada. Governor General. (2011). Here for all Canadians: stability, prosperity, security: Speech from the Throne. 41<sup>st</sup> Parliament, 1<sup>st</sup> Session. Ottawa.

<sup>22</sup> Canada. Governor General. (2013). *Prosperity and opportunity in an uncertain world: Speech from Throne*. 41<sup>st</sup> Parliament, 2<sup>nd</sup> Session. Ottawa.

<sup>23</sup> S. 4 of the *Department of Justice Act*, 1985, c. J-2.

<sup>24</sup> *Ibid*, s. 5(b).

Glassco Commission) found that the vast majority of the federal government’s lawyers, including legal counsel in the other departments and outside agents, did not come under the responsibility of the Department of Justice Canada. The Commission examined this issue, and proposed that all legal services (with a few exceptions) be grouped together under the direction of the Department, in order to eliminate the many disadvantages of a decentralized practice.<sup>25</sup>

The centralized model whereby the Department of Justice, with few exceptions, provides legal services to government departments and agencies ensures there is a consistency of approach and that the Department speaks with one voice. This model has been integrated in the Treasury Board of Canada’s *Common Services Policy*, which identifies Justice Canada as the mandatory provider of legal services for federal departments and agencies. The Policy states that certain services are designated as mandatory “when a government-wide interest or consideration prevails over, or coincides with, the interest of individual departments and agencies.”<sup>26</sup> In the specific case of the Department of Justice Canada, the Policy notes that in the discharging of duties, “the Minister of Justice weighs considerations of both law and government policy,” and that legal services provided by the Department “are centrally controlled in order to assure overall consistency and integrity of approach.”<sup>27</sup>

In supporting the ongoing management of DLSUs included within its scope, assuming functional responsibility for the work performed in regional offices for its client departments and agencies, and managing the law related to public safety, defence, and immigration, the PSDI Portfolio supports the Department in discharging its responsibilities in accordance with the *Department of Justice Act* and the *Common Services Policy*.

#### **4.2. Design of the Portfolio**

The mandate of the PSDI Portfolio is fairly well defined and understood. Its composition has evolved over time and currently involves departments and agencies that share some common institutional goals, while pursuing their own specific mandate. To support its ongoing operations, the Portfolio has established governance structures and processes that have contributed to an efficient communication flow among managers. This subsection provides further details on these findings.

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<sup>25</sup> See Royal Commission on Government Organization. (1962). *Report 11: Legal Services*. Ottawa.

<sup>26</sup> Treasury Board Secretariat of Canada, *Horizontal Audit of the Compliance of with the Common Services Policy*, September 9, 2011, <http://www.tbs-sct.gc.ca/report/orp/2011/hiaccsp-vihcpssc02-eng.asp>

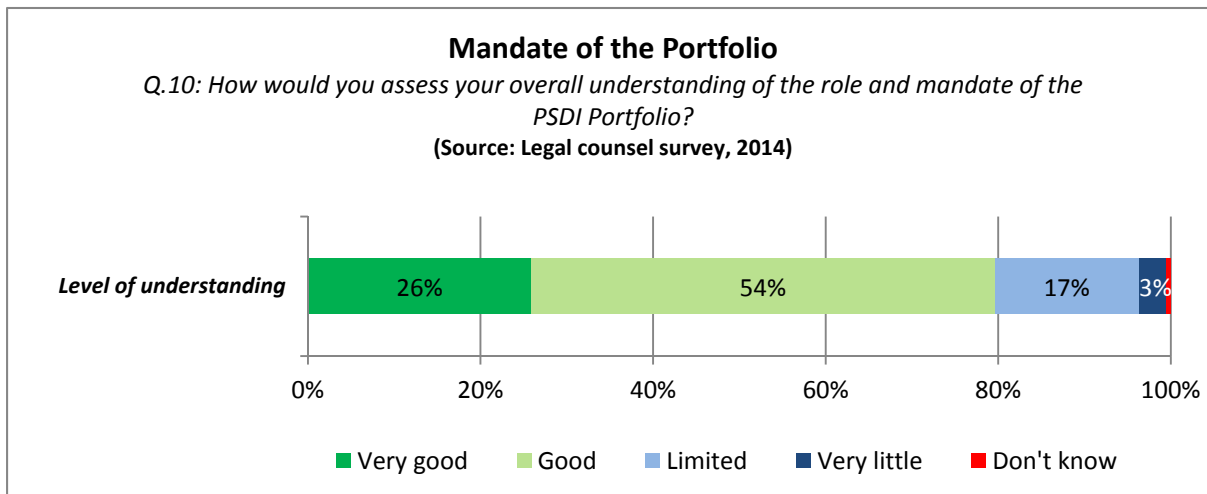
<sup>27</sup> Treasury Board of Canada. *Common Services Policy*, s. 5.1.

#### 4.2.1. Mandate and objectives of the Portfolio

The role of the PSDI Portfolio covers two fundamental dimensions. First, it is responsible for the operational management of the DLSUs and, to some extent, regional offices, insofar as the latter group provides legal services to PSDI client departments and agencies. This includes, among other things, the yearly budget and resource allocation process, as well as the implementation of any Portfolio or departmental-wide initiatives. Secondly, the Portfolio assumes some responsibilities related to the management of the law. This is done through a number of structures and processes including, but not limited to, the work of the NLCT and the NSLT.

One line of inquiry for this evaluation was to assess the extent to which PSDI legal counsel understand the mandate and objectives of the Portfolio. This is particularly relevant to ensure that, beyond immediate considerations related to their daily work within a DLSU or a regional office, legal counsel understand their affiliation to a broader entity that entails an overarching goal of consistency in the work performed by the Portfolio. On that front, evaluation findings indicate that there is, in fact, a fairly good understanding of the mandate and objectives of the Portfolio among PSDI legal counsel. First, as illustrated in Figure 4, 8 out of 10 survey respondents indicated that they had a very good or good understanding of the mandate of the Portfolio.

**Figure 4: Mandate of the Portfolio**



Interviews conducted specifically with managers operating in DLSUs and regional offices confirm that they have a particularly good understanding of the role of the Portfolio. As further described in subsection 4.2.3, the governance structures and processes in place contribute

directly to this outcome. The leadership team within the ADAG Office, heads of DLSUs and regional directors general communicate weekly on Portfolio matters, which helps to ensure a broadly held common understanding of the mandate and role of the Portfolio.

#### **4.2.2. Portfolio composition**

As noted in the Section 2.0 of the report, which describes the organization of PSDI, the Portfolio has evolved over time, moving from a single-client portfolio focussing on immigration matters, to a collection of DLSUs and regional offices serving nine departments and agencies. The evaluation assessed the extent to which there is a shared purpose that could logically link the work of PSDI legal counsel and allow the Portfolio to serve its fundamental mandate, both in terms of operational management and the management of the law.

#### **Shared areas of responsibility**

As it currently stands, the Portfolio serves client departments and agencies that share a joint responsibility for national security. For instance, all departments and agencies currently served by the Portfolio have been engaged to some extent in law and order initiatives that the federal government has implemented during the period covered by the evaluation. Many of these initiatives have, in fact, required the direct collaboration of a number of these departments and agencies. This was reflected in the findings from the survey of PSDI legal counsel, where more than half of respondents (55%) indicated that an increasing proportion of their files involve more than one department and agency. Evaluation findings indicate that by providing a platform where they can communicate, exchange ideas, and coordinate their activities, the Portfolio does support the ongoing work of legal counsel operating both in its DLSUs and regional offices.

However, in some cases the work performed by legal counsel, particularly those in DLSUs, can be highly specialized and relevant only to the particular department they serve. For example, in cases such as traffic accident claims involving government-owned vehicles, the legal work may be performed largely in isolation of other PSDI departments and agencies. Evaluation findings indicate that for those involved in this kind of work, the design of the Portfolio has limited impact and, by extension, limited benefits.

#### **Collaborating beyond the Portfolio**

The fact that legal counsel are assigned to a portfolio does not preclude them from collaborating with legal counsel affiliated with other portfolios. Findings from interviews and case studies

provided many examples where such collaboration has been occurring, particularly in files involving Transport Canada and the Department of Foreign Affairs, Trade, and Development. Along the same line, a third (33%) of the respondents to the legal counsel survey indicated that an increasing proportion of their files involve departments and agencies that are located outside of the Portfolio. This collaboration has been occurring successfully, and evaluation findings did not identify any systemic barriers that would limit the ability of such collaboration to occur as a result of the current Portfolio configuration.

#### **4.2.3. Governance structure and processes**

The Portfolio has implemented a number of governance structures and processes that, according to evaluation findings, have facilitated the exchange of information and the collaboration among DLSUs and regional offices:

- *Weekly management calls:* The ADAG Office, the heads of the DLSUs, and the PSDI Regional Directors hold a weekly conference call to discuss management related issues. Participants in these calls who were interviewed as part of this evaluation systematically praised this communication tool. They indicated that these calls contribute to building a shared understanding of the overall activities of the Portfolio, in addition to providing strategic information on department-wide initiatives affecting the Portfolio. These calls also facilitate the ongoing collaboration among Portfolio managers, including more particularly the collaboration between DLSUs and regional offices.
- *In-person management meetings:* Three times a year, these same individuals meet in person to address management priorities and issues in more depth. Evaluation findings indicate that these meetings have been particularly helpful in supporting the implementation of the Process Optimization initiative, which is further discussed in subsection 5.3.2 of this report.
- *Weekly calls on national security matters:* To support the management of law, the ADAG Office also holds a weekly conference call dealing specifically with national security matters. DLSU managers involved in these files attend this meeting. In addition to discussing ongoing files, managers receive briefings on the work of the National Security and Intelligence Committee (NSIC). Established by the Deputy Minister and chaired by the ADAG PSDI, the NSIC supports the department-wide coordination of legal policy, advisory, and litigation

issues relating to national security and intelligence.<sup>28</sup> Managers interviewed as part of this evaluation found these meetings to be relevant, particularly in the current policy context where national security remains a government priority.

- *Scratch Legal Issues Committee (SLIC)*: Also related to the management of law — in this case immigration law — the ADAG Office holds weekly conference calls with members of the SLIC. Integrated within the NLCT, the SLIC involves designated members from CIC and CBSA DLSUs, as well as litigators from the regional offices in Quebec, Ontario, the Prairie Provinces, and British Columbia. Evaluation findings indicate that the work of the SLIC has greatly contributed to ensuring consistency in the positions and opinions provided by the Portfolio on immigration matters. Among other things, the SLIC reviews and approves appellate level *facta*, develops model paragraphs to be included in *facta* when relevant, develops position papers on significant legal issues, and provides overall insights into immigration law policy matters.
- *Immigration Managers Committee (IMC)* – This committee is coordinated by the NLCT. It is a monthly call with immigration lawyers who manage legal counsel working in PSDI on immigration matters. They are responsible for management issues related to the practice of immigration law, including: the relations with the courts; immigration ethical practice issues; the impact of important legislation and decisions on the operations; and participation and representation at various immigration conferences. IMC is made up of immigration managers from the key immigration regions, Crimes Against Humanity and War Crimes, CIC and CBSA DLSUs, the PSDI Deputy ADAG, and the NLCT Director.

In addition, to support the ongoing monitoring of resource allocation within the Portfolio, the Office of Business Management provides ongoing reporting, largely based on iCase<sup>29</sup> and financial data, addressing a number of indicators, such as the number of files managed by the Portfolio (active, opened, and closed), the distribution of hours dedicated to the types of files (advisory, litigation, legislative), the distribution of files by complexity and risk levels, the

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<sup>28</sup> Other members of the NSIC are the Senior Assistant Deputy Minister for the Policy Sector, the ADAG Litigation, the Assistant Deputy Minister of the Public Law Portfolio, and the Assistant Deputy Minister of the Business and Regulatory Law Portfolio.

<sup>29</sup> iCase is a “web-based national application that supports the practice of law and the management and delivery of legal services to government with the following functions: case management; document management; operational reports and time management. All counsel and paralegals who provide litigation, advisory, and legislative/drafting services, as well as designated policy employees are required to record time in iCase.” Source: Department of Justice Canada. (2014) *Report on the Audit of Timekeeping Compliance*, available at: <http://www.justice.gc.ca/eng/rp-pr/cp-pm/aud-ver/2014/tc-cct/03.html>.

distribution of work between components of the Portfolio, or the distribution of hours billed to a file by seniority levels among legal counsel.

Evaluation findings indicate that this data provides important support to the ongoing management of the Portfolio, including the implementation of department-wide initiatives such as those undertaken as part of Process Optimization. This information has also played a critical role in the context of this evaluation by providing key performance data.

### **4.3. Performance — Achievement of Expected Outcomes**

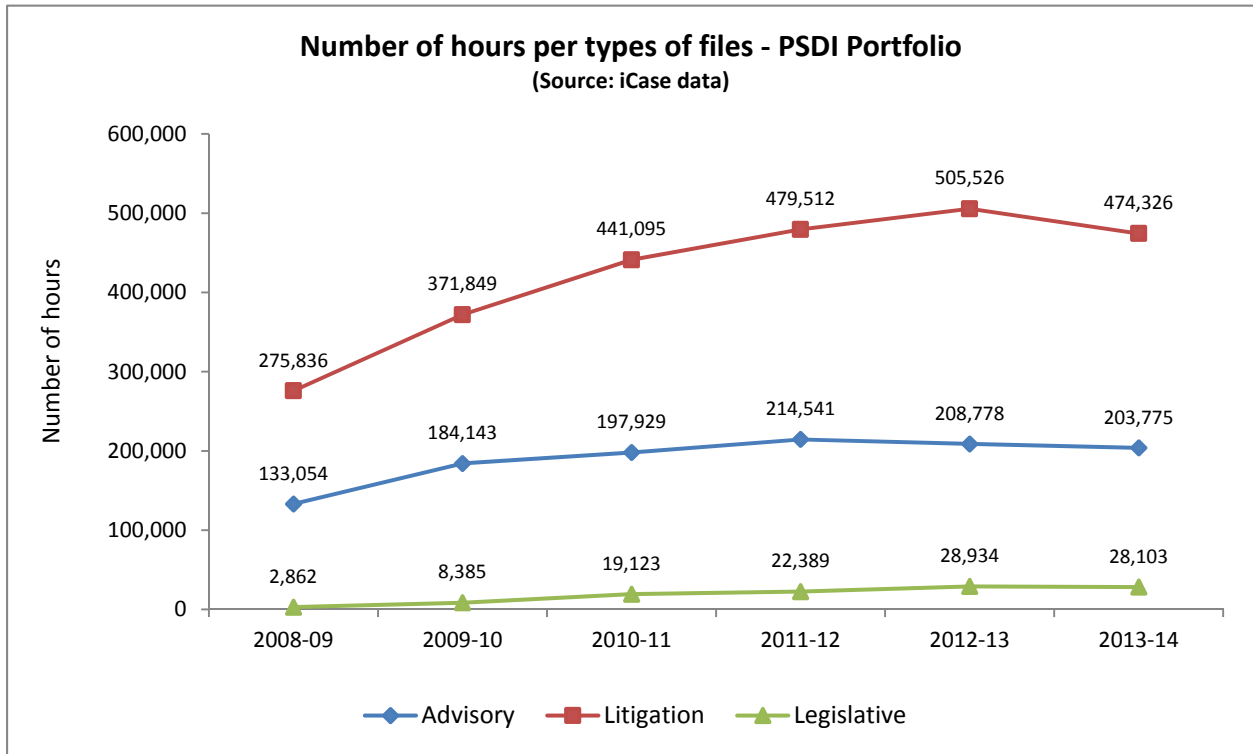
This subsection explores several dimensions of the actual work performed by the Portfolio over the period covered by this evaluation. It includes an analysis of the work done specifically on litigation, advisory, and legislative files, and the extent to which it has met the needs of the PSDI client departments and agencies. This subsection also assesses the impact of the coordinating and monitoring support provided by the ADAG Office, and the extent to which legal counsel have access to the tools they require to effectively deliver their services.

#### **4.3.1. Overview of the support provided by the Portfolio**

Approximately 95% of the work performed by PSDI legal counsel is associated with litigation or advisory files. The remaining 5% is essentially split equally between legislative files and non-legal files. The latter category includes activities that are not associated with a specific client and may include, for instance, professional development activities.

As illustrated in Figure 5, the volume of work performed on the three main categories of PSDI files has substantially increased over the period covered by the evaluation. In particular, the number of hours billed on litigation files has increased by 72%, whereas the number of hours billed on advisory files has increased by 53% between 2008/09 and 2013/14. This trend has been triggered in part by the addition of two DLSUs to the Portfolio in 2009/10 (DND/CAF and CSE). Since 2010/11, the rate of growth in litigation hours has been a more modest 8% and in advisory hours, 3%. Although it represents a relatively minor proportion of all legal services provided by PSDI, by comparison, the growth in hours of legislative services has been substantial (47%) since 2010/11. The level of effort has dropped for all categories of files since 2012/13.

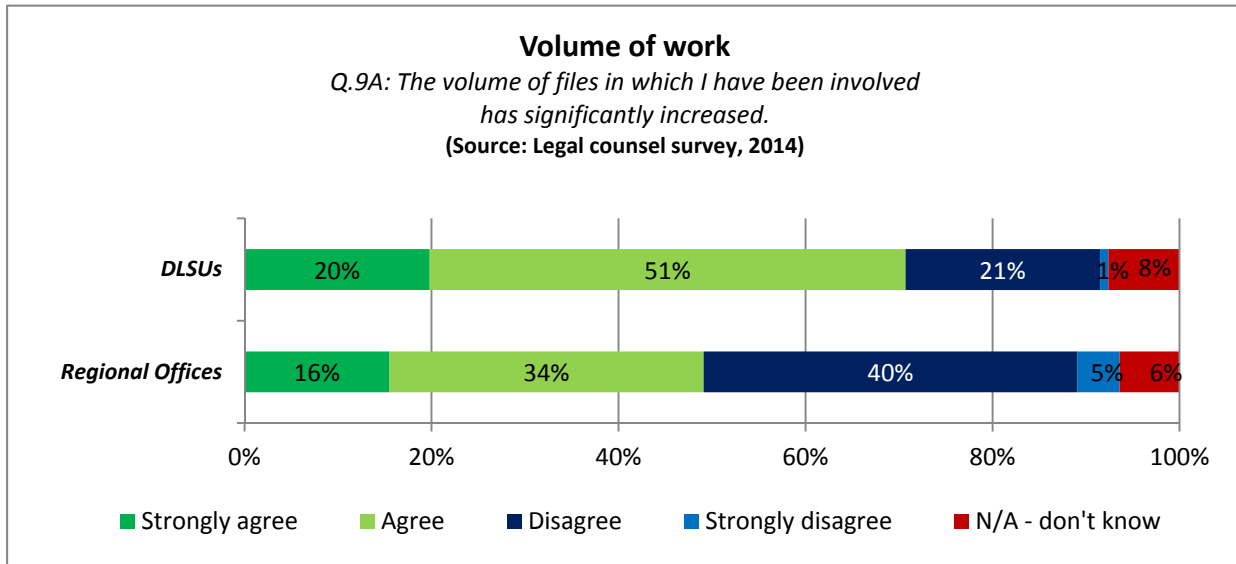
**Figure 5: Number of hours per types of files – PSDI Portfolio**



Findings from the survey of legal counsel largely reflect these trends. As illustrated in Figure 6, the majority of survey respondents were of the opinion that the number of files in which they have been involved over the past three to five years has significantly increased, particularly so among respondents that belong to DLSUs.



**Figure 6: Volume of work**



As already noted in subsection 4.1 of this report, which addresses the relevance of services provided by the Portfolio, a number of factors have contributed to the greater demand for legal services, including the increased complexity of files and the implementation of several new initiatives related to national security and immigration matters.

#### 4.3.2. Litigation services

The Portfolio has been managing an increasing number of files during the period covered by the evaluation (Table 5). Only in 2013/14 has there been a drop in the number of actively managed files from the previous year.

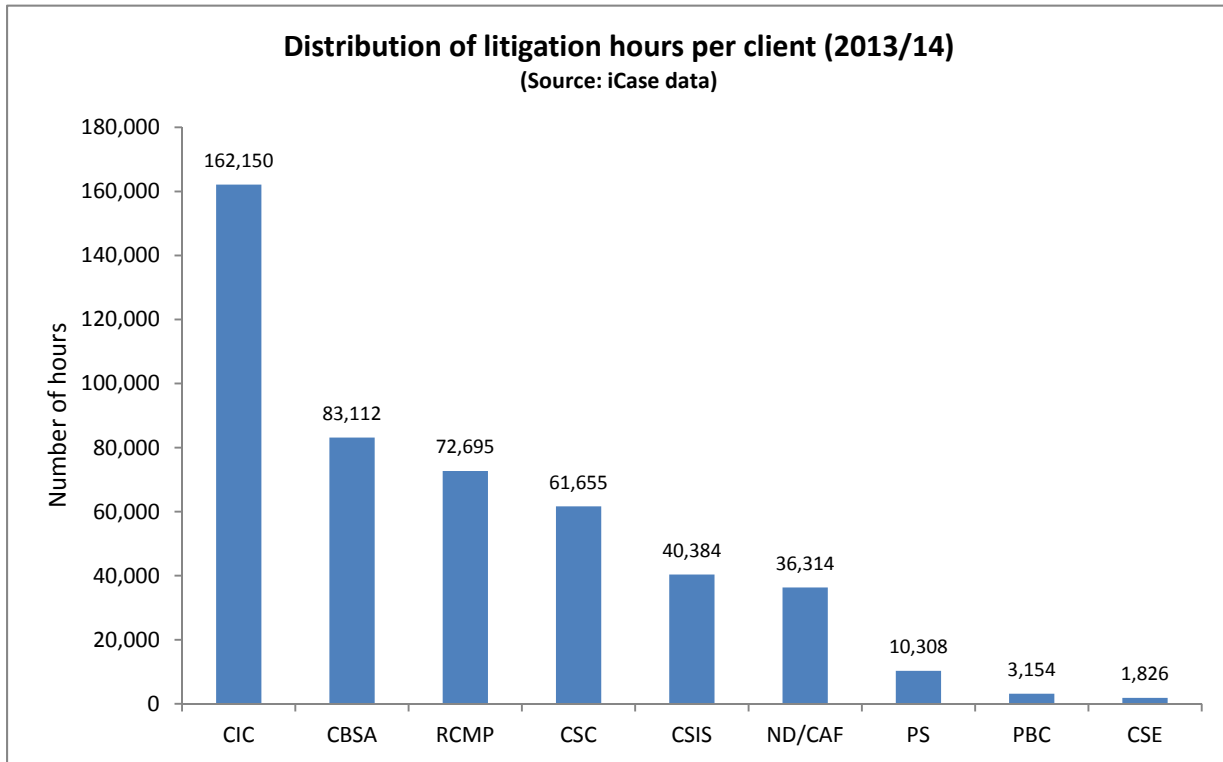
**Table 5: Number of actively managed litigation files per fiscal year**

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
# of files	11,133	13,263	15,744	17,911	19,493	18,284

Source: iCase data

Data indicates that CIC is, by far, the department that mobilizes the greatest level of litigation resources. As indicated in Figure 7, over 162,000 hours of litigation work have been assigned to CIC files in 2013/14, which involved more than 10,000 active files. The CBSA, the RCMP, and CSC were also among the most active agencies on litigation matters during that same year.

**Figure 7: Distribution of litigation hours per client (2013/14)**



Looking at trends among the top three departments and agencies requiring litigation services during the period covered by the evaluation, the data points to a steady increase in the number of litigation hours dedicated to CIC files, whereas hours assigned to RCMP and CBSA files have experienced more fluctuations (Figure 8). The fact that CIC had to deal with significant backlogs as a result of legislative changes made to the immigration and refugee processes explains both the sharp increase between 2009 and 2011, and the slight decrease that has followed thereafter.

**Figure 8: Number of hours on litigation files**

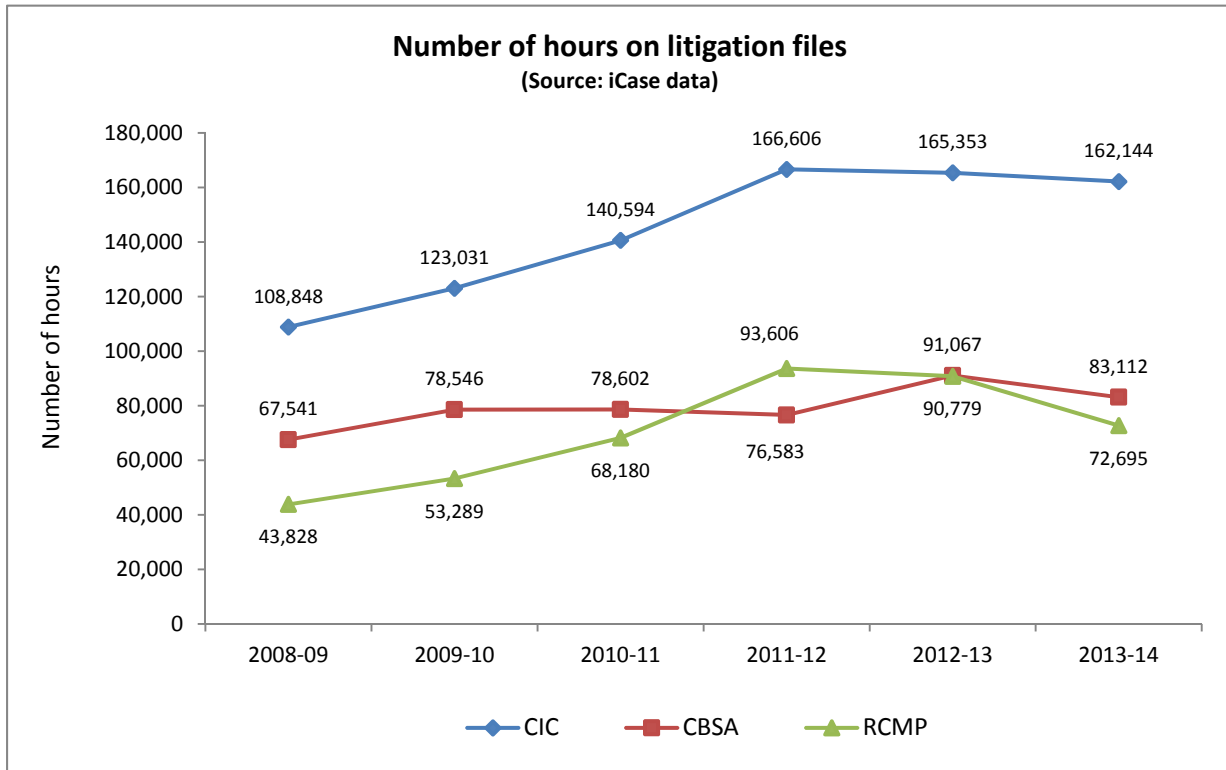
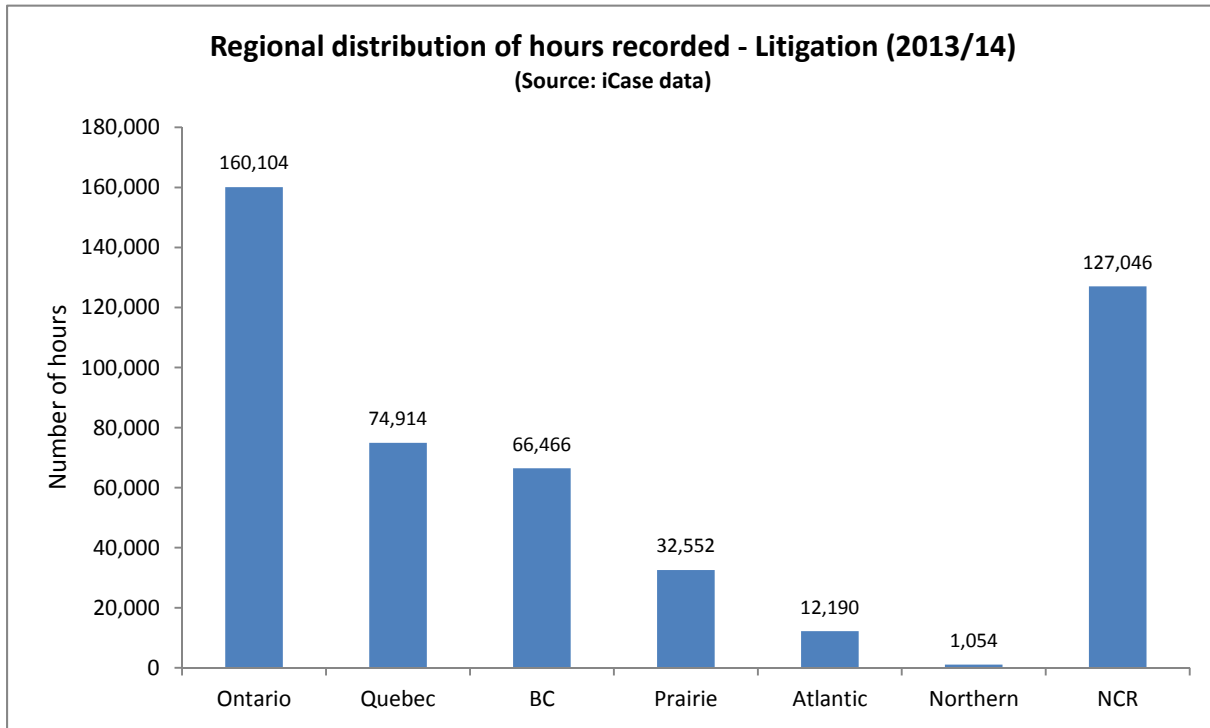


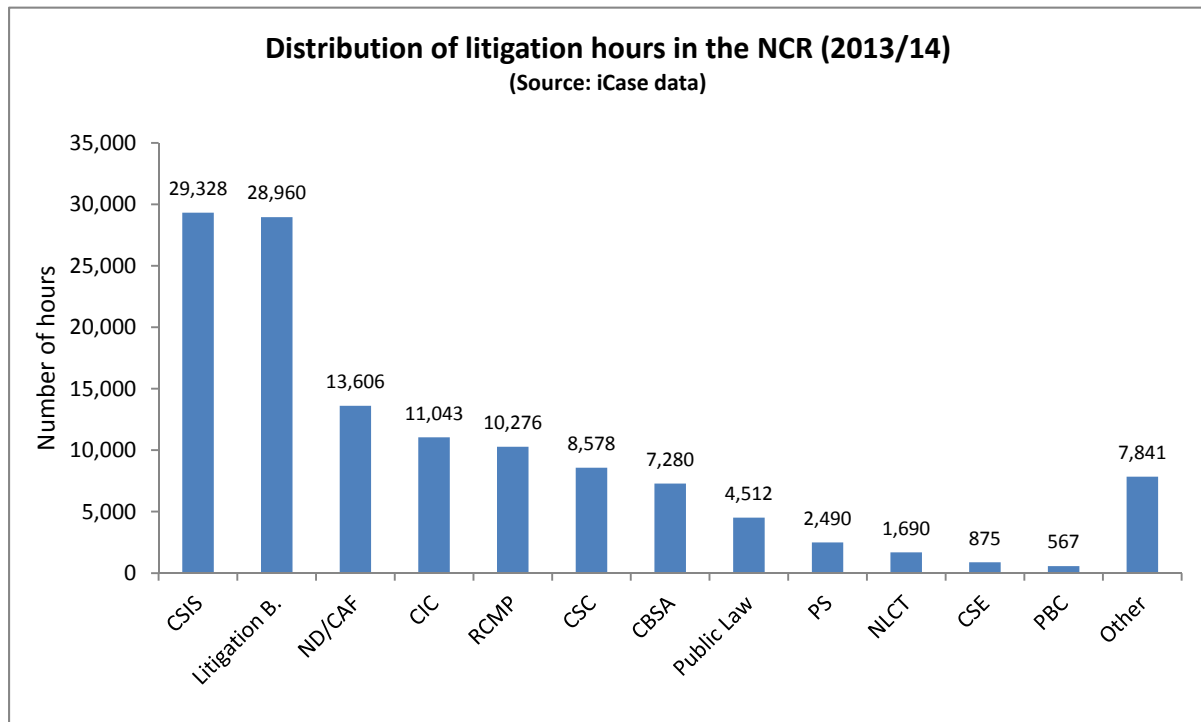
Figure 9 illustrates the regional distribution of litigation work among the six regional offices and the National Capital Region (NCR) in 2013/14. The fact that Ontario, Quebec, and British Columbia manage the vast majority of files related to immigration matters explains, in part, that they are responsible for a greater portion of the Portfolio’s litigation work than the other three regions.

**Figure 9: Regional distribution of hours recorded - Litigation (2013/14)**



The hours allocated to the NCR include a range of activities, such as the litigation support provided by DLSUs, the NLCT, and the Public Law Sector, as well as the litigation work undertaken by the Litigation Branch (Civil Litigation Section). Figure 10 provides the breakdown of the 127,046 hours of litigation attributed to the NCR region in Figure 9.

**Figure 10: Distribution of litigation hours in the NCR (2013/14)**

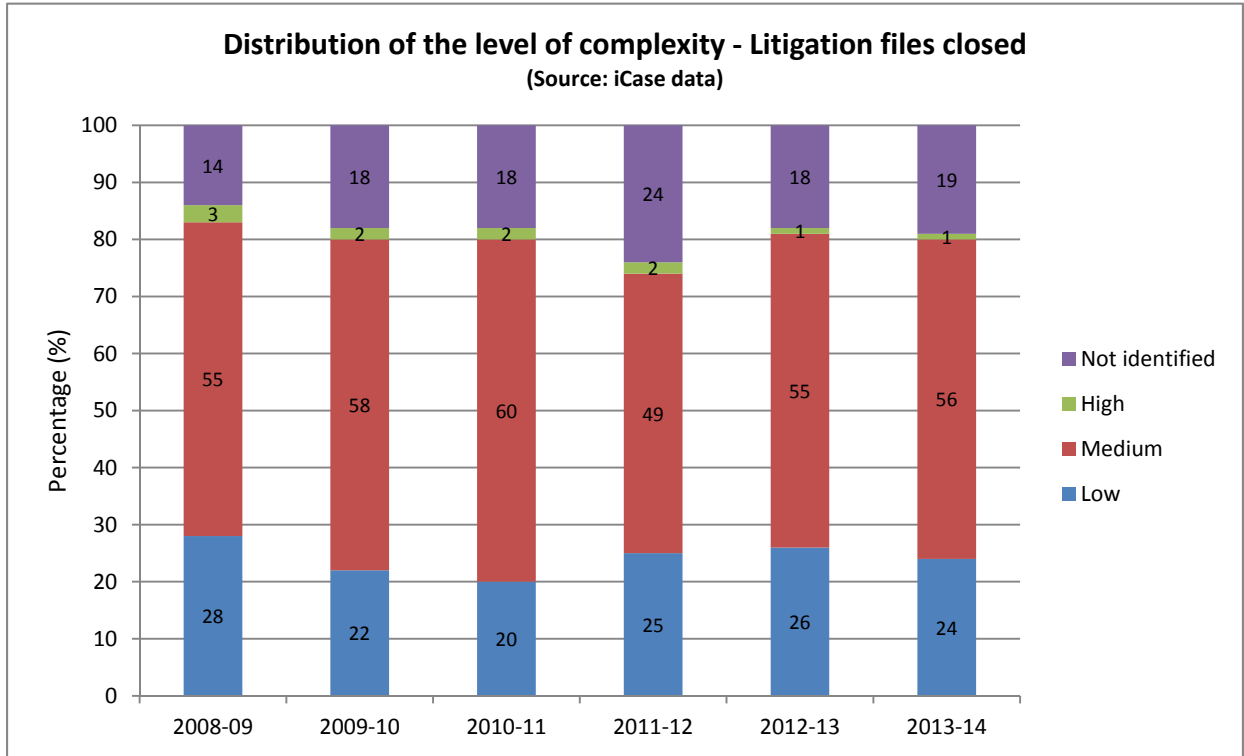


In terms of complexity, the majority of litigation files managed by the Portfolio are of low or medium complexity levels. As illustrated in Figure 11, between 1% and 3% of litigation files managed by the Portfolio during the period covered by the evaluation were considered as being highly complex.

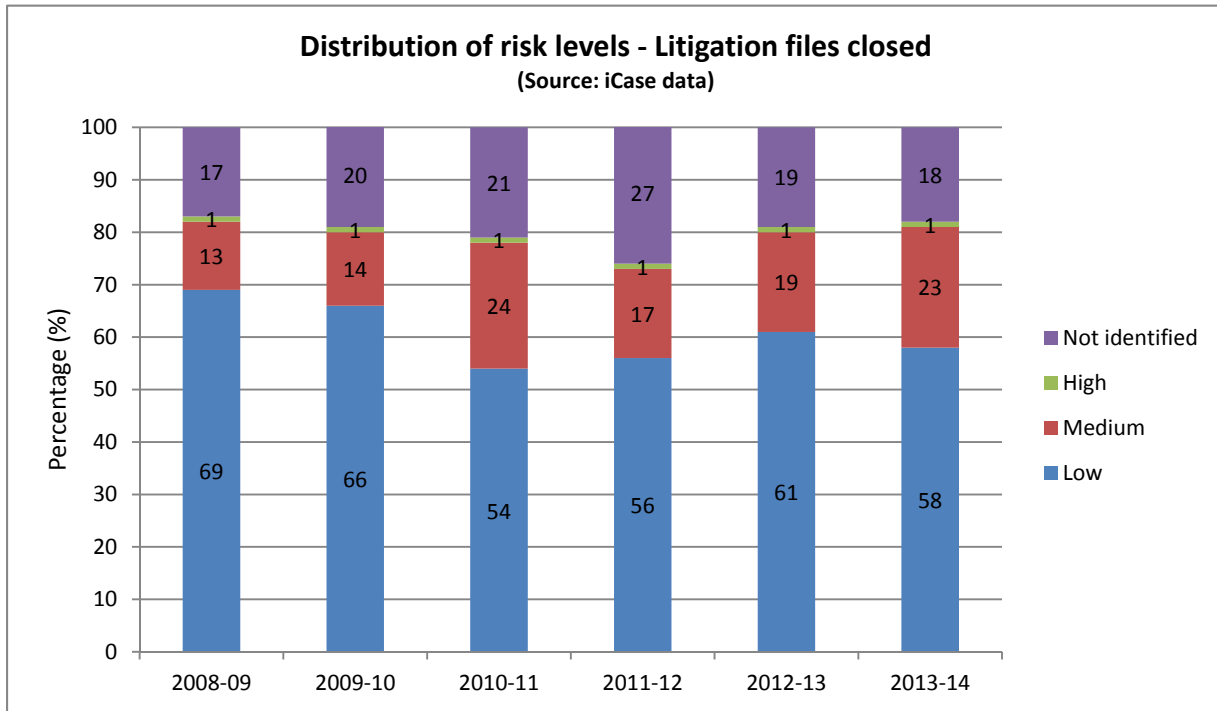
Along the same lines, the level of risk associated with the vast majority of files managed by the Portfolio has been standing at a low or medium level. Figure 12 indicates that approximately 1% of litigation files are typically assessed as high risk.<sup>30</sup>

<sup>30</sup> It should be noted that data relating to the assessment of risk for litigation and advisory files involving (or pertaining to) CSIS are not included in iCase, for security reasons.

**Figure 11: Distribution of the level of complexity - Litigation files closed**



**Figure 12: Distribution of risk levels - Litigation files closed**

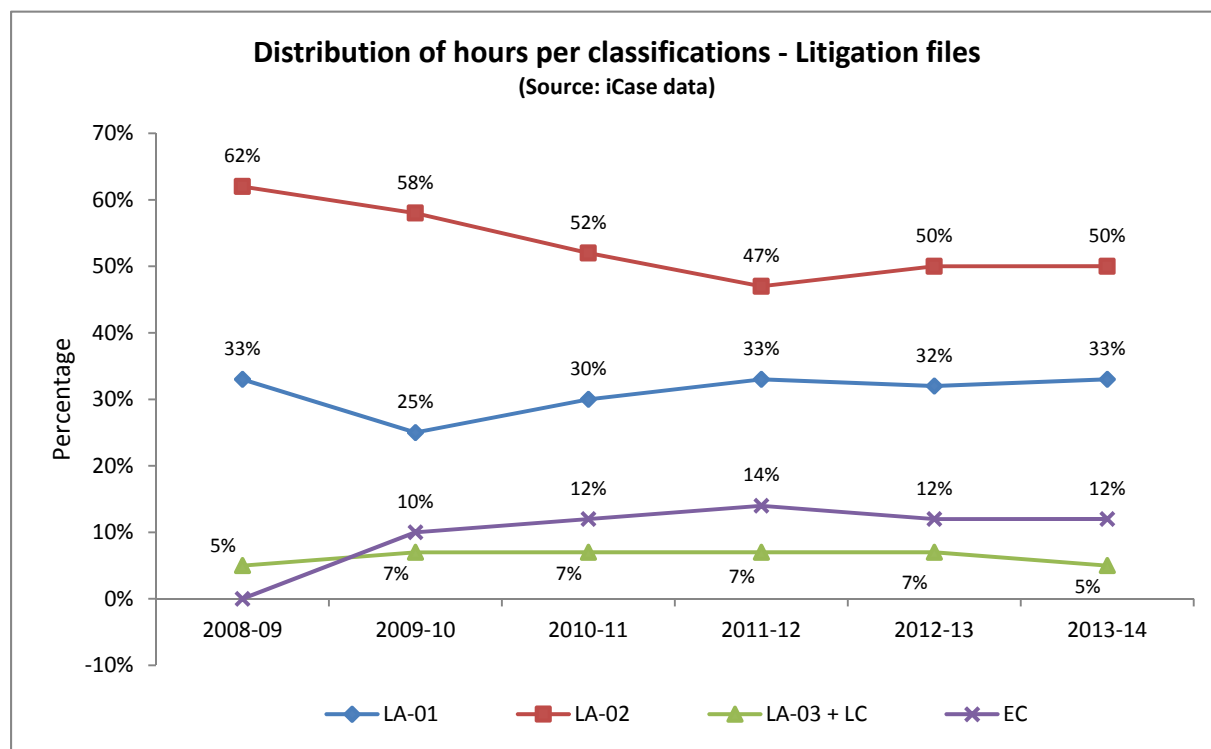


The mix of legal counsel assigned to litigation files has evolved over the period covered by the evaluation, particularly as it relates to the mix of LA-01 and LA-02 legal counsel.<sup>31</sup> As illustrated in Figure 13, there has been a shift from LA-02 to LA-01 in the proportion of hours assigned to litigation work, particularly between 2009 and 2012. This was largely the result of the implementation of the Law Practice Model, which was adopted in 2009 and was expected to be fully implemented by 2012.<sup>32</sup> The purpose of this initiative was to reduce costs by assigning legal work to the appropriate level of counsel and through the increased recruitment of junior legal counsel as more senior counsel retired.

<sup>31</sup> Treasury Board approved a new classification for legal counsel (Law Practitioner or LP), which became effective January 6, 2014. As a result, the classification applicable to the period covered by the evaluation was LA and is therefore used in this report.

<sup>32</sup> Department of Justice Canada: Internal Audit Branch. (2011). *Canada Border Services Agency LSU*. Ottawa, p. 13.

**Figure 13: Distribution of hours per classifications - Litigation files**



The use of paralegals and legal assistants has remained fairly stable during the period, standing at approximately 12% of hours assigned to litigation work.

### 4.3.3. Advisory services

This subsection is now turning to the advisory work performed by the Portfolio. In doing so, some data limitations must first be noted. As already indicated in subsection 4.2.3, there is not a consistent approach among DLSUs on the formal opening of advisory files for data recording purposes. Consequently, it is more indicative to use the level of hours billed (as opposed to the number of actively managed files) in assessing the trends in advisory work over time. Also, as a result of changes made to the iCase system, it was not possible (at the time of the evaluation) to access data on the level of risks and complexity of advisory files.<sup>33</sup>

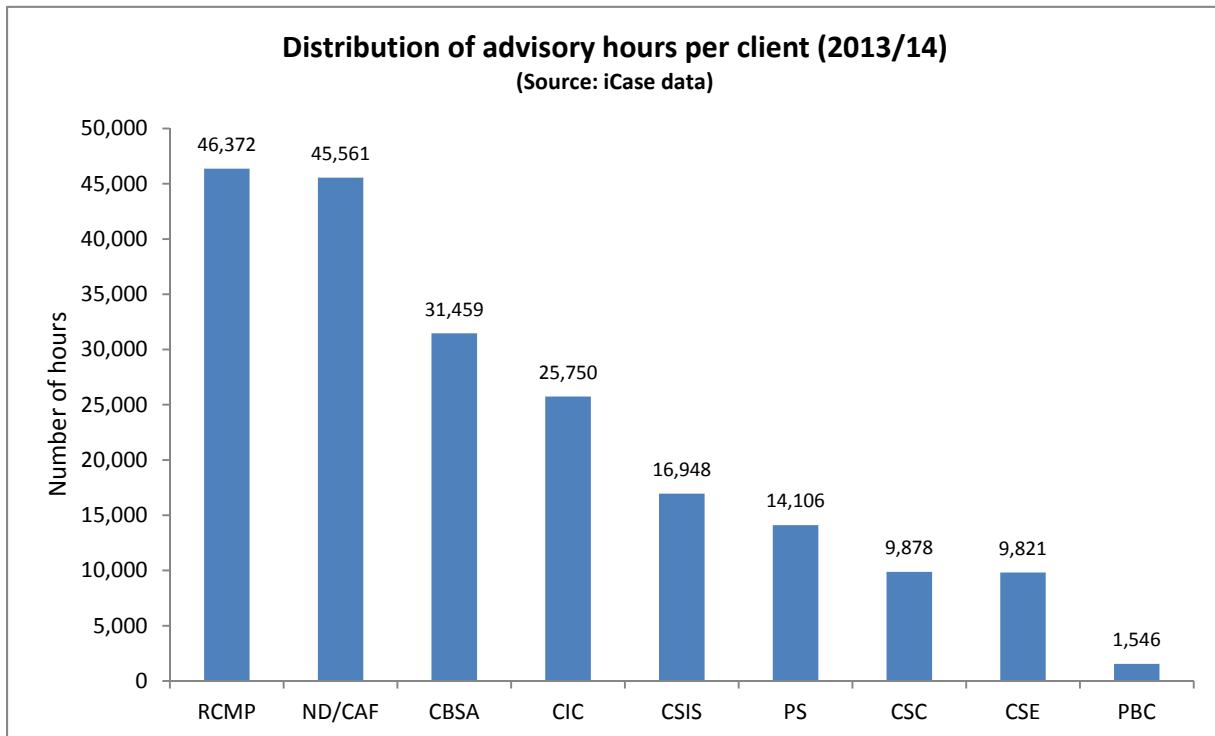
<sup>33</sup> In September 2013, the Department required that risk be assessed on all advisory files and recorded in iCase.



There has been a sustained increase in the demand for advisory services over the period covered by the evaluation. As previously noted, the number of hours billed to advisory work has increased by 53% during the period covered by the evaluation, and more than 70% of survey respondents from DLSUs (where the bulk of the advisory work is done) have indicated that the number of files in which they have been involved has significantly increased over the past three to five years.

Data on the fiscal year 2013/14 indicates that the RCMP and the Department of National Defence are the two clients that have required the highest level of advisory support (Figure 14). When combined, these two clients have received 45% of all advisory work performed by the Portfolio.

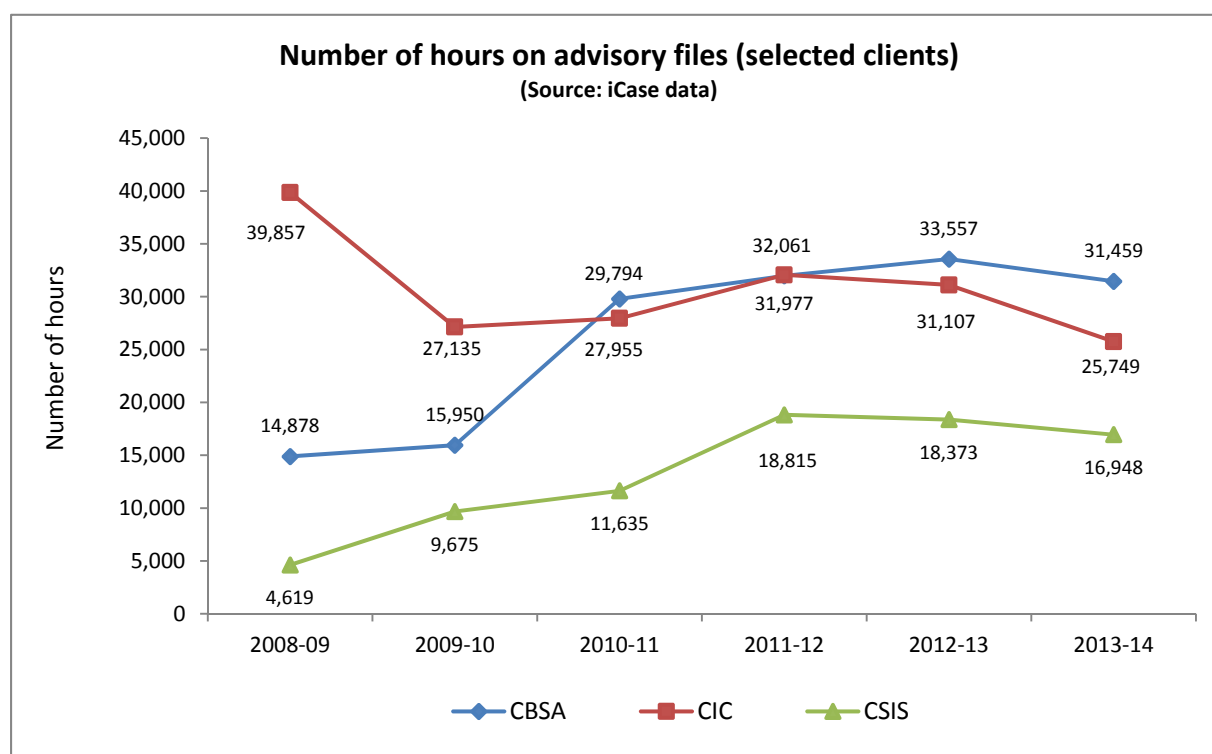
**Figure 14: Distribution of advisory hours per client (2013/14)**



Historical trends over the period covered by the evaluation indicate that the CBSA, CIC, and CSIS are the client departments and agencies that have experienced the most significant fluctuations in their demand for advisory services. As illustrated in Figure 15, CBSA and CSIS have experienced a sustained increase in the level of advisory work received, whereas CIC has experienced a decrease over the same period. In this latter case, it is worth noting that this

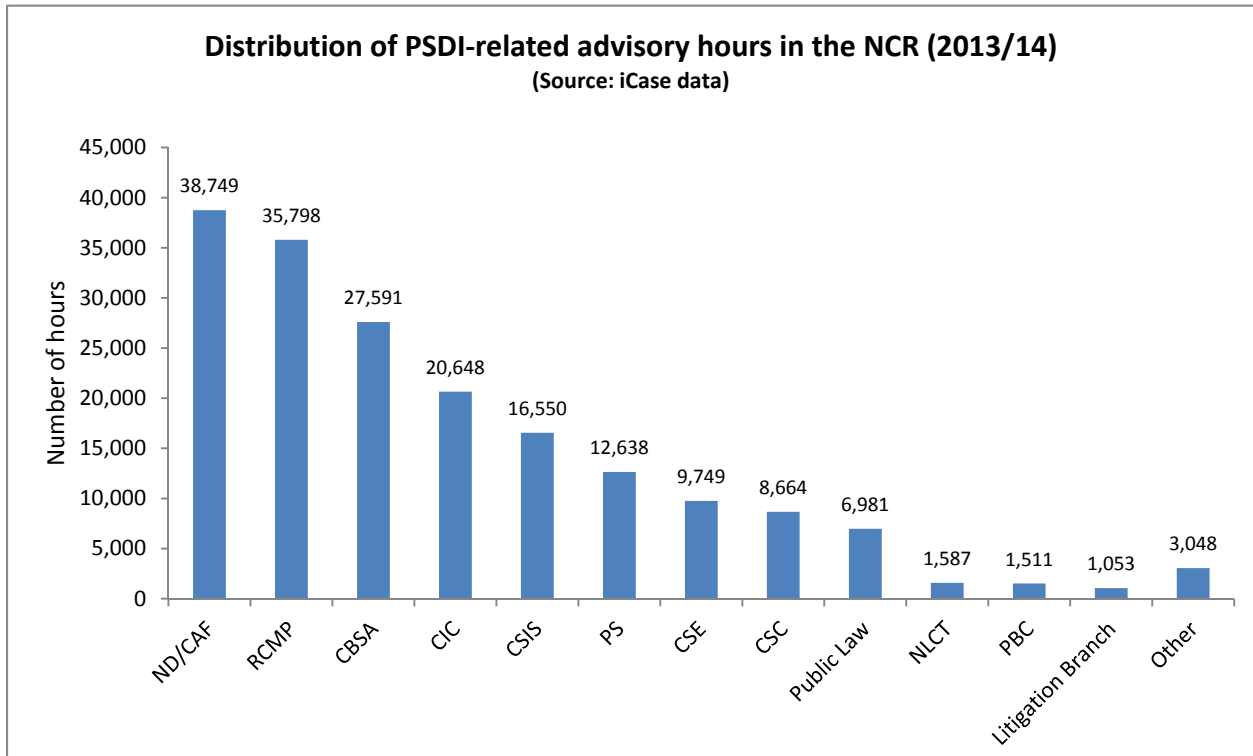
decrease in advisory work has been matched by an increase in the litigation work being performed for CIC by the Portfolio (see Figure 8). As noted during interviews conducted as part of this evaluation, CIC implemented broad legislative and policy reforms to the immigration and refugee system during the early part of the period covered by the evaluation, which triggered an increase in advisory work. These changes have led to an increase in litigation activities, which occurred later in the period covered by the evaluation and which explains the trend observed in litigation hours.

**Figure 15: Number of hours on advisory files (selected clients)**

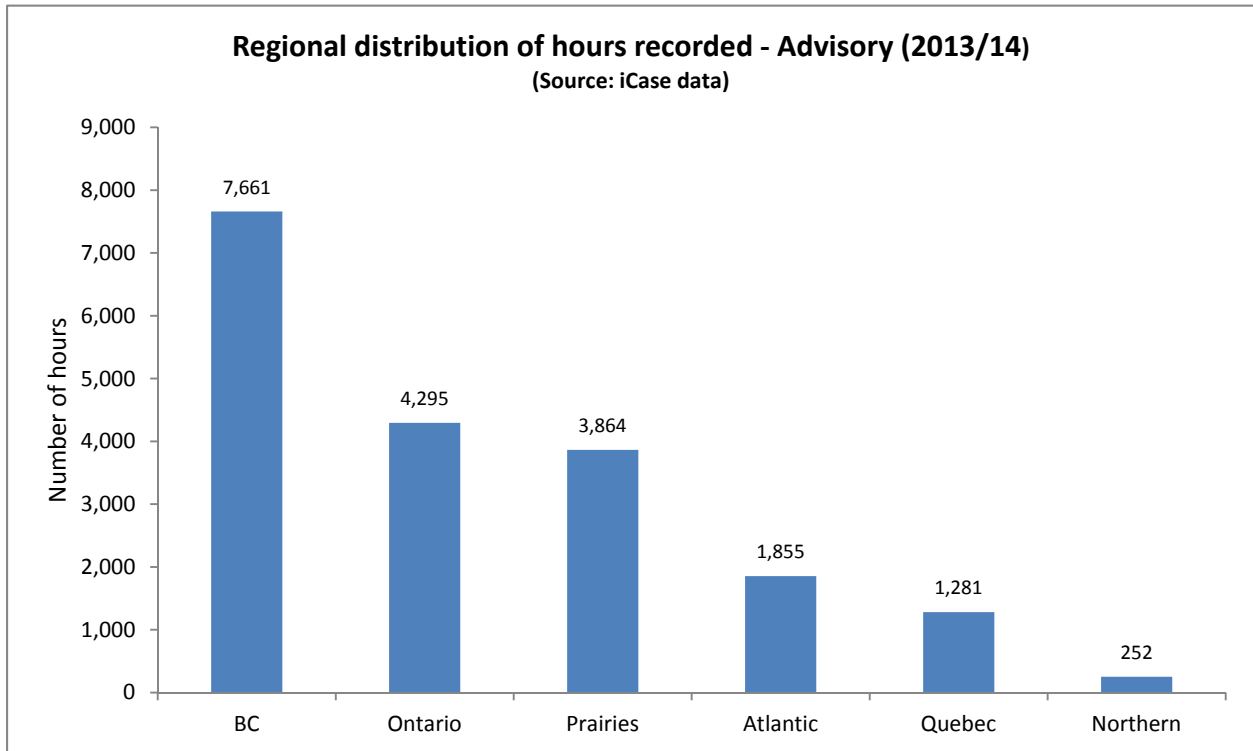


As could be expected, the bulk of the advisory work is performed by DLSUs assigned to their respective client department or agency. Figure 16 shows the distribution of PSDI-related advisory hours assigned in the National Capital Region (NCR). It is worth noting, however, that the NLCT and the Litigation Branch, both of which focus predominantly on litigation activities, also provide advisory services. Moreover, legal counsel in regional offices, whose focus is predominantly on litigation work, also offer advisory legal services. As illustrated in Figure 17, they have provided over 19,000 hours of advisory services in 2013/14, predominantly from the regional offices in British Columbia, Ontario, and the Prairie provinces.

Figure 16: Distribution of PSDI-related advisory hours in the NCR (2013/14)

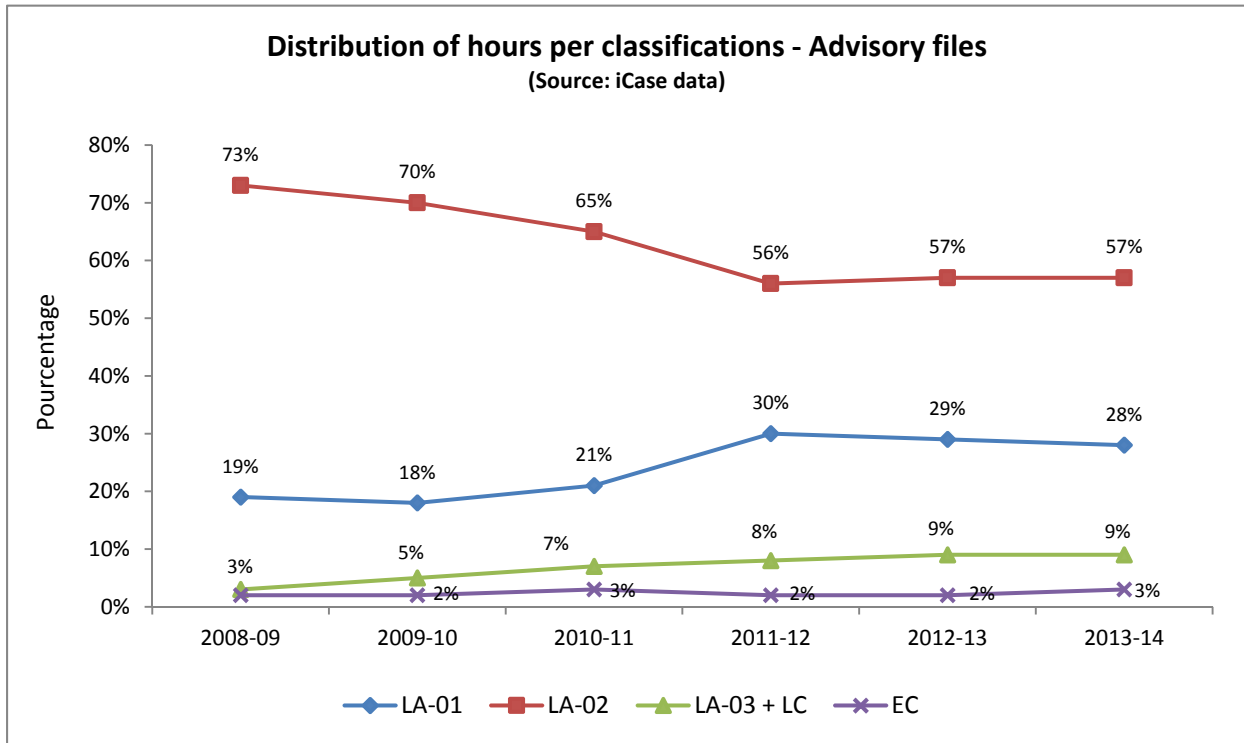


**Figure 17: Regional distribution of hours recorded - Advisory (2013/14)**



As for the distribution of work among legal counsel, the trend observed in litigation files also applies to advisory files. As a result of the implementation of the Law Practice Model, there has been a shift from LA-02 to LA-01 during the first four years of the period covered by the evaluation (Figure 18). And while the use of paralegals and legal assistants has remained largely stable, there has been an increase in the proportion of work done by LA-03, reflecting the increasing complexity and risks associated with some of these files.

**Figure 18: Distribution of hours per classifications - Advisory files**



#### 4.3.4. Legislative work

The legislative agenda of the federal government directly shapes the level of legislative work that the PSDI Portfolio must provide to its client departments and agencies. While all clients served by the Portfolio have been provided with some legislative assistance from PSDI legal counsel over the period covered by the evaluation, those directly engaged in the legislative reforms related to immigration and refugee processes, as well as those engaged in legislative initiatives related to the law and order priorities of the federal government, have required the most sustained level of legislative assistance. More specifically, CIC, PS, CBSA, and RCMP account a significant proportion of the legislative work done during the period covered by the evaluation.

Two factors constrained the analysis of PSDI legislative work. Data for time spent on legislative services started to be collected in a comprehensive manner in 2010/11. Moreover, during the reporting phase of this report, an error was discovered in the way at least one DLSU reported its time for legislative hours. As a result, the evaluation looked at the aggregate hours of legislative

work for the Portfolio as a whole, rather than undertaking a comparative analysis of individual DLSUs.

The analysis of the legislative support being provided by the Portfolio must also take into account the following dimensions:

- The total level of efforts related to the provision of legislative support represents approximately 2% of the work done by the Portfolio.
- The DLSU for PS supports the legislative work initiated directly by this department, in addition to coordinating the legislative work undertaken by agencies reporting to its Minister.
- For the Department of National Defence and the Canadian Armed Forces (CAF/ND), the Justice Legislative Services Branch has established the National Defence Regulations Section (NDRS), a satellite office which is co-located with the DLSU serving ND/CAF. The NDRS provides drafting and legal examination services related to all federal regulations and Orders in Council made or recommended by the Minister of National Defence, including the Queen's Regulations and Orders for the Canadian Forces.

#### **4.3.5. Ability to meet client needs**

The preceding subsections included an assessment of the overall demand for services provided by the Portfolio. They have shown that there has been a sustained increase in the volume of services delivered on the advisory, litigation, and legislative fronts. While these trends themselves may serve as an indication of the relevance of services provided by PSDI legal counsel, the more fundamental question that remains is whether the Portfolio is, in fact, capable of meeting its clients' needs, by providing high quality services. This subsection directly addresses this question.

#### **Defining quality of legal services**

Defining quality when it comes to the provision of legal services can be a challenging task.<sup>34</sup> The sheer volume of files actively managed by the Portfolio (approximately 25,000), let alone the range of issues they address, make it impossible to individually assess the quality of advice

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<sup>34</sup> In 2013, the Department of Justice established a Quality Assurance Framework for the provision of legal services, which provides guidance and monitoring processes to assist in the ongoing management of the work performed by legal counsel throughout the Department.

provided. Moreover, solicitor-client privilege largely limits the ability of any external party to access and review the actual advice that legal counsel provide.

In this context, the most helpful indicator of quality is the clients' level of satisfaction with the legal support they receive. Ultimately, legal counsel provide advice, but clients are the ones who must act upon this advice. The extent to which clients understand the legal risks associated with their decisions largely reveals the extent to which legal counsel have adequately fulfilled their role. As repeatedly noted by both legal counsel and clients interviewed as part of this evaluation, clients make the final decision in relation to a legal matter, taking into account of a range of legal, policy, and political considerations in their decisions.

To help define the various dimensions of satisfaction, the Department of Justice established, in April 2009, a series of service standards. As indicated in Figure 19, these standards are grouped along the broader concepts of timeliness, responsiveness, and usefulness.

### 2011 assessment of client satisfaction

Following the adoption of these standards, the Department launched a series of client feedback surveys, to assess these various dimensions of client satisfaction. One of these surveys, conducted in 2011, focused specifically on the work of the PSDI Portfolio.<sup>35</sup> A total of 618 client representatives, who had used Justice legal services in the preceding 12 months, completed the survey questionnaire.

**Figure 19: Service Standards**

<b>Service Standards</b>
<b>Timeliness of Services</b> <ul style="list-style-type: none"><li>• We respond in a timely manner to requests for legal services.</li><li>• We negotiate and meet mutually acceptable deadlines.</li></ul>
<b>Responsiveness of Services</b> <ul style="list-style-type: none"><li>• We provide legal services in either official language in accordance with applicable policies on language of work.</li><li>• We treat you with courtesy and respect at all times.</li><li>• We provide regular and informative progress reports or ongoing feedback in respect of your request for service.</li></ul>
<b>Usefulness of Services</b> <ul style="list-style-type: none"><li>• We provide clear and practical guidance on resolving legal issues.</li><li>• In the provision of legislative services, we develop legislative and regulatory drafting options appropriate to your policy and program objectives, and propose appropriate solutions for legal and drafting issues raised.</li><li>• In the provision of legal advisory and litigation services, we involve you in the development of legal strategy and positions.</li><li>• We identify means to prevent and resolve legal disputes at the earliest opportunity.</li><li>• We identify opportunities to implement policies and programs by administrative rather than legislative or regulatory means.</li></ul>
<i>Source: <a href="http://www.justice.gc.ca/eng/abt-apd/service.html">http://www.justice.gc.ca/eng/abt-apd/service.html</a></i>

<sup>35</sup> Department of Justice. (2011). *Client Feedback Survey: Public Safety, Defence, and Immigration Portfolio*. Ottawa. It should be noted that all client departments and agencies, with the exception of the RCMP, participated in this process.

Results from this survey consistently pointed to a high level of satisfaction among PSDI client departments and agencies. As noted in the report, “the Portfolio received extremely positive results overall on each of the four facets of client satisfaction.”<sup>36</sup>

More specifically, on a 10-point scale, respondents favourably rated the legal services they received, whether it was advisory services (mean score of 8.5 out of 10), litigation services (8.3 out of 10), or legislative services (8.7 out of 10).

Survey results pertaining more directly to the set of service standards indicated that the Portfolio performed well on all dimensions of these standards. The Portfolio received composite ratings above 8 out of 10 for accessibility and responsiveness (8.8), usefulness (8.3), and timeliness of its services (8.1). The only two areas where the Portfolio did not meet or surpass the Department’s target of 8 out of 10 were in relation to two sub-components of the timeliness of its advisory services. When asked if legal counsel “provided informative progress reports or ongoing feedback” or whether legal counsel “negotiated mutually agreed upon deadlines”, survey respondents offered ratings that were slightly under 8.<sup>37</sup>

### **Other measures of client satisfaction**

Interviews conducted with representatives of client departments and agencies, as well as those conducted as part of the case studies, provided an opportunity to revisit various dimensions of client satisfaction. Overall, evaluation findings strongly aligned with the results of the 2011 Client Feedback Survey. Statements such as “*always get appropriate advice*”, “*very knowledgeable, patient, and a joy to work with*”, or “*their capacity to respond has been more than excellent*” are indicative of the feedback provided by client representatives.

These interviews and case studies also confirmed that client departments and agencies are actively involved in managing legal files, and assessing legal risks. On that last point, interviews with PSDI legal counsel indicated that clients are typically well aware of what an assessment of legal risk entails and how it should be considered. In fact, evaluation findings indicate that clients are increasingly interested in understanding the reasoning that led to the assessment of legal risks, as opposed to simply receiving the assessment and accepting it at face value. Along the same lines, evaluation findings indicate that an increasing proportion of client departments and agencies appear willing to assume greater risks in pursuing programming or policy objectives. This has reinforced the notion that, while legal counsel provide legal risk assessment,

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<sup>36</sup> Ibid, p. 9.

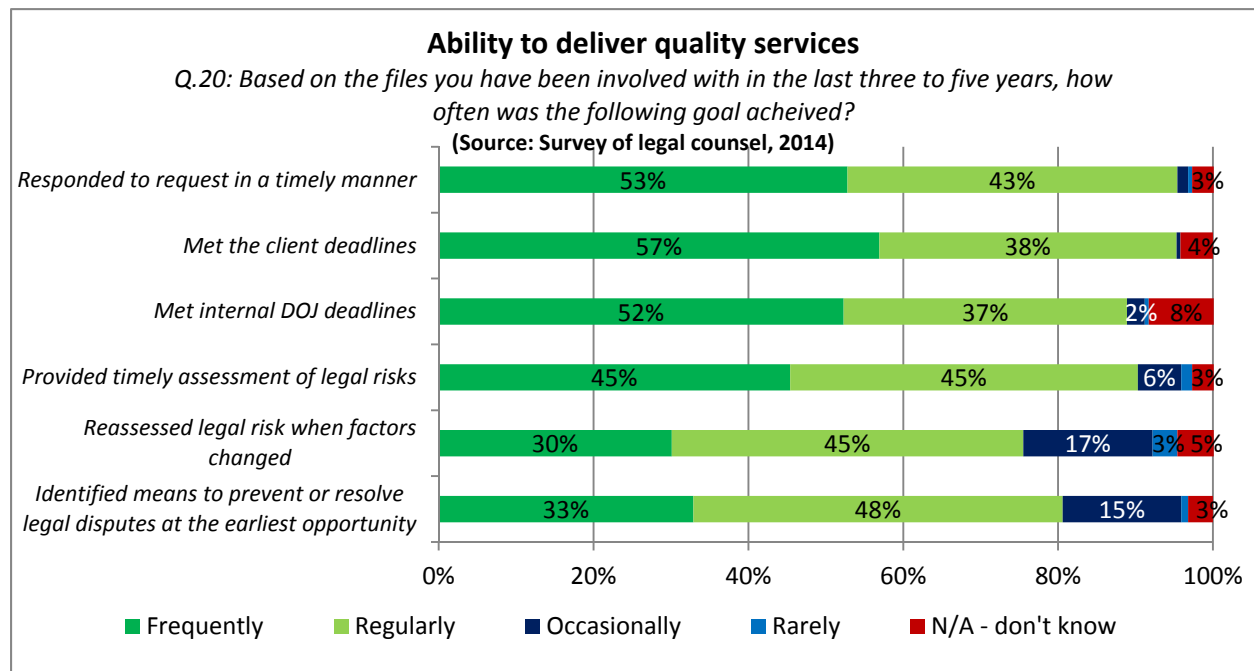
<sup>37</sup> Ibid, p. 7.



it is ultimately the client department or agency that decides on the most appropriate course of action, balancing the various policy interests and other considerations, even if it entails greater legal risks than normally assumed.

Through the survey process undertaken as part of this evaluation, legal counsel were also provided with an opportunity to assess the extent to which they are in a position to deliver services that meet their clients' needs and expectations. Figure 20 confirms that legal counsel generally perceive themselves as being capable of delivering timely services, of meeting client and internal deadlines, of providing timely risk assessments and reassessing risks as required, and finding means to prevent or resolve legal disputes early on, when possible. Considering the volume of work managed by the PSDI Portfolio, one can expect that particularly challenging files will emerge from time to time and that legal counsel, as well as client representatives, will have to work collaboratively on the effective management of these files. While acknowledging this, evaluation findings leave little doubt as to the overall satisfaction of client departments and agencies currently served by the Portfolio.

**Figure 20: Ability to deliver quality services**



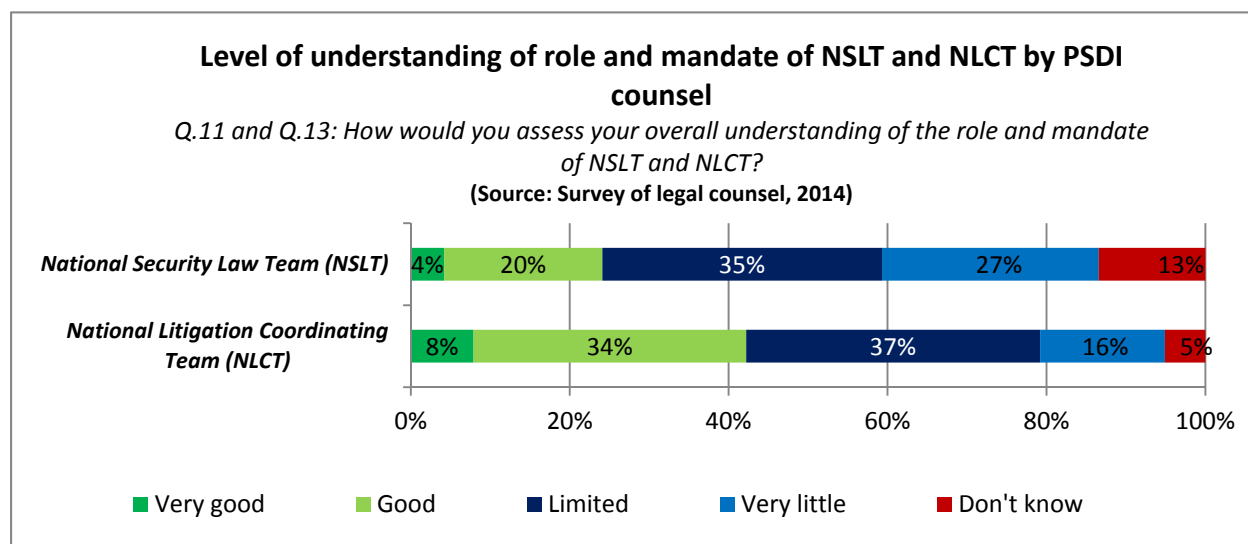
### 4.3.6. Coordination and monitoring efforts

#### Understanding the coordination and monitoring role of the Portfolio

As noted during interviews, not all files managed by legal counsel affiliated with the Portfolio require extensive monitoring and coordination. This is particularly the case for advisory work, undertaken by some of the DLSUs, that is highly specialized or operational (i.e., emergency preparedness). In these circumstances, the monitoring and coordination role played by the Portfolio is more appropriately targeted to support individual client departments.

As for the coordination of litigation work, the Portfolio has a well-established history in relation to immigration files. As noted by legal counsel who were interviewed, the Portfolio has established tools and processes (such as the SLIC) to support legal counsel involved in litigation files, a need that was, and continues to be, driven by the large volume of files and their distribution among regional offices. In the current Portfolio setting, the NLCT carries on this responsibility. Evaluation findings indicate that beyond the context of immigration files, however, the role of the NLCT appears not to be as clearly articulated. In fact, the actual role of the NLCT appears to be only partially understood by legal counsel affiliated with the Portfolio. As indicated in Figure 21, just over 40% of legal counsel who participated in the legal counsel survey indicated that they had a very good or good overall understanding of the role and mandate of the NLCT.

Figure 21: Level of understanding of role and mandate of NSLT and NLCT by PSDI



Similarly, the role of the NSLT appears to remain largely unknown to PSDI legal counsel. Only a quarter of survey respondents indicated that they had a very good or good understanding of its role. The fact that this team was only established in 2013, and that it focusses specifically on national security matters, are arguably factors that explain these results. Those counsel whose work centers on other aspects of the Portfolio's work would likely not be as familiar with its role.

Finally, the functional responsibility of the ADAG PSDI for all advisory work related to national security is also not clearly understood by PSDI counsel, particularly among those who are not in management positions.

The PSDI has 25,000 actively managed files, involving close to 750 legal counsel distributed among the Office of the ADAG, nine DLSUs and six regional offices. Given the breadth of the work, the number of counsel involved and the geographic and expanse of the Portfolio, it is not surprising that there are differences in the levels of understanding about the role of the Portfolio among its counsel. While acknowledging this fact, PSDI counsel could benefit from achieving a greater level of understanding of these different dimensions of the Portfolio's mandate.

### **The impact of the NLCT**

Evaluation findings indicate that the NLCT has contributed to the effective coordination of immigration files. Central to the achievement of this result is the role that the NLCT has played in managing the *Blue Book*.<sup>38</sup> Established in the late 1990s, the *Blue Book* contains a set of instructions for litigators in all regional offices. It identifies the types of cases that must be referred to the NLCT for consultation and guidance, and under what circumstances the NLCT involves relevant DLSUs and client departments and agencies, whether it is CIC or the CBSA, or any other clients as required. This manual is consistently updated to reflect emerging issues, legislative reforms, or important court decisions. Evaluation findings indicate that the *Blue Book* is well known across regional offices and that appropriate files are being referred to the NLCT.

As already noted in subsection 4.2.3 of this report, the NLCT also contributes to the management of the law relating to immigration and refugee matters through the weekly calls it holds with members of the SLIC.

Legal counsel interviewed as part of this evaluation noted that the NLCT has played a meaningful role in coordinating a number of non-immigration files. These would typically be high profile and complex files that may involve a number of client departments and agencies. In

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<sup>38</sup> It is worth noting that the content of the *Blue Book* is protected by solicitor-client privilege.

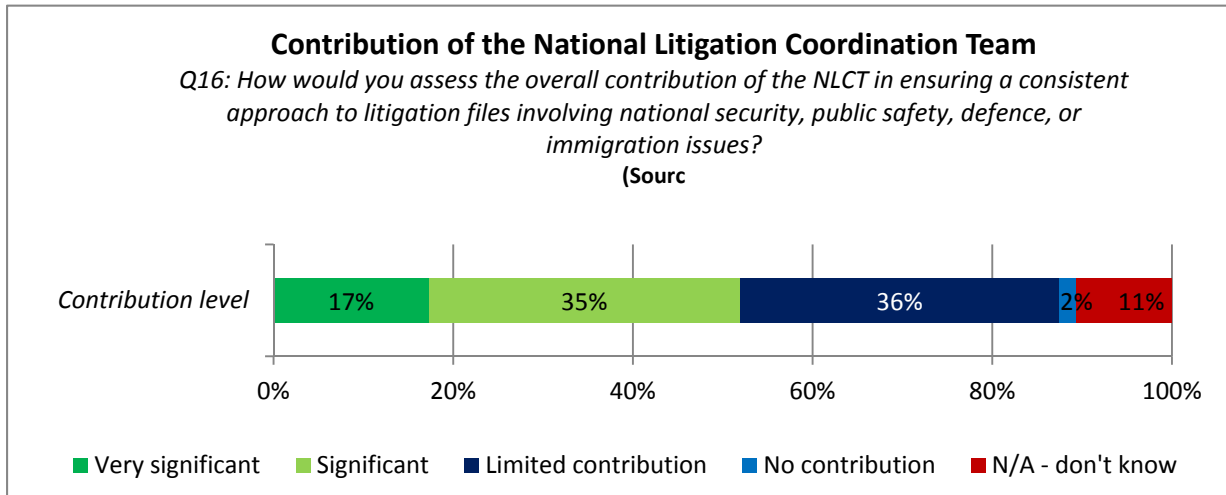
these cases, the NLCT facilitated the flow of information, including adequate briefings to senior officials within the Department of Justice Canada.

Beyond these achievements, evaluation findings pointed to certain challenges that the NLCT has been facing. When it comes to the selection of files to be coordinated by the NLCT (particularly in non-immigration matters), it appears that the Portfolio has largely used a top-down approach, resulting in some decisions that have not been well understood in DLSUs and regional offices. This, in turn, has led to cases where the value added from the NLCT's involvement has not been apparent to legal counsel assigned to the file.

It has been suggested that, much like the *Blue Book* for immigration matters, there should be a clearer process to select non-immigration files to be coordinated by the NLCT. In doing so, it was also suggested that the leadership coordinating these files may benefit from being decentralized, allowing some of the senior litigators with specific areas of expertise to play the coordination role or be predominantly involved in it. This appears particularly relevant when one considers the relatively small size of the NLCT in relation to the volume and range of litigation work in which the Portfolio is involved.

These mixed views on the role of the NLCT were reflected in the results from the survey of legal counsel undertaken as part of this evaluation. Those respondents who had dealt directly with the NLCT were asked to assess its overall contribution in ensuring a consistent approach to litigation file; just over half of them qualified that contribution as being very significant or significant (Figure 22). A slightly greater proportion of respondents from DLSUs (55%) qualified the contribution of the NLCT as being very significant or significant, when compared to respondents from regional offices (49%).

**Figure 22: Contribution of the National Litigation Coordination Team**

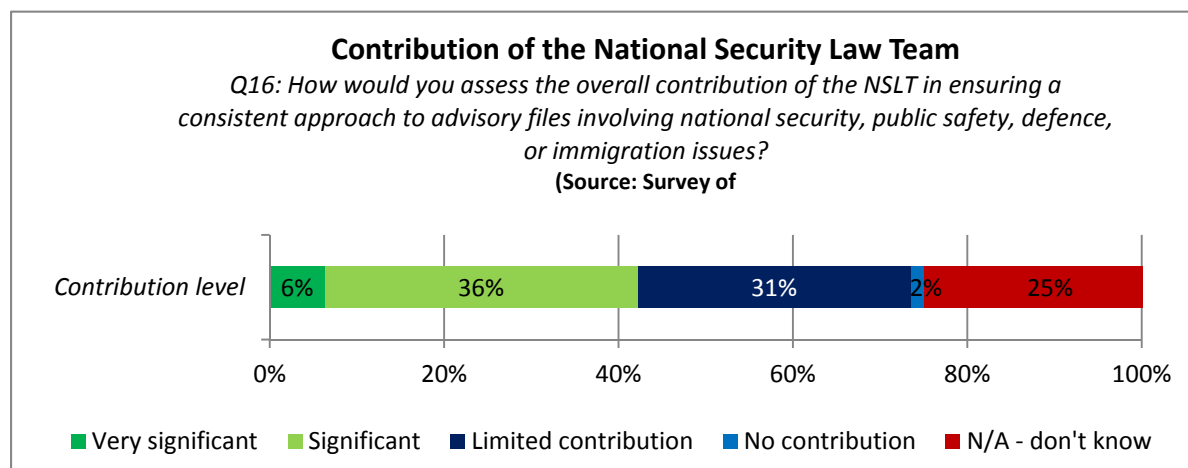


### The impact of the NSLT

During the period covered by the evaluation, the NSLT has provided coordination support on some advisory files related to national security. In these cases, evaluation findings indicate that the Team has provided in-depth knowledge and expertise that have helped ensure the consistency of advice, particularly among those legal counsel serving client departments and agencies directly involved in national security matters. The Team has also provided direct support to the ADAG in fulfilling her functional responsibility for advisory work related to national security. As such, they have developed briefing material for the ADAG, have attended meetings with her, and have followed up as required. This has enhanced the capacity of the ADAG Office to continuously monitor high profile advisory files on national security.

Although some legal counsel consulted as part of this evaluation could address the work performed by the NSLT, evaluation findings confirm that the current reach of this team is fairly limited and its achievements have remained largely unknown. This is reflected in survey findings presented in Figure 23. When legal counsel who had dealt directly with the NSLT were asked to assess its overall contribution, just over 40% of them rated it as very significant or significant. It is worth noting that one in four respondents did not provide an assessment, despite the fact that they had had direct dealings with this team.

**Figure 23: Contribution of the National Security Law Team**



A concern expressed during interviews conducted as part of this evaluation related to the risk of duplication that may result from having legal counsel conducting advisory work on national security matters in the ADAG Office, while other legal counsel perform similar advisory work in DLSUs that are, in fact, highly specialized in national security matters.

Moreover, much like the NLCT in non-immigration matters, it appears that the selection of files on which the NSLT has been involved has resulted from a top-down decision-making approach, based on the perceived strategic importance attributed to certain files. This, in turn, appears to have contributed to the uncertainty surrounding the actual mandate of the NSLT and the circumstances where the team is expected to engage in coordination activities.

#### **4.3.7. Access to the required support and tools**

The evaluation provided an opportunity to assess drivers (other than those related to monitoring and coordination) that contribute to the ability of the Portfolio to provide quality legal services that meet its client needs. Of particular relevance were the support provided by the Public Law Sector, the access to adequate tools, and the ongoing professional development offered to PSDI legal counsel.

#### **Support provided by the Public Law Sector**

Some of the specialized units within the Public Law Sector provide critical assistance to PSDI legal counsel, in both DLSUs and regional offices. No less than 87% of legal counsel who

participated in the survey indicated that they have had interactions with some of these units. The Constitutional, Administrative, and International Law Section, the Human Rights Law Section, and the Centre for Information and Privacy Law were the units most often consulted by PSDI legal counsel. The vast majority of those who dealt with these units reported being very satisfied or satisfied with the support provided to them.

Findings from the interviews conducted as part of this evaluation confirmed these trends. The support offered by these units was described as being generally efficient and responsive. Considering the nature of the files managed by the Portfolio, there are many questions related to the *Charter* or the *Constitution* more generally that must be addressed in a timely manner. The Public Law Sector has largely succeeded in providing this expert advice.

### **Access to required tools**

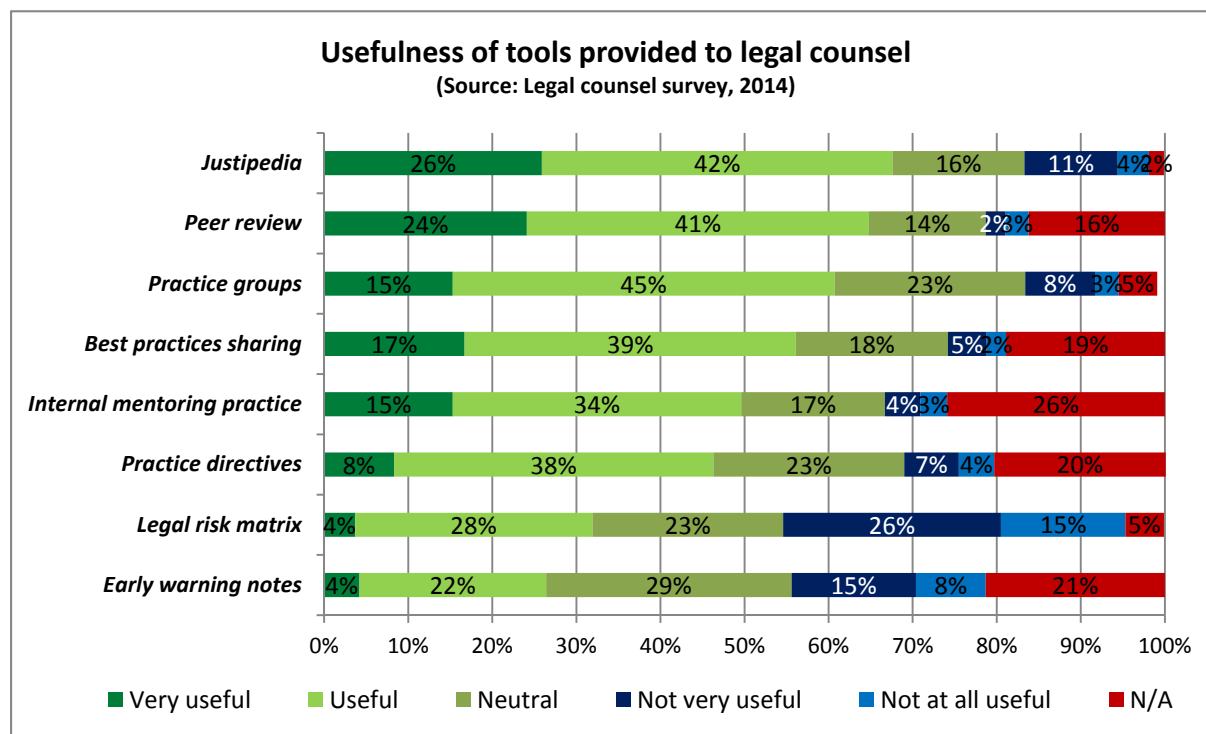
The Portfolio has established a number of tools and processes that are expected to support the work of individual legal counsel. Some of these have been implemented at the Portfolio or department-wide levels, while others are initiatives specific to a DLSU or a regional office.

PSDI legal counsel who participated in the survey conducted as part of this evaluation were asked to rate some of these tools. The results, as illustrated in Figure 24, confirm that some tools have greater relevancy when it comes to supporting the work of legal counsel.

- *Justipedia*: Launched during the period covered by the evaluation, Justipedia is the Department of Justice Canada's legal knowledge portal. Its purpose is to consolidate existing legal knowledge tools in order to create a single national repository. It was piloted in 2011 and became fully operational in February 2012. Survey findings confirm that it is now considered one of the most helpful tools by legal counsel. Close to 70% of survey respondents rated Justipedia as being very useful or useful for their work. Interviews conducted as part of this evaluation noted that one of the current limitations of Justipedia is the fact that it cannot hold secret information, which is often required by PSDI legal counsel.
- *Practice groups*: One of the primary purposes of Justipedia is to support practice groups, which provide an opportunity for legal counsel to meet on a regular basis to exchange and share knowledge on areas of interest for their practice. Among the many practice groups established throughout the department, a number of them relate specifically to the PSDI Portfolio, such as the Citizenship and Immigration, the Correctional Law, the National Security Law, and the Cyber Security practice groups. Survey findings indicate that these groups were favourably rated in terms of their usefulness. During interviews conducted,

practice groups were also perceived as being helpful, particularly in providing a platform for legal counsel in DLSU and regional offices to connect on areas of interest.

**Figure 24: Usefulness of tools provided to legal counsel**



- *Peer review*: More a process than an actual tool, peer reviews are carried out on an ongoing basis, both formally and informally. Both survey findings and interviews indicate that this process contributes significantly in supporting the work of PSDI legal counsel.
- *Legal risk matrix*: As Figure 24 indicates, the current matrix that legal counsel are expected to use to communicate legal risks has not been rated favourably. Just over 30% of survey respondents rated the matrix as being very useful (4%) or useful (28%). Notably, the matrix also received the most negative ratings among all tools listed, as 26% of respondents indicated that it was not very useful and 15% indicated that it was not at all useful. Results did not vary significantly between legal counsel operating in a DLSU and those operating in a regional office. Interviews conducted as part of this evaluation, as well as the case studies, largely reflected these survey findings. Legal counsel working with DLSUs constantly assess legal risks through their advisory work. They emphasized the importance of tailoring their approach and their communication strategy to reflect the needs of their clients and the overall



organizational culture in which they operate. Using a standardized tool was not seen as being the most adequate approach in order to carry out their role. As for legal counsel operating in regional offices, they have a long history of using the risk assessment matrix in managing their litigation files in iCase. The survey results appear to indicate that the matrix may be serving broader corporate goals for the monitoring and management of resources, rather than actively supporting the work of litigators on individual files.

- *Other instruments:* While some of the other instruments may assist legal counsel in their daily work, they are also meant to brief senior officials on overall trends in the work of the Portfolio. This is particularly the case of the early warning notes, whose purpose is to specifically alert senior officials of upcoming cases that are particularly complex or sensitive. This explains, in part, the lower rating in terms of usefulness among survey respondents.

### **Professional development**

Access to adequate tools goes a long way in ensuring that legal counsel maintain the knowledge and expertise they require in their specific field of practice. To supplement these, legal counsel can also undertake a number of professional development activities. For instance, the Professional Development Directorate provides a wide range of learning activities to all legal counsel working in the Department of Justice Canada. At the Portfolio level, there is a learning day that is held every year to address issues that are more specific to public safety, defence, and immigration matters. Finally, each DLSU and regional office typically holds *ad hoc* learning activities throughout the year.

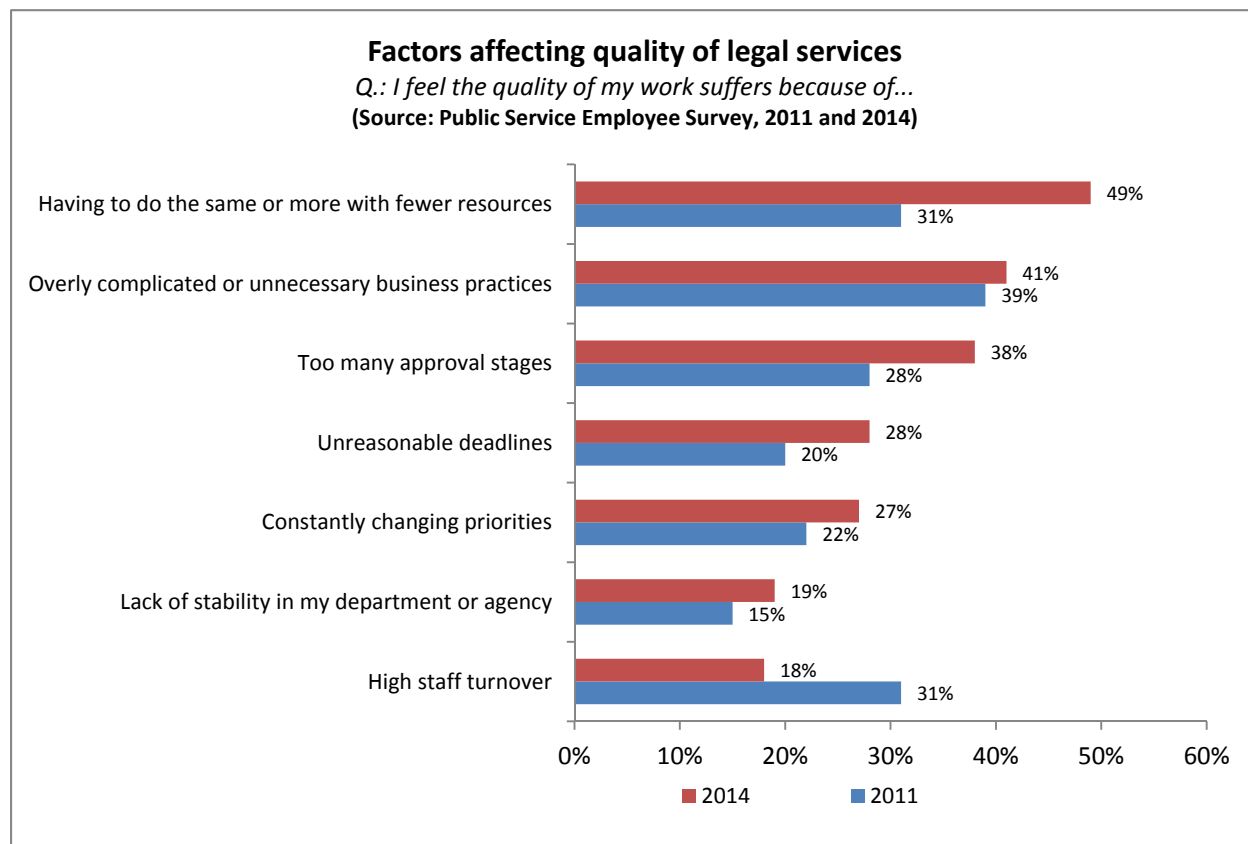
The survey of legal counsel indicates that over two-thirds of respondents (68%) were either very satisfied (10%) or satisfied (58%) with the professional development currently offered. During interviews, it was noted that the diversity in the areas of law covered by the Portfolio makes it challenging to systematically offer relevant training activities. Some legal counsel interviewed as part of this evaluation indicated that the topics covered during the Portfolio's learning days rarely coincided with their practice. In the case of regional offices, there are strict travel limitations that considerably reduce their access to these activities.

There was a general recognition among managers interviewed as part of this evaluation that while the department can meet a range of professional development needs, it would be beneficial to provide greater access to external learning activities. However, current budgetary constraints limit the ability of the Portfolio to expand the access to these types of learning activities.

### Perceived factors affecting quality

Beyond the access to adequate tools and professional development, a number of systemic factors can have a negative impact on the ability of legal counsel to deliver quality legal services. Through two public service employee surveys (2011 and 2014), PSDI legal counsel identified a number of these factors, which are summarized in Figure 25.<sup>39</sup> Among other things, these results indicate that having to do the same or more with fewer resources is a more significant concern in 2014 compared to 2011. However, high staff turnover is less of a concern in 2014, when compared to 2011.

**Figure 25: Factors affecting quality of legal services**



<sup>39</sup> The Treasury Board Secretariat administers these public service employee surveys. The results are available online at: <http://www.tbs-sct.gc.ca/pses-saff/2014/introduction-eng.asp>.

#### 4.4. Performance — Demonstration of Efficiency and Economy

Evaluation findings described in the preceding subsections of this report indicate that the Portfolio has managed the delivery of an increased level of legal services to client departments and agencies. In doing so, evaluation findings also indicate that the Portfolio has largely met the need for legal assistance required by these clients. This subsection now turns to the question of whether the Portfolio has implemented adequate measures to maximize outcome achievement, and minimize resource use.

##### The Process Optimization framework

Following the 2012 federal budget, and in conformance with its commitments under the Deficit Reduction Action Plan, the Department of Justice Canada implemented a department-wide initiative known as Process Optimization. The goal of this initiative was to manage the demand and costs of legal service delivery and achieve savings through a number of measures, including a reduction of 72 FTEs employed as legal counsel by the Department. Four portfolios were expected to contribute to the reduction of FTEs including the PSDI Portfolio, with an anticipated reduction of 23 FTEs over a three-year period (2012/13 to 2014/15).

The initial components of Process Optimization are included in Table 6. They cover both advisory and litigation services and they vary in nature. In some cases, the goal is to increase monitoring, which speaks to the organization of the work within DLSUs and regional offices. In other cases, there are specific targets established, such as the benchmarking component applied to immigration files. Finally, the increased reliance on paralegals involves both a recruitment and a training component to enhance the use of these individuals.

**Table 6: Process optimization measures (2012)**

Advisory services	Litigation services
<ul style="list-style-type: none"> <li>• Screen and prioritize client requests</li> <li>• Reduce number of lawyers in files of more than two clients</li> <li>• Monitor files with more than two LAs</li> <li>• Monitor files exceeding 75 hours</li> <li>• Apply project management principles to major files</li> <li>• Increase reliance on paralegals</li> </ul>	<ul style="list-style-type: none"> <li>• Benchmark for certain immigration-related files</li> <li>• Apply project management approach to major files</li> <li>• Negotiate level of services with clients early on</li> <li>• Monitor files exceeding two LAs or 100 hours (reduce by 4.5% time spent on litigation files)</li> <li>• Increase reliance on paralegals</li> </ul>

During the period covered by the evaluation, the PSDI Portfolio has proceeded with the implementation of a number of initiatives, including more predominantly the following ones:

- *Multi-client files*: In January 2012, the Portfolio implemented the multi-client process, which applied to all advisory work involving three or more PSDI client departments or agencies. Under this initiative, the heads of all DLSUs involved in a multi-client file were expected to work with a designated person within the ADAG Office to appoint one lead counsel who would be responsible to carry out the assignment. This was to avoid scenarios where each DLSU involved in such a file would assign a lead counsel, leading to a potential “over-lawyering,” or duplication of efforts. Depending on the nature of the file and the extent of the work required, the lead counsel is in essence the file project manager who is expected to assign specific tasks to other legal counsel as required.
- *Benchmarking*: In April 2013, the Portfolio fully implemented the benchmarking initiative. It was developed in recognition that client departments are under pressure to reduce their legal budgets. The purpose of the initiative was to establish benchmarks or targets in terms of time spent on certain types of litigation so that overall, less time is spent on low- to medium-complexity files. Initially, it covered leave applications heard by the Refugee Protection Division (RPD) of the Immigration and Refugee Board for low complexity and low or medium risk files. In November 2013, the initiative was expanded to also include leave applications heard by the RPD on medium complexity and low or medium risk files. During the same period, the Portfolio launched a pilot project to set guidelines for the maximum amount of time to be spent on the further memorandum of argument in low and medium complexity, and low or medium risk RPD judicial reviews where the government is the respondent.
- *Screening of client requests*: Heads of DLSUs were asked to negotiate, as applicable, processes to screen out low complexity matters. Instead of assigning a legal counsel, the DLSU was expected to provide templates and precedents that could be used by client representatives in dealing with these files.

Arguably, other activities have been undertaken by the Portfolio, including those related to the monitoring of files, but these do not appear to have been systematically documented.

## **Results at the time of the evaluation**

The Portfolio has made progress on a number of its optimization initiatives, while other results are expected to be realized in the next several years, beyond the time frame covered by this evaluation.

Interviews conducted as part of this evaluation indicate that the multi-client protocol has been implemented and appears to have been reasonably well received by both legal counsel and client departments and agencies. Evaluation findings indicate that this initiative has addressed a perception among client departments and agencies that some files appeared to be over-staffed, raising cost concerns. Legal counsel interviewed as part of this evaluation also noted that the multi-client protocol largely reflected existing practices among a number of DLSUs and, as such, did not require fundamental changes in operational practices.

Administrative data on the benchmarking initiative is showing positive results. During the first phase of the initiative's implementation, which covered leave applications heard by the RPD for low complexity and low to medium risk files, the proportion of files meeting the set benchmark moved from 58% in 2011/12 to 82% in 2013/14. This has led to a reduction in the number of hours dedicated to these files in 2013/14 that is equivalent to approximately 5 FTEs. While data is only partially available for the other components of this initiative, they appear to also lead to a reduction in the number of hours invested in the targeted types of immigration files.

Evaluation findings also indicate that the screening out of low complexity advisory matters has been implemented in some of the DLSUs included in the Portfolio. Interviews conducted as part of this evaluation confirm that some of the PSDI clients are now managing these types of files with minimum involvement from their DLSU.

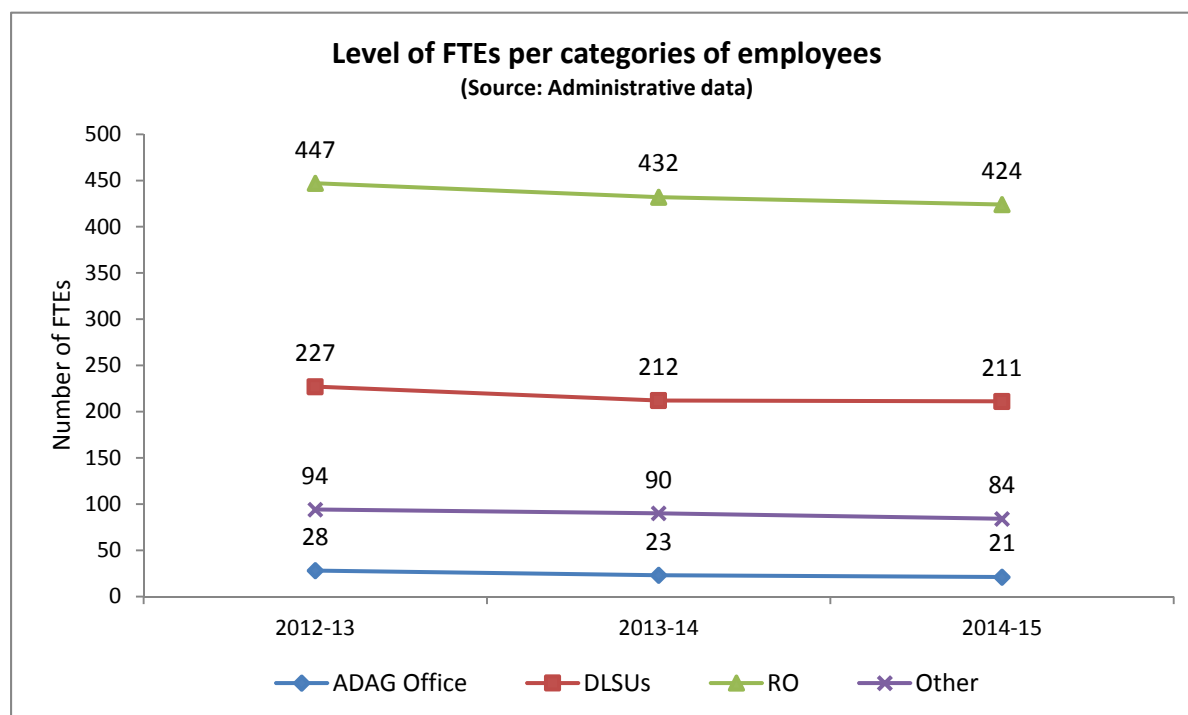
Evaluation findings indicate that the Portfolio is intending to focus more on the use of paralegals, as this aspect of the initiative has yet to be fully implemented.

## **Reductions in FTEs assigned to the Portfolio**

Despite the fact that the overall volume of legal services provided by the Portfolio has increased over the period covered by the evaluation, the number of FTEs assigned to the Portfolio has decreased over the later part of that period, which coincided with the implementation of the Process Optimization initiative. As illustrated in Figure 26, the total number of FTEs assigned to the Portfolio decreased by 7%, moving from 796 FTEs at the end of 2012/13 to 740 FTEs as of February 20, 2015. While all sub-components of the Portfolio have seen a reduction in their level

of FTEs, the ones most affected have been the ADAG Office (reduction of 25% in FTEs), followed by other services such as Public Law Sector and the Civil Litigation Sector (reduction of 10%), the DLSUs (reduction of 7%), and the regional offices (reduction of 5%).

**Figure 26: Level of FTEs per categories of employees**



There has also been a reduction in the proportion of hours assigned to LA-2s as compared to LA-1s over the course of the evaluation period, particularly in advisory work. The implementation of the Law Practice Model has encouraged managers to assign legal work to the most appropriate level of counsel, where possible, including using the most senior legal counsel on the more complex and high risk matters. The use of paralegals in litigation files has increased as well during the same period, which is another cost-saving measure. A new department-wide initiative allows managers to “borrow” paralegal staff from a cadre of trained individuals ready to work as needed department-wide (and therefore not requiring managers to keep paralegals on staff irrespective of the level of demand for their services). This initiative is another cost-saving measure that will be piloted as part of the changes being implemented through the Legal Services Review in 2015.

## **Overall achievements**

While acknowledging that some of the measures under Process Optimization cannot yet be readily measured in terms of their impact, evaluation findings indicate that the Portfolio has implemented measures that aimed to maximize the achievement of results, while minimizing the use of resources.





## **5. CONCLUSIONS AND RECOMMENDATIONS**

This section of the report provides conclusions on each of the evaluation issues addressed in this report and recommendations are included as applicable.

### **5.1. Relevance**

#### **Addressing the need and priorities of the federal government**

The work of the PSDI Portfolio is highly integrated in the ongoing operations of its client departments and agencies. Through its advisory, litigation, and legislative work, the Portfolio helps these departments and agencies fulfill their mandates by providing critical legal support as they carry on their operations, implement new policies, programs, or legislative initiatives, or engage in litigation activities.

Throughout the period covered by the evaluation, the demand for services provided by the Portfolio has steadily increased. Among the factors that contributed to this trend is the increasing complexity of legal issues faced by client departments and agencies, resulting in part from the desire to implement highly integrated solutions to emerging policy challenges.

In this context, there is a strong rationale for ensuring a proper coordination of legal services. The need for consistency, particularly in files involving multiple departments and agencies, or where high volume of litigation work is expected (such as litigation related to immigration law), requires efficient monitoring and coordination mechanisms. Evaluation findings indicate that the Portfolio has articulated a clear vision for the coordination of litigation work related to immigration and refugee files. It has yet to articulate as clear a vision when it comes to other areas of law covered by its mandate.

#### **Responding to federal priorities**

Fundamental changes to immigration and refugee processes, a wide-ranging law and order legislative agenda, and new measures related to national security and anti-terrorism have been

some of the federal priorities that have mobilized considerable resources within the PSDI Portfolio. This work was carried out in addition to the ongoing operational support that the Portfolio provides to all its client departments and agencies.

### **Alignment with federal roles and responsibilities**

The Minister of Justice holds a legislative responsibility to act as the official legal advisor to all federal departments and agencies, and to conduct litigation for or against the Crown. This highly centralized structure facilitates a consistent approach to legal service delivery, which must systematically consider both legal and policy considerations. The PSDI Portfolio, much like all other portfolios, plays a critical role in supporting the Minister of Justice, through its operational and management activities.

## **5.2. Design of the Public Safety, Defence, and Immigration Portfolio**

### **Mandate of the Portfolio**

The mandate of the Portfolio includes two complementary dimensions. First, from an operational perspective, it directly supports DLSUs included within its scope, and regional offices for the work they perform. This is achieved through budget and resource allocations, and the implementation of department-wide or portfolio-specific management initiatives. Secondly, the mandate of the Portfolio includes a dimension related to the management of the law pertaining to public safety, defence, and immigration. This is achieved through monitoring, coordination, and the provision of knowledge-specific tools and resources.

These two dimensions of the role of the Portfolio are generally well understood, by both managers and legal counsel involved in specific files. This is particularly important in order for legal counsel to appreciate and engage in initiatives that cover these two dimensions of the Portfolio's mandate.

### **Composition**

The composition of the Portfolio has evolved over the years, moving from a single entity that focused on immigration matters, to a grouping of nine entities that cover a much wider set of policy issues. While the extent to which all components of the Portfolio share common goals and priorities is bound to fluctuate, the current composition of the Portfolio rests on a fairly strong

rationale. There is some overlap in the range of issues that all components of the Portfolio must deal with, particularly as it relates to public safety and national security.

As collaboration must, from time to time, extend beyond the Portfolio, the evaluation has found no systematic barriers that would limit the ability of Portfolio components to collaborate with federal departments or agencies that belong to other portfolios.

### **Governance structure and processes**

Managers within the Portfolio participate in structures and processes that facilitate the exchange of information and the collaboration among and between DLSUs and regional offices. These structures have facilitated the flow of information related to Portfolio and department-wide initiatives, as well as to national security and immigration legal issues.

In order to support its ongoing operations, as well as the implementation of corporate initiatives (such as those related to Process Optimization), the Portfolio collects and analyzes financial and performance data. The value of this information is largely determined by its accuracy. In the case of the iCase data, there are some issues with respect to consistency that have yet to be addressed, particularly in the approach used to open advisory files and to record litigation support work. These limitations aside, the Portfolio is able to access valuable data and information on the services it provides, which supports the ongoing management of the Portfolio, and accountability mechanisms such as this evaluation.

## **5.3. Performance**

The analysis of performance covers both the achievement of expected outcomes, and the extent to which outcomes have been achieved in an efficient and effective manner.

### **5.3.1. Outcome achievement**

#### **Support provided by the Portfolio**

During the fiscal year 2013/14, the PSDI Portfolio actively managed approximately 25,000 files that required over 700,000 hours of legal work. Just over two-thirds (67%) of these hours were for litigation work, while 29% were for advisory work and the remaining 4% for legislative work. As already noted, the volume of work has steadily increased over the period covered by the evaluation. In the case of litigation hours, there has been an increase of 72% between

2008/09 and 2013/14, whereas the increase in advisory hours has been 53%, although this can be attributed largely to the introduction of two new DLSUs in 2009/10.

CIC exhibits the highest levels of litigation work in PSDI. In 2013/14, more than 10,000 litigation files were associated with this department. The trend in litigation work performed for CIC during the period covered by the evaluation was driven, in part, by legislative changes that addressed significant backlogs accumulated in relation to immigration and refugee applications made to the Immigration and Refugee Board. The CBSA, the RCMP, and CSC were also particularly involved in litigation activities.

Regional offices, as well as the Litigation Branch (covering the NCR) have carried out the bulk of PSDI's litigation work, while DLSUs have provided litigation support, particularly through maintaining ongoing communications with client departments and agencies. The vast majority of litigation files in which the Portfolio has been involved have been of low or medium complexity, and of low or medium risk. Approximately one percent of litigation files are considered high complexity or high risk. It should be noted that, during the period covered by the evaluation, a fair portion of litigation files had been closed without being assessed as to their level of complexity or risk.

Largely as a result of the implementation of the Law Practice Model, there has been an increase in the level of litigation work carried out by LA-01 legal counsel, matched by a decrease in the involvement of LA-02 legal counsel.

In terms of advisory work, the level of support provided to client departments and agencies is largely driven by the range and intensity of policy initiatives in which departments and agencies have been engaged. In the early portion of the period covered by the evaluation, CIC required the highest level of advisory support as it designed and implemented significant reforms to immigration and refugee processes. Later on, CBSA and CSIS experienced significant increases in the demand for advisory work, as national security initiatives were being pursued.

DLSUs are principally responsible for providing advisory services, but data indicates that regional offices have also been engaged, to some extent, in the provision of these services. Much like the trend experienced in litigation work, the implementation of the Law Practice Model has led to some shifts in the distribution of work, from LA-02 to LA-01.

For both litigation and advisory work, specialized units within the Public Law Sector have provided significant support to PSDI legal counsel.

### **Ability to meet client needs**

The ultimate goal of the PSDI Portfolio is to provide high quality legal services to its client departments and agencies. For the purpose of the evaluation, quality has been defined by the ability of the Portfolio to meet client needs by providing legal services that are timely, responsive, and useful.

Both the assessment of client satisfaction done by the Department in 2011 and the evaluation findings collected as part of this evaluation point to a high level of satisfaction among client departments and agencies. Client representatives who participated in the evaluation process indicated that they were in a position to engage in the assessment of legal risk and to use the legal information they were provided with to make more informed decisions.

Based on evaluation findings, it appears that client departments and agencies are increasingly interested in being actively engaged in the assessment of legal risk pertaining to their files and understanding the reasoning behind the opinions provided by PSDI legal counsel. In some circumstances, client departments and agencies also appear more willing to assume greater legal risks. This reinforces the notion that, while legal counsel are responsible for providing legal assessment and opinions, client departments and agencies ultimately make decisions, based on a number of legal, policy, and political considerations.

### **Impact of the coordinating and monitoring efforts**

During the period covered by the evaluation, the NLCT has been actively engaged in the coordination of immigration files. Using the framework contained in the *Blue Book*, the team has provided significant support to the work of legal counsel involved in litigation files related to immigration and refugee matters, which represents the largest volume of litigation work in which the Portfolio is engaged. The team has also provided coordination support in non-immigration files, which are typically high profile and involve a number of client departments and agencies. The evaluation has found, however, that the involvement of the NLCT in non-immigration files does not rest on as clear a framework as the one provided by the *Blue Book* for immigration-related files. This has contributed, in part at least, to the mixed views expressed in relation to the NLCT and its contribution related to non-immigration files.

The NSLT has contributed to the coordination of advisory work related to national security. This team has provided direct support to the ADAG in terms of her functional responsibility for advisory work. Offering in-depth knowledge in national security matters, the NSLT has also

provided direct support to some of the client departments and agencies more predominantly involved in national security. The highly specialized function of the NSLT, combined with the fact that it has only been operating since 2013, have contributed to the fact that its work and, by extension, its contribution remains only partially understood throughout the Portfolio. Similar to the NLCT, the NSLT work does not appear to rest on a clearly articulated framework, which raises potential challenges, particularly as it relates to the other advisory work provided by DLSUs highly specialized in national security matters.

### **Access to required support and tools**

In addition to the support they receive from the Public Law Sector, PSDI legal counsel have access to a number of tools and processes that support the quality of their work and contribute to the consistency in the opinions provided on behalf of the Department of Justice Canada. The Department's legal knowledge portal (Justipedia), practice groups, and peer reviews are seen as being particularly helpful in this regard. In addition, legal counsel have access to some professional activities, although budgetary constraints have limited the ability of legal counsel to access more specialized training.

The one tool that has generally not been reviewed favourably is the legal risk assessment matrix. It does not appear to be particularly well suited for the advisory setting in which many DLSUs operate, and while litigators have been using it as part of the iCase data entry process, they do not appear to find it particularly helpful in managing their files. It should be noted, however, that the collection of risk assessment in iCase does support broader reporting purposes, at the Portfolio level.

The evaluation noted some challenges with consistency of data entry in iCase, particularly with respect to legislation and litigation support (which was sometimes coded as advisory by some groups and as litigation by others). For the next evaluation, data should also be available on the risk levels associated with advisory files.

### **5.3.2. Efficiency and economy**

The Portfolio has implemented measures to maximize the achievement of its results, while minimizing the use of its resources.

The department-wide framework provided by the Process Optimization initiative launched in 2012 has guided a number of efficiency measures within the Portfolio. Of particular significance

is the benchmarking initiative applicable to immigration and refugee litigation files. Since these files mobilize the largest portion of resources within the Portfolio, they consequently present the largest opportunity for achieving greater efficiency. This is particularly applicable to files that are in the lower range of both complexity and risk. Early findings confirm that the benchmarking initiative is producing positive results. A greater proportion of immigration and refugee files are now completed with a lesser investment in legal counsel time. The Portfolio is pursuing the implementation of other sub-components of the benchmarking initiative and is collecting the required data to measure their impact.

Other measures have also been implemented, including the multi-client protocol and the screening of client requests relating to low complexity advisory matters, but the impacts of these initiatives cannot yet be as readily measured.

Other efficiency measures, such as the greater use of paralegals, were still being implemented at the time of the evaluation.

#### **5.4. Recommendations**

The recommendations for the evaluation are listed below.

##### **5.4.1. Clarity of roles and responsibilities**

An issue that arose in the course of the evaluation was the lack of clarity with respect to the roles of the NLCT and the NLST, particularly as they relate to other national security legal work being conducted by the PSDI staff in the DLSUs and regions. Counsel indicated that they had a relatively limited understanding of how these two entities worked, even those who had had experience working with them on files. In particular, they did not understand why certain files were chosen to be managed by the NLCT or the NLST.

**Recommendation 1: It is recommended that the roles and responsibilities of the NLCT and the NLST be clarified, particularly in the context of other PSDI national security work.**

#### **Management Response:**

Agreed.

The roles and responsibilities of the NSLT and particularly the NLCT have changed in recent years with the establishment of a broader mandate. As such, it is important to ensure that the roles and responsibilities of these two units are well understood within the Portfolio and Justice.

#### **5.4.2. Consistency of data entry into iCase**

PSDI has been active in trying to measure and improve its performance. However, in the course of this evaluation, it was noted that DLSUs do not use a consistent approach to opening advisory files, particularly for those files that only require limited work. Some legal counsel have recorded this work under *general advisory files*, while others have opened a new specific advisory file for each matter. Unless these practices are the same, it will limit the capacity of the data to support reliable performance measures.

Secondly, the litigation support work provided by DLSUs does not appear to be recorded in a consistent manner. Some DLSUs record this work under the *advisory* category, whereas other DLSUs recorded this work under the *litigation* category. Such inconsistencies in data collection practices across the Portfolio can undermine the overall usefulness of the data collected.

Finally, the collection of legislation data is likely incomplete, particularly between the years 2008/09 and 2009/10. In addition, late in the evaluation reporting process, the evaluation discovered an anomaly with the reporting of legislative hours in at least one DLSU, which made it difficult to compare the legislative activity of individual departments.

**Recommendation 2: It is recommended that the iCase protocol be fully implemented by PSDI in order to improve the overall integrity of the iCase data.**

#### **Management Response:**

Agreed.

We agree with the recommendation and fully support the implementation of the new iCase protocol across the Portfolio.

With respect to the gap in DLSU consistency with respect to recording time for litigation support, the Portfolio in 2013 provided all its DLSUs the guidelines for recording litigation support work and communicated the importance of a standardized data approach. Recent data shows that litigation support work is properly recorded.



With respect to the gap in certain legislative time-keeping, this anomaly was reported in one DLSU and has already been corrected. Further, proposed departmental changes to the legal services funding model will ensure that such data collection anomalies will no longer occur.

### **5.4.3. Training**

The survey of legal counsel indicates that over two-thirds of respondents (68%) were either very satisfied (10%) or satisfied (58%) with the professional development currently offered. During interviews, it was noted that the diversity in the areas of law covered by the Portfolio makes it challenging to systematically offer relevant training activities. Some legal counsel interviewed as part of this evaluation indicated that the topics covered during the Portfolio's learning days rarely coincided with their area of practice. In the case of regional offices, there are strict travel limitations that considerably reduce their access to these activities.

There was a general recognition among managers interviewed as part of this evaluation that, while the Department can meet a range of professional development needs, it would be beneficial to provide greater access to external learning activities. However, current budgetary constraints limit the ability of the Portfolio to expand the access to these types of learning activities.

**Recommendation 3: It is recommended that the training needs of PSDI legal counsel be examined to determine current gaps and to explore innovative and cost-effective ways of offering/delivering this training.**

#### **Management Response:**

Agreed.

PSDI is committed to fostering an environment that favours and facilitates continuous learning and professional development for all lawyers, including providing training opportunities offered outside of the Department.



**Appendix A:  
Evaluation Matrix**

## Evaluation framework for the evaluation of the PSDI Portfolio

PSDI Evaluation Issue	Evaluation Questions	Performance Indicator	Data Sources/Methods
<b>Relevance</b>			
Continued Need for the PSDI Portfolio	1. To what extent does PSDI address the needs of the Government of Canada and federal client departments and agencies?	Extent, scope and nature of demand for PSDI legal services (litigation, legal advisory services, law management and practice), related to PSDI Portfolio cases and issues	PSDI ICase reports/analysis PSDI administrative files/analysis PSDI staff/interviews PSDI clients/interviews
		Trends (past, current, forecasts) in public safety, national security, defence and immigration issues requiring federal legal services	Trends reports/analysis PSDI staff/interviews PSDI clients/interviews
Alignment with Government Priorities	2. To what extent are the activities of PSDI aligned with (1) The Government of Canada priorities and (2) The strategic priorities of the Department of Justice?	Extent to which the work of PSDI is aligned to the needs of the Government of Canada	PSDI staff/interviews PSDI clients/interviews Justice staff/ interviews
		Extent to which the activities of PSDI are aligned with (1) The Government of Canada priorities and (2) The strategic priorities of the Department of Justice	Speech from the Throne, Federal Budget/analysis Justice strategic priorities/analysis PAA/analysis PSDI Business Plan/analysis RPP/DPR
Alignment with Federal Roles and Responsibilities	3. To what extent do the activities of PSDI align with federal roles and responsibilities?	Extent to which the activities of PSDI align with: 1. Federal roles and responsibilities and 2. Government of Canada's legal obligations and framework (national and international)	Constitutional/Statutory Authorities/analysis PAA/analysis
<b>Portfolio Design</b>			
PSDI Design	4. Are the mandate and objectives of PSDI clear?	Evidence, scope and clarity of PSDI mandate and objectives	PSDI historic development/contextual analysis Business Plans/analysis PSDI staff/interviews
	5. Is the PSDI DLSU composition appropriate given the legal service needs of the Government of Canada?	Appropriateness of PSDI DLSU composition in relation to Government of Canada legal service needs, and to the PSDI mandate and objectives	PSDI historic development contextual analysis Business Plans/analysis PSDI staff and clients/interviews or focus groups Justice staff/interviews
	6. Are PSDI governance structures appropriate, clearly understood and being implemented as intended?	Appropriateness of PSDI governance structures as planned	PSDI administrative files/analysis PSDI staff and client/interviews or focus groups

PSDI Evaluation Issue	Evaluation Questions	Performance Indicator	Data Sources/Methods
	7. Are PSDI processes (e.g. coordination and communication) structured in such a way that the Portfolio is likely to achieve its planned results?	Appropriateness of PSDI processes as planned to support the achievement of results	PSDI administrative files/analysis PSDI staff and clients/interviews or focus groups
PSDI Performance Monitoring and Evaluation Capacity	8. Is there sufficient capacity within PSDI to support ongoing quality improvement, performance measurement and evaluation?	Sufficiency of capacity and resources, including methods/systems to support ongoing quality improvement, performance measurement and evaluation	PSDI administrative files/analysis PSDI staff/interviews
<b>Performance</b>			
<b>Achievement of Expected Outcomes</b>			
<i>Direct Outcomes</i>			
	9. To what extent has PSDI provided high-quality, cost-effective legal services?	Nature and scope of PSDI legal services and activities undertaken in relation to Government of Canada needs/requirements	PSDI administrative files/analysis PSDI legal files/analysis ICASE reports/analysis Litigation files/analysis
		Nature, number of strategies and tools that PSDI utilizes to assess, plan and manage costs in delivery of legal services	PSDI administrative files/analysis PSDI staff interviews/analysis PSDI case studies/analysis
		Usefulness of tools	PSDI administrative files/analysis PSDI staff interviews/analysis PSDI case studies/analysis
		Number and percentage of files being litigated by PSDI by nature and scope of complexity and legal risk	PSDI legal files/analysis ICASE reports/analysis Litigation files/analysis
		Level of effort dedicated to the provision of PSDI litigation services (by nature and scope of complexity and legal risk of files, type/nature of issues)	PSDI administrative files/analysis PSDI legal files/analysis ICASE reports/analysis Litigation files/analysis
		Proportion of PSDI files where more than one client is involved	PSDI administrative files/analysis PSDI legal files/analysis ICASE reports/analysis Litigation files/analysis
		Level of effort dedicated to the provision of PSDI legal advisory services (by files involving one client and more than one client, and type/nature of issues)	PSDI administrative files/analysis PSDI legal files/analysis ICASE reports/analysis Litigation files/analysis
		Number/type/nature of PSDI's law management and practice efforts (e.g. tools, resources) towards quality assurance to deliver legal services (planned/undertaken)	PSDI administrative files/analysis PSDI staff and client/interviews or focus groups PSDI case studies/analysis

PSDI Evaluation Issue	Evaluation Questions	Performance Indicator	Data Sources/Methods
		Number/type/nature of professional development (e.g. practice groups) and training sessions, presentations delivered and results achieved	PSDI administrative files/analysis Professional Development/training session reports/analysis PSDI staff /interviews Clients/interviews Practice Group Files/Analysis
		Extent to which PSDI clients are satisfied with the timeliness, responsiveness, usefulness and overall quality of PSDI legal services provided relative to costs of service provided.	Justice Client Feedback survey/analysis PSDI client interviews or focus groups/analysis Justice staff/interviews PSDI legal files/analysis PSDI case studies/analysis
	10. To what extent has awareness/understanding within the federal government of legal issues and options for mitigating legal risk been enhanced?	Strategies and tools that PSDI utilizes to enhance awareness and understanding of legal issues and options for mitigating risk	PSDI administrative files/review PSDI staff/Interviews Professional Development & Training activity feedback /analysis Case studies/analysis
		Nature/level of awareness/understanding within client federal departments and agencies of legal issues and options for mitigating legal risk	Case studies/analysis Clients/interviews
<b>Intermediate Outcomes</b>			
	11. To what extent is PSDI contributing to the achievement of the Government of Canada’s policy and operational objectives, in accordance with the rule of law?	Evidence that PSDI approach is effective in achieving a coordinated, consistent and responsive approach that contributes to achievement of the Government of Canada’s policy objectives	PSDI administrative files/analysis PSDI staff and clients/focus groups PSDI case studies/analysis
		Evidence that PSDI approach is effective in achieving a coordinated, consistent and responsive approach that contributes to achievement of the Government of Canada’s operational objectives	PSDI administrative files/analysis PSDI staff and clients/focus groups PSDI case studies/analysis
	12. To what extent is PSDI contributing to government departments and agencies being better able to fulfill their mandates and manage their legal risks?	Trends in Crown results for litigation files	Performance Reports/Analysis
		Number and percentage of files where legal risk is reported as high, and nature of strategies that PSDI identifies and advises to manage/mitigate risk	PSDI litigation files/analysis PSDI client interviews/analysis PSDI legal files/analysis PSDI case studies/analysis

PSDI Evaluation Issue	Evaluation Questions	Performance Indicator	Data Sources/Methods
		Nature/effectiveness of structures and processes to manage and mitigate risks at strategic and operational levels	PSDI client interviews/analysis PSDI legal files/analysis PSDI case studies/analysis
		Extent to which PSDI and clients are effectively engaged in working together to manage/mitigate risk (informally and formally)	PSDI client interviews/analysis PSDI legal files/analysis PSDI case studies/analysis
		Extent to which clients assess that PSDI is contributing to 1. their ability to fulfill their mandates and 2. the identification and assessment of legal risks related to client issues <sup>17</sup>	PSDI litigation files/analysis PSDI client opinion/focus groups PSDI legal files/analysis PSDI case studies/analysis
		Extent to which government decision- makers perceive that PSDI contributes to the decision-making and legal risk management process	PSDI client opinion/focus groups Justice staff/interviews PSDI legal files/analysis PSDI case studies/analysis
		Extent/nature of PSDI legal advice that contributes to client policy and legislative development	PSDI client opinion/focus groups PSDI legal files/analysis PSDI case studies/analysis
<b>Ultimate Outcome</b>			
	13. To what extent is PSDI contributing to a federal government supported by high quality legal services?	Cumulative	Cumulative/contribution analysis
<b>Efficiency and Economy</b>			
Demonstration of Efficiency and Economy	14. Has the PSDI resource utilization been appropriate and cost- effective?	Budget and work plan priorities and activities in relation to PSDI outputs	PSDI administrative files/analysis PSDI Budget and Business Plan/analysis PSDI client agreements/analysis PSDI staff/interviews
		Appropriateness of management structures, processes and tools to support efficiency and effectiveness of service delivery (e.g. mix of FTEs, hours of work in relation to complexity and level of legal risk of file)	PSDI governance structures and processes/analysis PSDI administrative files/analysis PSDI staff and clients/interviews or focus groups
		Extent to which roles and responsibilities to support cost effective-delivery are communicated and understood by Justice counsel	PSDI governance structures and processes/analysis PSDI administrative files/analysis PSDI staff and clients/interviews or focus groups

PSDI Evaluation Issue	Evaluation Questions	Performance Indicator	Data Sources/Methods
		Type/nature of challenges (e.g. staffing, internal support, including information technologies) that influence ability to achieve outcomes cost-effectively	PSDI administrative files/analysis PSDI Budget and Business Plan/analysis PSDI staff/interviews
		Nature/extent of PSDI efforts, including outreach to clients and joint management strategies, to deliver legal services cost-effectively (past, current and planned efforts)	PSDI administrative files/analysis PSDI staff/interviews
		PSDI human resource plans/requirements versus actual profile	PSDI human resources plans/analysis
	15. Is the PSDI capacity to deliver legal services, and to provide effective national strategic coordination, appropriate and sufficient, given the current and forecasted demand?	Level, scope and nature of PSDI and client activities in relation to demand for legal services, including national strategic coordination	PSDI administrative files/analysis PSDI staff interviews/analysis PSDI client agreements/analysis PSDI client interviews/analysis
	16. Are PSDI activities sufficiently integrated and coordinated to support the achievement of intended results?	Levels, scope and nature of integration and cooperation within (1) PSDI (2) Justice (3) Client departments and agencies and externally (i.e. nationally, internationally)	PSDI administrative files/analysis PSDI staff /interviews Justice staff/interviews PSDI clients/interviews PSDI case studies/analysis
17. Are there alternative ways to deliver the same services?	Trends in law practice/service delivery models (within Justice, private sector, international) in delivering legal services 1. Generally, and 2. On public safety, national security, defence, and immigration issues specifically?	Environmental Scan/analysis PSDI staff and client focus groups/analysis	



**Appendix B:  
Logic Model**



## PSDI Logic Model

The PSDI Logic Model is a graphic, strategic-level “map” that identifies the objectives, activities, outputs and intended results that PSDI intends to reach. It forms the foundational basis for the evaluation.

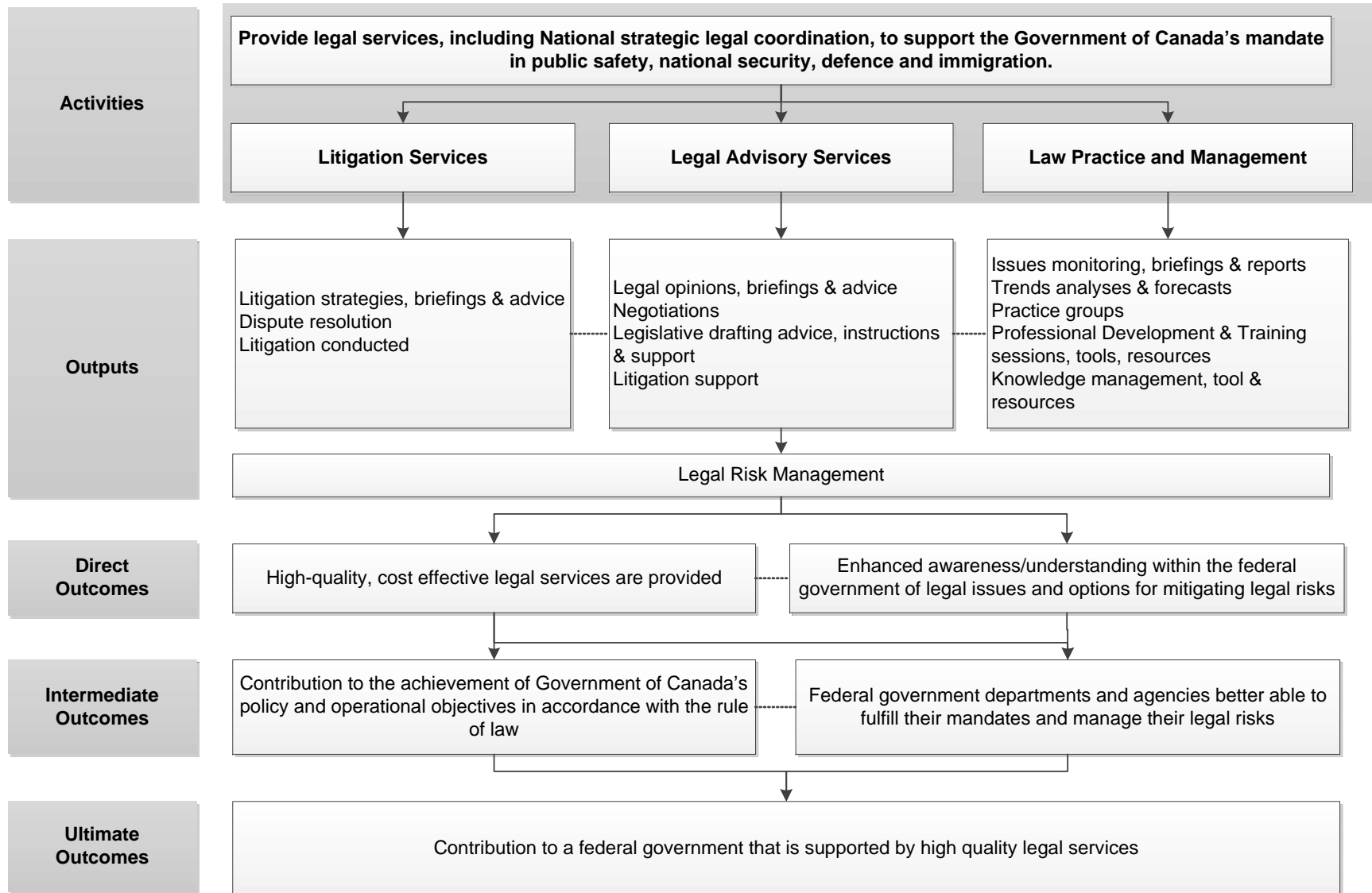
It is important to note that the PSDI Logic Model is a high level, strategic tool. It is not meant to reflect the organizational structures and processes of PSDI, nor the lines of accountability within PSDI. It is meant to present the core activities, outputs, and intended results of PSDI as a Portfolio.

In the logic model shown on this document, four overarching PSDI activities are identified. They create outputs or products or services delivered by and within the direct control of PSDI. For example, legal advice is an output that can be readily identified and attributed to the work of PSDI. Outcomes are the intended impacts or results of the activities and outputs. The logic model presents three levels of outcomes:

- *Direct outcomes*, which are the immediate results of PSDI activities and outputs and are generally within the Portfolio’s influence or control.
- *Intermediate outcomes*, which are results to which PSDI contributes, but are beyond the direct influence or control of PSDI. For example, all of PSDI’s activities and specific outputs such as legal advice are intended to directly result in the provision of high quality, cost-effective legal services. Client departments and agencies consider PSDI’s legal advice in light of government policy priorities, operational or other strategic considerations. PSDI’s work contributes to the decisions and actions of its clients, which in turn facilitates their abilities to fulfill their mandates and manage their legal risks.
- *Ultimate outcome*, which is the departmental-wide second strategic outcome, a federal government supported by high quality legal services. The work of PSDI contributes towards the attainment of this outcome.

The logic model is presented below, followed by a narrative description.

**Public Safety, Defence and Immigration Portfolio Logic Model (exclusive of CAHWC Section, and IRPA Division 9 Cases)**



## **PSDI activities and outputs**

The primary legal service activities that PSDI undertakes are litigation and legal advisory services. In keeping with the Department's focus on high quality, cost-effective legal services, PSDI undertakes a range of law management and practice activities that support and contribute to the expected level of service. In accordance with the Department's legal risk management approach, PSDI identifies and assesses legal risks related to the legal issues of concern to its clients, and/or that may have a broader impact on the Government of Canada. National strategic coordination of legal issues and cases is woven throughout the services provided by the Portfolio, as required, and as noted earlier in this profile, there are specific structures and processes to continuously improve this function.

An overview of the three inter-related activities follows below:

### ***Legal Advisory Services***

Legal advisory services comprise a range of activities, including the research, drafting and provision of legal opinions and advice. Given the high volume of policy and legislative initiatives from the PSDI clients, legal support during policy development and approval and legislative and parliamentary processes are significant activities. Legal advisory services also comprise litigation support.

The primary outputs of legal advisory services include legal opinions, briefings and advice, negotiations, legislative drafting advice, instructions and support, and litigation support. This may include single-client, as well as multi-client files.

### ***Litigation Services***

PSDI litigation services comprise a range of activities that pertain to client strategic, organizational and corporate needs. They include consultation with clients to explore litigation options and strategies, the preparation of litigation strategies, support for dispute resolution, and the conduct of litigation. Strategic coordination and legal risk management are integral to the litigation services provided.

### ***Law Practice and Management***

PSDI actively engages and supports law practice and management initiatives in support of advancing best practices in their work with client departments. This includes legal issues

monitoring, and the preparation of related briefings and reports as well as legal trends analyzes and forecasts related to legal issues and legal service practice initiatives. Practice groups, professional development and training sessions, as well as the development and application of tools and resources to aid in knowledge management and service provision are key elements of PSDI law management and practice.

### ***Legal Risk Management***

Legal risk management is an embedded activity and an output of all the legal work done by PSDI in keeping with the Departmental approach.

### **PSDI direct outcomes**

There are two direct outcomes to the PSDI work. This first of these is:

*High quality, cost-effective legal services are provided.*

PSDI activities are designed to deliver high quality, cost-effective legal services. Like legal services throughout the Department, PSDI is actively engaged in efforts to ensure a cost-effective approach to service delivery. Given the nature of PSDI client priorities, files and issues, national strategic coordination is a key element influencing the quality of service delivered.

The second direct outcome is:

*Enhanced awareness/understanding within the federal government of legal issues and options for mitigating legal risk.*

PSDI plays a critical role in enhancing awareness and understanding within federal government departments and agencies, of legal issues and options for mitigating legal risk on public safety, national security, and defence and immigration issues. Strategic coordination and legal risk management are embedded throughout PSDI legal services.

### **PSDI intermediate outcomes**

There are two inter-related intermediate outcomes to the PSDI work:

*Contribution to the achievement of the Government of Canada's policy and operational objectives, in accordance with the rule of law.*

Through all of its activities, PSDI contributes to the efficient and effective provision of high quality legal services to its clients in policy and operational arenas. As noted in this profile, it is a complex, multi-faceted operating environment. PSDI efforts are intended to support and advance client priorities and operations. Their actions influence, yet do not control decision-making.

*Government departments and agencies better able to fulfill their mandates and manage their legal risks.*

PSDI works collaboratively with clients and government officials to determine options and strategies to prevent, mitigate or effectively manage legal risk. Given the often inter-related nature of PSDI client files and issues, it is important that legal risk management encompass in a strategic and synergistic way, a whole-of-government approach.

### **PSDI ultimate outcome**

Like all legal services within the Department, PSDI's activities are linked to the strategic outcome of the Department:

*Contribution to a federal government that is supported by high quality legal services.*





**Appendix C:**  
**Data Collection Instruments**



## **Interview Guide – Representative of the PSDI Portfolio (Management)**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative, and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work of the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of Regional Offices on PSDI files.*

### **Introduction**

1. Please describe your current roles and responsibilities. Who do you interact with in the Portfolio?

### **Relevance of the PSDI Portfolio Work**

2. In your opinion, what are the most significant factors that require PSDI to play an integrating and coordinating role with respect to providing legal services to its clients? [Q1,2]

3. How have the demands placed on the Portfolio evolved over the past five years? What have been the most significant changes, if any? How has the Portfolio responded to them? [Q2]
4. In your opinion, how is the government's agenda with respect to national security, public safety (including emergency management), defence and immigration affecting the provision of legal services by PSDI counsel? What impact, if any, is this agenda expected to have on the role played by the Portfolio? [Q1,2]

### **Design of the Portfolio**

5. Over time, the role and the composition of the Portfolio have evolved to reflect the changing mandate and needs of its client departments and agencies. Are both the current mandate and objectives pursued by the Portfolio clearly understood within your team? Considering the current structure and composition of the Portfolio, how would you describe the key strengths of the Portfolio? What changes, if any, could be considered to enhance the efficiency and/or the effectiveness of the Portfolio's structure and composition? [Q4,5]
6. In your view, does PSDI provide legal services to the most appropriate mix of departments and agencies to support the government's national security and public safety agenda? If not, what other departments or agencies should ideally be included and/or what departments or agencies should be excluded?
7. The work of the Assistant Deputy Attorney General (ADAG) and Deputy ADAG, and the Portfolio more generally is supported by the National Litigation Coordination Team (NLCT). In the current context, what do you consider to be the main contribution of the NLCT? What changes could be made, if any, to enhance the contribution of the NLCT? [Q6,7]
8. The work of the Assistant Deputy Attorney General (ADAG) and certain DLSUs is also supported by the National Security Law Team (NSLT). In the current context, what do you consider to be the main contribution of the NSLT? What changes could be made, if any, to enhance the contribution of the NSLT? [Q6,7]
9. The ADAG (Litigation Branch) is responsible for the management of national security litigation. In some circumstances, this work is supported by the National Security Group (NSG). How is the work performed by the Litigation Branch coordinated with that undertaken by the PSDI Portfolio? [Q6,7]

10. To what extent is the work undertaken by the Policy Sector coordinated with that undertaken by the PSDI Portfolio? [Q6,7]
11. In your opinion, what impacts, if any, does the work of the Justice National Security and Intelligence Committee (NSIC) and the National Security Coordinator have on that undertaken by the PSDI Portfolio? [Q6,7]
12. The ADAG PSDI is functionally responsible for the work performed by regional office counsel for PSDI clients. What do you consider to be the key challenges in ensuring a consistent approach in the work performed by regional offices? What changes, if any, could be done to enhance this specific aspect of the coordinating role undertaken by the Portfolio? [Q6,7]
13. Please describe how the PSDI Portfolio manages legal risks, in cooperation with client departments. In particular, what are the key tools, strategies, committees or structures currently used to assist in managing legal risks? In your opinion, how efficient and/or effective have they been? What role have clients played in managing these risks? [Q10]
14. What has been the level and the nature of the collaboration between the Portfolio and other specialized sections or portfolios (e.g., Public Law Sector, Litigation Branch and Legislative Services Branch)? How effective has this collaboration been? What change, if any, could improve this collaboration? [Q10]
15. Overall, are there any systemic barriers that limit the ability of the Portfolio to achieve its planned results? If so, please describe these barriers and what you think would be required to address them. [Q7]
16. The Office of Business Management (OBM) is responsible for analysing business issues and requirements related to the work of the Portfolio. To what extent is the OBM capable of producing the information required to effectively monitor the work of the Portfolio and the achievement of its expected results? What change, if any, could be made to enhance the capacity of the OBM? [Q8]

### **Performance - Effectiveness**

17. How would you describe the Portfolio's current capacity to assess, plan and manage both the quality (usefulness, responsiveness, consistency, and timeliness) and the costs of legal services offered? What changes, if any, could be made to enhance this capacity? [Q9]

18. Please describe what you consider to be the key impacts of professional development activities undertaken to date in support of the work of legal counsel (practice groups, training sessions, presentations, etc.)? Should changes to the type and range of issues addressed by professional development be considered (e.g. are the professional development activities sufficient to support the work of PSDI)? If so, please describe. [Q9]
19. In your opinion, has the level of awareness and understanding of legal risks among client departments and agencies improved over the last five years? If so, what do you consider to be the key contributions of the Portfolio towards this outcome? If not, please explain. What more needs to be done? [Q10]
20. How would you describe the nature, level and scope of integration and cooperation within the PSDI Portfolio and, more generally, between the PSDI Portfolio and Justice Canada? [Q16]
21. What do you consider to be the Portfolio's main achievements in ensuring a coordinated, consistent and responsive approach to legal issues pertaining to national security, public safety (including emergency management), defence and immigration? How satisfied are you with this level of coordination? What changes, if any, could be made to enhance this coordination? [Q11,12]
22. What do you consider to be the primary challenges that the Portfolio is facing in reaching its expected results? [Q10,11,12]

### **Performance – Efficiency and Economy**

23. Since 2012, the Portfolio has been implementing a number of strategies to increase the efficiency of its resource utilization (such as those initiatives related to process optimization and benchmarking). In your opinion, how well have the roles and responsibilities related to this goal been communicated and understood by managers in PSDI? [Q14]
24. Please describe what you perceive to be the key results achieved to date in maximizing efficiency. [Q14,16]
25. Are there remaining challenges that influence PSDI's ability to achieve its expected outcomes effectively? What changes, if any, are needed to enhance the processes and tools to maximize resource utilization within the Portfolio? [Q14,16]

26. In light of the limited resources currently available, what do you expect to be the key challenges in responding to the forecasted demands for the services of the Portfolio? [Q15]
27. Are there any aspects of legal management practices or models in other portfolios of Justice Canada or in other jurisdictions that could be considered for implementation within the PSDI portfolio to enhance its efficiency and/or effectiveness? If so, please describe them. [Q17]

**Conclusion**

28. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – Representative of the PSDI Portfolio (DLSU)**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative are subject to separate evaluations, and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work of the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of Regional Offices on PSDI files.*

### **Introduction**

1. Please describe your current roles and responsibilities. Who do you interact with in the Portfolio?



### **Relevance of the PSDI Portfolio Work**

2. Considering the legal issues your client department deals with, particularly those related to national security, public safety (including emergency management), defence or immigration, please describe how the demand for legal services from your DLSU has evolved over the past five years. What has been the most significant change, if any? [Q2]
3. In the current context, is there a continued need for the integrating and coordinating role that the Portfolio plays in supporting your work, particularly as it relates to national security, public safety (including emergency management), defence or immigration? [Q1,2]
4. In your opinion, how is the government's agenda with respect to national security, public safety (including emergency management), defence and immigration affecting the provision of legal services by PSDI counsel? What impact, if any, is this agenda expected to have on the role played by the Portfolio?

### **Design of the Portfolio**

5. Over time, the role and the composition of the Portfolio have evolved to reflect the changing mandate and needs of its client departments and agencies. Are both the current mandate and objectives pursued by the Portfolio clearly understood within your DLSU? Considering the current structure and composition of the Portfolio, how would you describe the key strengths of the Portfolio? What changes, if any, could be considered to enhance the efficiency of the Portfolio's structure and composition? [Q4,5]
6. In your view, does PSDI provide legal services to the most appropriate mix of departments and agencies to support the government's national security and public safety agenda? If not, what other departments or agencies should ideally be included and/or what departments or agencies should be excluded?
7. The work of the Portfolio is supported by the National Litigation Coordination Team (NLCT). [Q6,7]
  - a. Please describe the interactions your DLSU has had with the NLCT.
  - b. In the current context, what do you consider to be the main contribution of the NLCT? What changes could be made, if any, to enhance the work of the NLCT?

8. The work of the Portfolio is also supported by the National Security Law Team (NSLT). In the current context, what do you consider to be the main contribution of the NSLT? What changes could be made, if any, to enhance the contribution of the NSLT? [Q6,7]
9. The ADAG PSDI is functionally responsible for the work performed by regional office counsel for PSDI clients. What do you consider to be the key challenges in ensuring a consistent approach in the work performed by regional offices? What changes, if any, could be made to enhance this specific aspect of the coordinating role undertaken by the Portfolio? [Q6,7]
10. Please describe the key strategies or processes currently used to assist your DLSU in managing legal risks. In your opinion, how effective have they been? What role have clients played in managing these risks? [Q10]
11. What has been the level and the nature of the collaboration between your DLSU and Justice Canada's specialized sections (e.g. Public Law Sector, Litigation Branch, Legislative Services Branch)? How effective has this collaboration been? What change, if any, could improve this collaboration? [Q10]

### **Performance - Effectiveness**

12. Overall, how would you describe the Portfolio's current capacity to assess, plan and manage both the quality (usefulness, responsiveness, consistency, and timeliness) and the costs of legal services offered by DLSUs? What change, if any, could be made to enhance this capacity? [Q9]
13. Please describe what you consider to be the key impacts of professional development activities undertaken in support of the work of legal counsel within your DLSU (practice groups, training sessions, presentations, etc.). Should changes to the type and range of issues addressed by professional development be considered (e.g. are the professional development activities sufficient to support the work of PSDI)? If so, please describe. [Q9]
14. In your opinion, has your client's level of awareness and understanding of legal risks improved over the last five years? If so, what do you consider to be the key contribution of the Portfolio towards this outcome? If not, please explain. What more needs to be done? [Q10]
15. How would you describe the nature, level and scope of integration and cooperation within the PSDI Portfolio and, more generally, between the PSDI Portfolio and Justice Canada? [Q16]

16. What do you consider to be the Portfolio's main achievements in ensuring a coordinated, consistent and responsive approach to legal issues pertaining to national security, public safety (including emergency management), defence and immigration? How satisfied are you with this level of coordination? What changes, if any, could be made to enhance this coordination? [Q9] [Q11,12]
17. What do you consider to be the primary challenges that the Portfolio is facing in reaching its expected results? [Q10,11,12]

### **Performance – Efficiency and Economy**

18. Since 2012, the Portfolio has implemented a number of strategies to increase the efficiency of its resource utilization (such as those initiatives related to process optimization and benchmarking). In your opinion, how well have these initiatives been communicated to and understood by counsel in your DLSU? [Q14]
19. Does your client play a role in improving your DLSU's efficiency in delivering legal services?
20. Please describe what you perceive to be the key results achieved to date in maximizing efficiency. [Q14,16]
21. Are there remaining challenges that influence PSDI's ability to achieve its expected outcomes effectively? What changes, if any, are needed to enhance the processes and tools to maximize resource utilization within the Portfolio? [Q14,16]
22. In light of the limited resources currently available, what do you expect to be the key challenges in responding to the forecasted demands for the services of the Portfolio? [Q15]
23. Are there any aspects of legal management practices or models in other portfolios of Justice Canada or in other jurisdictions that could be considered for implementation within the PSDI Portfolio to enhance its efficiency and/or effectiveness? If so, please describe them. [Q17]

### **Conclusion**

24. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – Representative of the PSDI Portfolio (Managers in Regional Offices)**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative, and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work of the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of Regional Offices on PSDI files.*

### **Introduction**

1. Please describe your current roles and responsibilities. Who do you interact with in the Portfolio?

## Relevance of the PSDI Portfolio Work

2. Considering the range of litigation files involving departments and agencies included in the Portfolio, please describe how the demands for the litigation services from your regional office (RO) have evolved over the past five years. What has been the most significant change, if any? [Q2]
3. In the current context, is there a continued need for the integrating and coordinating roles that the Portfolio plays in supporting your litigation work, particularly as it relates to national security, public safety (including emergency management), defence and immigration? [Q1,2]
4. How do you see the government's agenda evolving in relation to national security, public safety (including emergency management), defence and immigration? What impact, if any, is this agenda expected to have on your services? [Q1,2]

## Design of the Portfolio

5. Over time, the role and the composition of the Portfolio have evolved to reflect the changing mandate and needs of its client departments and agencies. Are both the current mandate and objectives pursued by the Portfolio clearly understood within your RO? Considering the current structure and composition of the Portfolio, how would you describe its key strengths? What changes, if any, could be considered to enhance the efficiency and/or effectiveness of the Portfolio's structure and composition? [Q4,5]
6. The work of the Portfolio is supported by the National Litigation Coordination Team (NLCT). [Q6,7]
  - a. Please describe the interactions your RO has had with the NLCT.
  - b. In the current context, what do you consider to be the main contribution of the NLCT? What changes could be made, if any, to enhance the contribution of the NLCT to your work in the region?
7. The ADAG (Litigation Branch) is responsible for the management of national security litigation. In some circumstances, this work is supported by the National Security Group (NSG). How is the work performed by the Litigation Branch coordinated with that undertaken by the PSDI Portfolio? [Q6,7]

8. The ADAG PSDI is functionally responsible for the work performed by regional office counsel for PSDI clients. What do you consider to be the key challenges in ensuring a consistent approach in the work performed by regional offices? What changes, if any, could be done to enhance this specific aspect of the coordinating role undertaken by the Portfolio? [Q6,7]
9. Please describe how the PSDI Portfolio manages legal risks, in cooperation with client departments. In particular, what key tools, strategies, committees or structures are currently accessible to assist in managing legal risks? How do those tools differ from the ones developed by your RO? In your opinion, how efficient and/or effective have they been? What role have clients played in managing these risks? [Q10]
10. What has been the level and the nature of the collaboration between your RO and the PSDI DLSU? How effective has this collaboration been? What change, if any, could improve this collaboration? [Q10]
11. What has been the level and the nature of the collaboration between your RO and Justice Canada's specialized sections (e.g. Public Law Sector, Legislative Services Branch) on PSDI files? How effective has this collaboration been? What change, if any, could improve this collaboration? [Q10]
12. Overall, are there any systemic barriers that limit the ability of the Portfolio to achieve its planned results? If so, could you describe these barriers and what would be required to address them? [Q7]

### **Performance - Effectiveness**

13. How would you describe the Portfolio's current capacity to assess, plan and manage both the quality (usefulness, responsiveness, consistency, and timeliness) and the costs of legal services offered? What change, if any, could be made to enhance this capacity? [Q9]
14. Please describe what you consider to be the key impacts of professional development activities undertaken to date in support of the work of legal counsel (practice groups, training sessions, presentations, etc.)? Should changes to the type and range of issues addressed by professional development be considered (e.g. are the professional development activities sufficient to support the work of PSDI)? If so, please describe. [Q9]

15. In your opinion, has the level of awareness and understanding of legal risks among client departments and agencies improved over the last five years? If so, what do you consider to be the Portfolio's key contribution towards this outcome? If not, how have you come to this conclusion? [Q10]
16. What do you consider to be the Portfolio's main achievements in ensuring a coordinated, consistent and responsive approach to legal issues pertaining to national security, public safety (including emergency management), defence and immigration? [Q11,12]

### **Performance – Efficiency and Economy**

17. Is there anything that the PSDI Portfolio could do to make your work more effective and efficient?
18. To what extent are counsel at the appropriate level of classification assigned to files, given the risk and complexity levels of the files?
19. What specific steps has the RO taken to reduce legal costs related to PSDI files?

### **Conclusion**

20. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – Representative of the PSDI Portfolio (Counsel in Regional Offices)**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work of the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of Regional Offices on PSDI files.*

### **Introduction**

1. Please describe your current roles and responsibilities. Who do you interact with in the Portfolio?



## Relevance of the PSDI Portfolio Work

2. Considering the range of litigation files involving departments and agencies included in the Portfolio, please describe how the demands for the litigation services from your regional office (RO) have evolved over the past five years. What has been the most significant change, if any? [Q2]
3. In the current context, is there a continued need for the integrating and coordinating roles that the Portfolio plays in supporting your litigation work, particularly as it relates to national security, public safety (including emergency management), defence and immigration? [Q1,2]
4. How do you see the government's agenda evolving in relation to national security, public safety (including emergency management), defence and immigration? What impact, if any, is this agenda expected to have on your services? [Q1,2]

## Design of the Portfolio

5. Over time, the role and the composition of the Portfolio have evolved to reflect the changing mandate and needs of its client departments and agencies. Are both the current mandate and objectives pursued by the Portfolio clearly understood within your RO? Considering the current structure and composition of the Portfolio, how would you describe its key strengths? What changes, if any, could be considered to enhance the efficiency of the Portfolio's structure and composition? [Q4,5]
6. The work of the Portfolio is supported by the National Litigation Coordination Team (NLCT). [Q6,7]
  - a. Please describe the interactions your RO has had with the NLCT.
  - b. In the current context, what do you consider to be the main contribution of the NLCT? What changes could be made, if any, to enhance the contribution of the NLCT to your work in the region?
7. The ADAG (Litigation Branch) is responsible for the management of national security litigation. In some circumstances, this work is supported by the National Security Group (NSG). How is the work performed by the Litigation Branch coordinated with that undertaken by the PSDI Portfolio? [Q6,7]

8. The ADAG PSDI is functionally responsible for the work performed by regional office counsel for PSDI clients. What do you consider to be the key challenges in ensuring a consistent approach in the work performed by regional offices? What changes, if any, could be made to enhance this specific aspect of the coordinating role undertaken by the Portfolio? [Q6,7]
9. Please describe how the PSDI Portfolio manages legal risks, in cooperation with client departments. In particular, what key tools, strategies, committees or structures are currently accessible to assist in managing legal risks? How do those tools differ from the ones developed by your regional office? In your opinion, how efficient and/or effective have they been? What role have clients played in managing these risks? [Q10]
10. What has been the level and the nature of the collaboration between your RO and the PSDI DLSU? How effective has this collaboration been? What change, if any, could improve this collaboration? [Q10]
11. What has been the level and the nature of the collaboration between your RO and Justice Canada's specialized sections (e.g. Public Law Sector, Legislative Services Branch) on PSDI files? How effective has this collaboration been? What change, if any, could improve this collaboration? [Q10]

### **Performance - Effectiveness**

12. How would you describe the Portfolio's current capacity to assess, plan and manage both the quality (usefulness, responsiveness, consistency, and timeliness) and the costs of legal services offered? What change, if any, could be made to enhance this capacity? [Q9]
13. Please describe what you consider to be the key impacts of professional development activities undertaken to date in support of the work of legal counsel (practice groups, training sessions, presentations, etc.)? Should changes to the type and range of issues addressed by professional development be considered (e.g. are the professional development activities sufficient to support the work of PSDI)? If so, please describe. [Q9]
14. In your opinion, has the level of awareness and understanding of legal risks among client departments and agencies improved over the last five years? If so, what do you consider to be the Portfolio's key contribution towards this outcome? If not, how have you come to this conclusion? [Q10]

15. What do you consider to be the Portfolio's main achievements in ensuring a coordinated, consistent and responsive approach to legal issues pertaining to national security, public safety (including emergency management), defence and immigration? [Q11,12]

**Performance – Efficiency and Economy**

16. Is there anything that the PSDI Portfolio could do to make your work more effective and efficient?
17. To what extent are counsel at the appropriate level of classification assigned to the files you have worked on, given the risk and complexity levels of the files?

**Conclusion**

18. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – Representatives of the National Litigation Coordination Team**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, other representatives of Justice Canada, representatives of PSDI Portfolio client departments and agencies, and other non-Portfolio client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of the PSDI Portfolio, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative, and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

*Note: Questions included in this guide are meant to clarify or complement findings that have already emerged from other interviews conducted as part of this evaluation. As a result, questions are typically based on assumptions. Please feel free to comment, clarify or challenge these assumptions.*

### **Introduction**

1. Please describe your current roles and responsibilities. When did you join the National Litigation Coordination Team (NLCT)?

### **Current Mandate of the NLCT**

2. The NLCT first emerged to assist in coordinating litigation relating to immigration. Overtime, the mandate of the NLCT extended to cover other areas of law included in the scope of the Portfolio. :
  - a. At this point in time, approximately what proportion of your time and efforts is dedicated to immigration-related files?
  - b. Please describe the other areas of law (covered by the Portfolio) in which you have been involved over the past three to five years or so.
  - c. Are there areas of law covered by the Portfolio where the NLCT should play a greater role? If so, which ones? Why has the NLCT not been in a position to play a greater role?

### **Assistance in Litigation Cases**

3. The NLCT is expected to contribute to the assessment of legal risks relating to certain litigation files involving more than one department or that are deemed to be of great significance for the Department of Justice Canada.
  - a. Can you describe the process you use to identify files for which you play a role in assessing legal risks?
  - b. Could you describe how you assess legal risks? What tools, if any, do you use to conduct this assessment?
  - c. What role do litigators play in assessing these legal risks?
4. The NLCT has developed the *Blue Book*, which provides national guidelines for legal counsel dealing with immigration files.
  - a. How is the *Blue Book* managed? For instance, who is responsible and what is the process for updating this manual?
  - b. What have been the main benefits of the *Blue Book*? Can you identify ways by which this tool could be made more efficient?

5. As it relates specifically to immigration files, the NLCT participates in the work of the Scratch Legal Issues Committee. Could you elaborate on the role of the NLCT on that committee? Should the scope of its work be expanded to cover other areas of law related to the PSDI Portfolio?
6. The NLCT is expected to review facta or legal opinions prepared in support of certain litigation files.
  - a. What is the process for selecting files for which a review will be done?
  - b. What is the process for reviewing the selected files?
  - c. Based on your experience, what have been the key benefits of these reviews?
7. In certain files, the NLCT participates in the development of contingency plans. This work is done in collaboration with Departmental Legal Services Units representatives and litigators.
  - a. Please describe the process currently used to develop these plans. How effective is that process? Are there ways by which this process could be improved?
8. Could you elaborate on the working relationship between the NLCT and the Litigation Branch of the Department, particularly as it relates to the following components of the Branch:
  - The Litigation Practice Management Centre
  - The Civil Litigation Section
  - The Management of Class Actions and Mass Litigation Unit
  - The National Security Group
  - The National Security Coordinator
  - The International Assistance Group

### **Other Activities**

9. The NLCT is expected to brief the ADAG and other senior officials from the Department on key files or issues of significance for the Portfolio.

- a. Could you describe the current procedures or tools (formal or informal) that are used to carry on this role?

**Conclusion**

10. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – Representatives of the National Security Law Team**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, other representatives of Justice Canada, representatives of PSDI Portfolio client departments and agencies, and other non-Portfolio client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of the PSDI Portfolio, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative, and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

*Note: Questions included in this guide are meant to clarify or complement findings that have already emerged from other interviews conducted as part of this evaluation. As a result, questions are typically based on assumptions. Please feel free to comment, clarify or challenge these assumptions.*

### **Introduction**

1. Please describe your current roles and responsibilities. When did you join the National Security Law Team (NSLT)?



## **Current Mandate of the NSLT**

2. The NSLT is expected to support the Assistant Deputy Attorney General (ADAG) in fulfilling his or her Department-wide functional responsibility for advisory work on national security law issues.
  - a. Could you further describe the Department-wide functional responsibility that is attributed to the ADAG? How does it relate to the work of the Departmental Legal Services Units (DLSUs) included in the PSDI Portfolio, and to the work of the other DLSUs (not included in the Portfolio)?
  - b. Please describe the range of issues that are currently covered in the work of the NSLT. How have they evolved over the past three to five years (nature of the issues, complexity, volume, etc.).
3. The NSLT is expected to serve as the ADAG's eyes and ears on national security matters.
  - a. Can you describe the processes or tools (formal or informal) you use to identify the files for which you intend to play a monitoring or coordinating role? If applicable, please describe how this process could be improved.
  - b. Please describe the processes (formal or informal) you use to determine the *role* you intend to play in an identified file of interest. How are these decisions made? Is this process efficient? If applicable, please indicate how this process could be improved.
4. NSLT's mandate largely focuses on advisory or policy files related to national security. In some circumstances, the group also provides assistance in litigation files. Please elaborate on the circumstances where the NSLT is involved in litigation files. In these cases, how do the roles of the National Litigation Coordination Team and the NSLT align?

## **Monitoring Role**

5. National security issues involve several stakeholders within the Department of Justice Canada, notably the National Security Group and the National Security Coordinator (that both report to the ADAG Litigation), the Policy Sector, and more broadly the National Security and Intelligence Committee.
  - a. How does the role of the NSLT align with the role of these other stakeholders?

- b. Are there other key stakeholders with whom you collaborate or with whom you should be collaborating?
6. What are the processes or tools you currently use to communicate the relevant information to the ADAG? How effective are these processes or tools? If applicable, how could they be improved?
7. If applicable, what are the barriers that may limit your ability to access or effectively relay relevant information to the ADAG?
8. What do you consider to be the NSLT's main achievements in monitoring files or issues related to national security?

### **Coordination Role**

9. In cases where you play a coordinating role, could you describe the types of *activities* you undertake as part of that role? Please consider both scenarios where only one department is involved, as well as multi-client files.
10. What factors, if any, facilitate or hinder your ability to effectively coordinate a file?
11. What do you perceive to be the main benefits of having the NSLT coordinate a file?

### **Conclusion**

12. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – Representative of the PSDI Portfolio (Client Department)**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative, and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions. With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

### **Background Information**

The Department of Justice provides an integrated suite of legal services to the Minister of Justice and to all federal departments and agencies. To facilitate the effective and efficient delivery of legal services, the Department organized itself into sectors, branches, regional offices and portfolios. As it currently stands, the PSDI Portfolio includes Departmental Legal Services Units serving three departments<sup>40</sup> and six agencies<sup>41</sup> (at both the regional and headquarter levels), involved in managing legal files related to national security, public safety, defence and immigration. The PSDI Portfolio also includes the litigation work of Regional Offices in PSDI related files. The legal services provided by PSDI Portfolio are managed and coordinated at the

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<sup>40</sup> These three departments are: Public Safety Canada, National Defence and the Canadian Forces, and Citizenship and Immigration Canada.

<sup>41</sup> These six agencies are: Canada Border Services Agency, Canadian Security Intelligence Services, Correctional Service of Canada, Parole Board of Canada, Royal Canadian Mounted Police, and Communications Security Establishment Canada.

national level by the Office of the Assistant Deputy Attorney General, which includes a number of specialized teams and committees.

The PSDI Portfolio's work is directly shaped by its clients' mandates, operations and policy, and legislative initiatives that pertain to the government's priorities as well as those that more broadly pertain to the government's priorities related to national security, public safety, defence and immigration.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work of the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of the Regional Offices on PSDI files.*

### **Introduction**

1. What are your current roles and responsibilities? Who do you interact with in the Portfolio?
2. Please describe the types of PSDI related files or initiatives on which you (or your staff) have worked on. What were your role and responsibilities when working on these projects?

### **Relevance of the PSDI Portfolio Work**

3. Considering the legal issues your department or agency deals with, particularly those issues related to national security, public safety (including emergency management), defence or immigration, please describe how your demand for legal services from your DLSU, regional office counsel or from other PSDI offices has evolved over the past five years. For example, have there been changes in the volume or nature of legal issues, the complexity and/or urgency of the requests being made, the level of legal risks or any other characteristics? What has been the most significant change, if any? [Q2]
4. How do you see the government's agenda evolving in relation to national security, public safety (including emergency management), defence and immigration? What impact, if any, is this agenda expected to have on your demand for legal services? [Q1,2]

### **Performance - Effectiveness**

5. Based on your experience, overall, how satisfied were you with the services provided by your DLSU, by the regional offices or other PSDI offices? [Q9]

6. More specifically, and again based on your experience, please comment on the following dimensions of the quality of the overall services provided by your DLSU, by regional offices or other PSDI offices: [Q9]
  - a. Their current capacity to respond to your requests in a timely manner.
  - b. The extent to which your department/agency is provided with advice/options appropriate to your policy and program objectives.
  - c. The extent to which legal advice is presented in a manner that meets your needs and expectations.
  - d. The extent to which litigation services offered by regional offices are carried out in a manner that meets your needs and expectations.
  - e. The extent to which your department or agency receives consistent legal advice.
7. The legal advice provided by your DLSU, by regional offices or other PSDI offices is expected to assist your department/agency in understanding and managing legal risks associated with certain decisions or initiatives.
  - a. How effectively has the DLSU, regional offices or other PSDI offices worked with your department/agency to assist you in managing your legal risks?
  - b. Are you aware of the Portfolio's efforts in coordinating the legal work done on issues pertaining to national security, public safety (including emergency management), defence and immigration? What additional steps, if any, could be undertaken to enhance this coordination work?
8. In particular, in files involving multiple departments or agencies (three or more departments or agencies), the Portfolio is expected to coordinate the legal services being offered. To what extent are you aware of these coordination efforts in these files? If so, are you satisfied with the level of coordination achieved? [Q11]
9. Have you participated in any PSDI related training activities or information sessions offered regionally or nationally by your DLSU, by the regional offices or from another part of Justice within the past five years? *[if yes]* What type of training did you receive? Were you satisfied with this training? Was it relevant to your work? [Q9]

10. What challenges, if any, is your DLSU, the regional offices or other PSDI offices facing in providing the PSDI related legal services required by your department or agency? [Q10,11]

**Performance – Efficiency and Economy**

11. Since 2012, the Department of Justice has been implementing a number of strategies to increase the efficiency of its resource utilization. Based on your experience, what has been the impact, if any, of these changes on the services offered by your DLSU or the regional offices? [Q14]

12. To your knowledge, are there any factors that influence the ability of your DLSU or the regional offices to deliver their services effectively? If so, please describe these factors. What changes, if any, are needed to increase the efficiency and/or effectiveness of the services offered? [Q14,16]

13. In light of what you expect to be the demand for the services provided by your DLSU, by the regional offices or other PSDI offices in the short to medium term, how adequate are the current and expected levels of resources provided? What are the resource challenges, if any?[Q15]

**Conclusion**

14. Do you have any further comments relating to this evaluation?

*Thank you for your participation*

## **Interview Guide – Other Justice Canada Sectors, Branches and Portfolios**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work performed by the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of Regional Offices on PSDI files.*

### **Introduction**

1. Please describe your current roles and responsibilities, specifically as they relate to working with the PSDI Portfolio. Who do you interact with in the Portfolio?
2. What type of legal services have you provided to PSDI over the past five years (*e.g., what type of advice; litigation support*)?

### **Relevance of the PSDI Portfolio Work**

3. Considering the legal issues your unit deals with, particularly those issues related to national security, public safety (including emergency management), defence or immigration, please describe how your work with the PSDI Portfolio has evolved over the past five years. For example, have there been changes in the volume or nature of legal issues, the complexity and/or urgency of the requests being made, the levels of legal risk level, file complexity, or any other characteristics? What has been the most significant change, if any? [Q2].
4. In your opinion, to what extent do the services of PSDI meet the needs of the Government of Canada in terms of the provision of legal services? Is there anything you are aware of that would require PSDI to change the way it provides legal services? [Q2]

### **Performance - Effectiveness**

5. Please describe how your work with the PSDI Portfolio is currently structured. We are particularly interested in any processes you may have in place (formal or informal) to deal with files related to national security, public safety, defence or immigration.
6. Please describe your level of satisfaction with the following dimensions of your work with the PSDI Portfolio: [Q9]
  - a. The extent to which your group is consulted in a timely manner.
  - b. The extent to which the timeframes for completing requests are appropriate.
  - c. The extent to which you are consulted on the appropriate issues, at an appropriate level, etc.
7. How does the PSDI Portfolio coordinate/integrate its activities, including those involving multiple departments, with those of your unit (or vice versa)? How satisfied are you with this level of coordination? What changes, if any, could be made to enhance this coordination? [Q9]
8. Over the past five years, has your group provided training either to PSDI legal counsel or to their clients? If yes, what was the nature of this training? Did the training improve the effectiveness of PSDI? [Q9]



**Performance - Efficiency and Economy**

9. Since 2012, the Portfolio has been implementing a number of strategies to increase the efficiency of its resource utilization. Have you seen any changes in your working relationship with PSDI since 2012? If so, please explain. [Q14]
10. How could the PSDI work more effectively and efficiently with your group?

**Conclusion**

11. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – DLSUs Outside of the PSDI Portfolio**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions. With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

### **Background Information**

The Department of Justice provides an integrated suite of legal services to the Minister of Justice and to all federal departments and agencies. To facilitate the effective and efficient delivery of legal services, the Department organized itself into sectors, branches, regional offices and portfolios. As it currently stands, the PSDI Portfolio includes Departmental Legal Services Units serving three departments<sup>42</sup> and six agencies<sup>43</sup> (at both the regional and headquarter levels), involved in managing legal files related to national security, public safety, defence and immigration. The PSDI Portfolio also includes the litigation work performed by Regional Offices on PSDI related files. The legal services provided by PSDI Portfolio are managed and

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<sup>42</sup> These three departments are: Public Safety Canada, National Defence and the Canadian Forces, and Citizenship and Immigration Canada.

<sup>43</sup> These six agencies are: Canada Border Services Agency, Canadian Security Intelligence Services, Correctional Service of Canada, Parole Board of Canada, Royal Canadian Mounted Police, and Communications Security Establishment Canada.

coordinated at the national level by the Office of the Assistant Deputy Attorney General, which includes a number of specialized teams and committees.

The PSDI Portfolio's work is shaped by its clients' mandates, operations and policy, and legislative initiatives that pertain to the government's priorities as well as more broadly those that pertain to the government's priorities related to national security, public safety, national security, defence and immigration.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work performed by the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of the Regional Offices on PSDI files.*

### **Introduction**

1. Please describe your current role and responsibilities. Who do you interact with in the Portfolio?
2. What type of legal service have you provided or sought from PSDI over the past five years (*e.g., what type of advice; litigation support; consultation*)?

### **Relevance of the PSDI Portfolio Work**

3. Considering the legal issues your DLSU deals with, particularly those related to national security, public safety (including emergency management), defence or immigration, please describe how your work with the PSDI Portfolio has evolved over the past five years. What has been the most significant change, if any? [Q2]
4. In your view, does PSDI provide legal services to the most appropriate mix of departments to support its mandate? If not, what other departments or agencies should ideally be included and/or what departments or agencies should be excluded?

### **Performance - Effectiveness**

5. Please describe how your work with the PSDI Portfolio is currently structured. We are particularly interested in any processes you may have in place (formal or informal) to deal with files related to national security, public safety, defence or immigration.

6. Please describe your level of satisfaction with the following dimensions of your work with the PSDI Portfolio: [Q9]
  - a. The extent to which your group is consulted in a timely manner.
  - b. The extent to which the timeframes for completing requests are appropriate.
  - c. The extent to which you are consulted on the appropriate issues, at an appropriate level, etc.
7. How does the PSDI Portfolio coordinate and integrate its activities, including those involving multiple departments, with those of your DLSU (or vice versa)? How satisfied are you with this level of coordination? What changes, if any, could be made to enhance this coordination? [Q9]
8. Over the past five years, has your DLSU provided training either to PSDI legal counsel or to their clients? If yes, what was the nature of this training? Did the training improve the effectiveness of PSDI? [Q9]

**Performance - Efficiency and Economy**

9. Since 2012, the PSDI Portfolio has been implementing a number of strategies to increase the efficiency of its resource utilization. Have you seen any changes in your working relationship with PSDI since 2012? If so, please explain. [Q14]
10. How could the PSDI work more effectively and efficiently with your DLSU?

**Conclusion**

11. Do you have any further comments relating to the work of the PSDI Portfolio?

*Thank you for your participation*

## **Interview Guide – Representative of Senior Management and Central Agencies**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation includes interviews with those working within the Portfolio, with other representatives of Justice Canada, with representatives of PSDI Portfolio client departments and agencies, and with other non-PSDI client departments.

The evaluation covers a five-year period (2008/09 – 2012/13) and focuses on the relevance and performance (effectiveness, efficiency and economy) of PSDI, with the following exceptions: the Crimes Against Humanity and War Crimes Section, the *Immigration and Refugee Protection Act* Division 9 / National Security Inadmissibility Initiative, and the Business Management Office.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions. With your permission, we would like to digitally record the interview to ensure the accuracy of our notes. The audio file will be deleted after the completion of the study.

Finally, some questions may not be applicable to the work being done by your unit. Please let us know, and we will skip those questions.

### **Background Information**

The Department of Justice provides an integrated suite of legal services to the Minister of Justice and to all federal departments and agencies. To facilitate the effective and efficient delivery of legal services, the Department organized itself into sectors, branches, regional offices and portfolios. As it currently stands, the PSDI Portfolio includes Departmental Legal Services Units serving three departments<sup>44</sup> and six agencies<sup>45</sup> (at both the regional and headquarter levels), involved in managing legal files related to national security, public safety, defence and immigration. The PSDI Portfolio also includes the litigation work of Regional Offices in PSDI related files. The legal services provided by PSDI Portfolio are managed and coordinated at the

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<sup>44</sup> These three departments are: Public Safety Canada, National Defence and the Canadian Forces, and Citizenship and Immigration Canada.

<sup>45</sup> These six agencies are: Canada Border Services Agency, Canadian Security Intelligence Services, Correctional Service of Canada, Parole Board of Canada, Royal Canadian Mounted Police, and Communications Security Establishment Canada.

national level by the Office of the Assistant Deputy Attorney General, which includes a number of specialized teams and committees.

The PSDI Portfolio's work is directly shaped by its clients' mandates, operations and policy, and legislative initiatives that pertain to the government's priorities as well as those that more broadly pertain to the government's priorities related to national security, public safety, defence and immigration.

*Note: Unless otherwise stated, any reference in this interview guide to the work of the PSDI Portfolio is meant to include the work of the Office of the Assistant Deputy Attorney General (ADAG), all Department Legal Service Units (DLSU) within the Portfolio, and of the Regional Offices on PSDI files.*

## **Introduction**

1. What are your current roles and responsibilities? How do you interact with the Portfolio?
2. Please describe the types of PSDI related files or initiatives in which you have been involved.

## **Relevance of the PSDI Portfolio Work**

3. Based on your experience and considering the range of issues faced by the federal government in relation to national security, public safety (including emergency management), defence or immigration, please describe how the demand for legal services from the PSDI Portfolio has evolved over the past five years. For example, have there been changes in the volume or nature of legal issues, the complexity and/or urgency of the requests being made, the level of legal risks or any other characteristics? What has been the most significant change, if any? [Q2]
4. How do you see the government's agenda evolving in relation to national security, public safety (including emergency management), defence and immigration? What impact, if any, is this agenda expected to have on the Portfolio? [Q1,2]
5. In your view, does PSDI provide legal services to the most appropriate mix of departments and agencies to support the government's national security and public safety agenda? If not, what other departments or agencies should ideally be included and/or what departments or agencies should be excluded?

### **Performance - Effectiveness**

6. Please describe how your work with the PSDI Portfolio is currently structured. We are particularly interested in any processes you may have in place (formal or informal) to deal with files related to national security, public safety, defence or immigration.
7. Based on your experience with the Portfolio (with all or with some of its sectors), please comment on the following dimensions of the quality of the services provided by the Portfolio: [Q9]
  - a. Its current capacity to respond to requests in a timely manner.
  - b. The extent to which the advice/options provided are appropriate to the policy or program targeted.
  - c. The extent to which legal advice is presented in a manner that meets your needs and expectations.
  - d. The extent to which litigation services offered by regional offices are carried out in a manner that meets your needs and expectations.
  - e. The extent to which the legal advice provided is consistent.
8. In files involving multiple departments or agencies (three or more departments or agencies), the Portfolio is expected to coordinate the legal services being offered. To what extent are you aware of these coordination efforts in these files? If so, are you satisfied with the level of coordination achieved? [Q11]

### **Performance – Efficiency and Economy**

9. Since 2012, the Portfolio has been implementing a number of strategies to increase the efficiency of its resource utilization. Have you seen any changes in your working relationship with PSDI since 2012? If so, please explain. [Q14]
10. To your knowledge, are there any factors that influence the ability of the Portfolio to deliver its services effectively? If so, please describe these factors. What changes, if any, are needed to increase the efficiency and/or effectiveness of the services offered? [Q14,16]

## **Conclusion**

11. Do you have any further comments relating to this evaluation?

*Thank you for your participation*



## Survey Questionnaire – PSDI Legal Counsel

As legal counsel, you are invited to participate in this survey, which is part of the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation is undertaken in accordance with the 2009 Treasury Board *Policy on Evaluation*, which requires all federal departments to evaluate their activities on a cyclical basis. In the case of the Department of Justice Canada, this requirement covers legal services offered by all its portfolios.

The Department of Justice Canada hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the PSDI Portfolio. The evaluation process includes many forms of consultations, such as interviews, focus groups, and this survey.

Gathering insights from legal counsel involved in litigation or advisory files related to public safety, defence, and immigration issues is a critical component of this evaluation process. The questionnaire should take approximately 20 minutes to complete. Most questions only ask you to click on the appropriate response. All information you provide is confidential and will be used only to create aggregate results to be included in the evaluation report. No individual responses will be identified. We would appreciate receiving your completed questionnaire by (date to be confirmed).

If you encounter technical problems with the survey, please contact Éric Albert from PRA Inc. at 613-233-5474, ext. 306. If you have any questions about the evaluation in general, please contact Susan Kelly, Evaluation Division, Department of Justice Canada, at 613-957-7657.

### Background

The following questions will be used to establish a profile of survey respondents.

1. When did you first join the Department of Justice Canada?

- Less than a year ago .....01
- Between 1 and 5 years ago .....02
- Between 6 and 10 years ago .....03
- More than 10 years ago.....04

2. How long have you been working under the PSDI Portfolio structure?

- Less than a year.....01
- Between 1 and 3 years .....02
- Between 4 and 6 years .....03
- More than 6 years.....04

3. Where do you work?

- In a Departmental Legal Services Unit.....01
- In a Regional Office.....02
- In the Office of the Assistant Deputy Attorney General of Canada (ADAG) .....03

Only ask Q4 if Q3 = 01

4. Please specify the legal services unit you currently belong to:

- Public Safety Canada .....01
- Canada Border Services Agency .....02
- National Security Litigation and Advisory Group.....03
- Parole Board of Canada .....04
- Royal Canadian Mounted Police .....05
- Correctional Service of Canada .....06
- Citizenship and Immigration Canada.....07
- National Defence/Canadian Forces.....08
- Communications Security Establishment Canada .....09

Only ask Q5 if Q3 = 02

5. In which regional office are you currently located?

- Atlantic Regional Office .....01
- British Columbia Regional Office .....02
- Northern Region.....03
- Ontario Regional Office.....04
- Prairie Region .....05
- Quebec Regional Office.....06

Only ask Q6 if Q3 = 02

6. For which department do you predominantly undertake legal work? (please select all applicable options)

Public Safety Canada .....	01
Canada Border Services Agency .....	02
Canadian Security Intelligence Service .....	03
Parole Board of Canada .....	04
Royal Canadian Mounted Police .....	05
Correctional Service of Canada .....	06
Citizenship and Immigration Canada.....	07
National Defence/Canadian Forces.....	08
Communications Security Establishment Canada .....	09

7. What is your current classification level?

LP-00.....	01
LP-01.....	02
LP-02.....	03
LP-03.....	04
LP-04.....	05
LP-05.....	06
LC-01 .....	07
LC-02 .....	08
LC-03 .....	09
LC-04 .....	10
Other .....	66

8. On which type of files do you predominantly work?

Advisory.....	01
Litigation or litigation support .....	02
Other .....	66

9. Based on the nature of the files you work on and your overall experience over the past three to five years in PSDI, please indicate your level of agreement with the following statements:

*Scale = strongly agree, agree, disagree, strongly disagree, don't know, not applicable*

- a. The *volume* of files in which I have been involved has significantly increased.
- b. The level of *complexity* of files in which I have been involved has significantly increased.
- c. An increasing proportion of my files involves more than one department or agency.
- d. An increasing proportion of my files involve departments or agencies outside of the Portfolio.

**Work of the PSDI Portfolio**

10. At this point, how would you assess your overall understanding of the role and mandate of the PSDI Portfolio?

Very good understanding .....01  
Good understanding .....02  
Limited understanding .....03  
Very little understanding.....04  
Don't know .....88

11. In your current functions, have you had dealings with the National Litigation Coordination Team?

Yes .....01  
No.....00  
Don't know .....88

12. How would you assess your overall understanding of the role and mandate of the National Litigation Coordination Team?

Very good understanding .....01  
Good understanding .....02  
Limited understanding .....03  
Very little understanding.....04  
Don't know .....88

13. In your current functions, have you had dealings with the National Security Law Team?

- Yes .....01
- No.....00
- Don't know .....88

14. How would you assess your overall understanding of the role and mandate of the National Security Law Team?

- Very good understanding .....01
- Good understanding .....02
- Limited understanding .....03
- Very little understanding.....04
- Don't know .....88

15. There is a recognized need to ensure an integrated and coordinated approach among legal counsel involved in PSDI files. Based on your experience, how relevant is the overall work of the Portfolio in supporting this goal?

- The Portfolio's work is very relevant .....01
- The Portfolio's work is relevant .....02
- The Portfolio's work is not relevant .....03
- The Portfolio's work is completely irrelevant .....04
- Don't know .....88

Ask Q16 only if Q11 = 01

16. More specifically, how would you assess the overall contribution of the National Litigation Coordination Team in ensuring a consistent approach to litigation files involving national security, public safety, defence or immigration issues?

- Very significant contribution .....01
- Significant contribution .....02
- Limited contribution .....03
- No contribution .....04
- Don't know .....88

Ask Q17 only if Q13 = 01

17. More specifically, how would you assess the overall contribution of the National Security Law Team in ensuring a consistent approach to advisory files involving national security, public safety, defence or immigration issues?

- Very significant contribution .....01
- Significant contribution .....02
- Limited contribution .....03
- No contribution .....04
- Don't know .....88

**Current capacity to meet expectations**

18. In considering your current workload, please indicate your level of agreement with the following statements:

*Scale = strongly agree, agree, disagree, strongly disagree, don't know, not applicable*

- a. My assignments are typically well articulated in terms of scope and expectations.
- b. I have access to the required information to successfully complete my assignments.
- c. I have access to the required tools to successfully complete my assignments.
- d. I am capable of delivering my legal services in a timely manner.
- e. I am kept well-informed of the progress of the files in which I am involved.

19. Based on the files you have been involved with in the last three to five years, how often have you:

*Scale = frequently, regularly, occasionally, rarely, never, don't know, not applicable to my work*

- a. Consulted with the client department or agency to further understand the nature of the legal problem?
- b. Provided the client department or agency with updates or progress reports?
- c. Involved the client department or agency in the development of legal strategies, positions or options?
- d. Discussed policy or program objectives with the client department or agency?

- e. Worked with the client department or agency to identify legal risks, their impact, and options to manage them?
- f. Consulted with the PSDI Portfolio ADAG's Office?
- g. Consulted with other potentially affected departments or agencies?
- h. Involved or consulted with regional offices?
- i. Briefed or reported on your files to senior Justice officials?
- j. Briefed or reported on your files to senior client officials?

20. In your view and based on the files you have been involved with in the last three to five years, how often were the following goals achieved?

*Scale = frequently, regularly, occasionally, rarely, never, don't know, not applicable to my work*

- a. Responded to legal service requests by clients in a timely manner
- b. Met client deadlines
- c. Met internal Department of Justice deadlines
- d. Provided timely assessments of legal risk so that it can be factored into decision-making
- e. Reassessed legal risk when factors that affect the level of risk change
- f. Identified means to prevent or resolve legal disputes at the earliest opportunity

21. Please provide your level of agreement with the following statements.

*Scale = strongly agree, agree, neutral, disagree, strongly disagree, don't know, not applicable to my work*

- a. The PSDI Portfolio has structures in place to ensure that Justice provides consistent legal advice.
- b. The PSDI Portfolio has structures in place to ensure that consistent legal positions are adopted nationally.
- c. The PSDI Portfolio has structures in place to ensure that risks are assessed in a consistent manner across DLSUs and regions.

- d. The PSDI Portfolio has contributed to enhancing clients' understanding of legal issues and their implications.
- e. The PSDI Portfolio systematically offers legal services in both official languages.

22. To what extent do you find the following tools, structures and processes to be useful to your work?

Scale: very useful, useful, neutral, not very useful, not at all useful, don't know, not applicable to my work

- a. Legal risk management assessment grid/matrix
- b. Practice directives
- c. Practice groups
- d. Justipedia
- e. Peer review
- f. Early Warning Notes
- g. Internal mentoring practices
- h. Information sharing on best practices

23. Are there other tools, structures or processes that you have found useful in managing your work?

No other tools, structures or processes .....00  
Other, please specify: .....66

24. In your experience to date, have you had interactions with specialized units from the Public Law Sector (such as the Constitutional, Administrative and International Law Section (CAILS) or the Human Rights Law Section)?

Yes .....01  
No.....00  
Don't know .....88

Ask Q25 only if Q24 = 01



25. Please select all applicable groups with which you have collaborated, along with your level of satisfaction with the support you received.

*Scale = very satisfied, satisfied, unsatisfied, very unsatisfied, don't know, not applicable to my work*

- a. International Private Law Section
- b. Trade Law Bureau (JLT)
- c. Constitutional, Administrative and International Law Section
- d. Human Rights Law Section
- e. Official Languages Directorate
- f. Judicial Affairs, Courts and Tribunal Policy
- g. Centre for Information and Privacy Law

26. Have you collaborated with other specialized groups within the Department of Justice Canada?

- Yes .....01
- No.....00
- Don't know .....88

Ask Q27 only if Q26 = 01

27. Please indicate which group, along with your level of satisfaction.

Scale = very satisfied, satisfied, unsatisfied, very unsatisfied, don't know

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28. How satisfied are you with the current professional development activities that are being offered to support your work?

- Very satisfied .....01
- Satisfied.....02
- Unsatisfied .....03
- Very unsatisfied .....04
- Don't know .....88

Ask Q29 only if Q28 = 03 or 04

29. Please describe what types of professional development activities would better respond to your needs.

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30. In your opinion and based on the files you have been involved with in the last three to five years, how often:

*Scale: frequently, regularly, occasionally, rarely, never, don't know, not applicable to my work*

- a. Were files managed in a cost-effective manner?
- b. Were files assigned to the appropriate level of counsel given the legal risk/complexity of the files?
- c. Were tasks allocated appropriately (level and experience) within the team assigned to manage the files?
- d. Were appropriate levels of mentoring and/or supervision provided to support the management of your files?

31. Based on your experience, please describe what you consider to be the greatest achievements of the PSDI Portfolio.

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32. What do you consider to be the greatest challenges faced by the PSDI Portfolio?

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33. In conclusion, please provide any additional information you consider relevant for the purpose of the evaluation of the PSDI Portfolio.

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***Thank you very much for your contribution to this evaluation process.***

## **Case Study Guide — Representative of the client department or agency**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation comprises a number of data sources, including seven case studies that focus on specific files involving counsel from the PSDI Portfolio. These case studies are providing a unique opportunity to better understand the work of the portfolio at an operational level.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

### **Introduction**

1. What was your role on the file we will be discussing today?

### **Processes and tools**

2. Please describe how the roles and responsibilities between your department or agency and the Department of Justice were structured in relation to this specific file. How satisfied were you with this distribution of roles and responsibilities? What change, if any, could have been made to make this distribution more efficient?
3. To your knowledge, was there more than one group within Justice Canada that was involved in this file (departmental legal services units, regional offices, specialized sections of Justice Canada, etc.)? If so, and based on your experience, how efficiently was the work coordinated between these different groups?
4. To your knowledge, were there other groups within Justice Canada (regional or national litigation committees, or specialized units from the Public Law Sector) that were involved in this file? If so, please describe the role you played, if any, during the work of these other groups.

### **Legal risk assessment**

5. Did the department of Justice Canada involve you in assessing the legal risks associated with this file? If so, what process was used?

6. How satisfied are you with the role you played in assessing the legal risks associated with this file?
7. How was the legal risk assessment communicated to you? How satisfied are you with the way the legal risks were communicated to you?
8. How did you use the legal risk assessment? What impact, if any, did it have on your decision-making process?

### **Outcomes**

9. Based on your experience, please comment on the following dimensions of the quality of the overall services provided by Justice Canada in relation to this file:
  - a. its capacity to respond to your requests in a timely manner
  - b. the extent to which your department or agency was provided with advice and options appropriate to your policy and program objectives
  - c. (for advisory files) the extent to which legal advice was presented in a manner that met your needs and expectations
  - d. (for litigation files) the extent to which litigation services offered were carried out in a manner that met your needs and expectations
  - e. the extent to which your department or agency received consistent legal advice
10. What challenges, if any, did Justice Canada face in providing the legal services required by your department or agency?

### **Deployment of resources**

11. In your opinion, were the appropriate resources assigned to this file (in the extent to which sufficient resources were assigned in relation to the nature of the file, level of expertise, etc.)?
12. Since 2012, the portfolio has implemented a number of strategies to increase the efficiency of its resource utilization (those initiatives related to process optimization and benchmarking). Based on your experience, have any of these initiatives had an impact (positive or negative) on the outcome of this file?

13. Please describe what changes, if any, could have been done to achieve a greater level of efficiency in managing this file?

**Conclusion**

14. Do you have any further comments relating to this evaluation?

*Thank you for your participation.*

## **Case Study Guide — Representative of the PSDI Portfolio**

The Department of Justice hired Prairie Research Associates Inc. (PRA), a research company, to support the evaluation of the Public Safety, Defence and Immigration (PSDI) Portfolio. The evaluation comprises a number of data sources, including seven case studies that focus on specific files involving counsel from the PSDI Portfolio. These case studies are providing a unique opportunity to better understand the work of the portfolio at an operational level.

The information we gather through this interview will be summarized in aggregate form only. Interview notes will not be shared outside of PRA and the Evaluation Division of Justice Canada. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

### **Introduction**

1. Please describe the key legal issues raised in the file we selected for our discussion today.

### **Processes and tools**

2. How were the roles and responsibilities among the various legal counsel involved in this file distributed? What role did you specifically play? In your opinion, were the roles and responsibilities adequately assigned?
3. As applicable, which processes were used to coordinate the work of legal counsel on this file? Based on your experience, what worked well with these processes and what challenges, if any, did you encounter?
4. Was the National Litigation Coordination Team or the National Security Law Team involved in this file? If yes, please describe the role it played and the impact it had on the file.
5. Were there other groups within Justice Canada ( scratch committees, regional or national litigation committees, specialized units from the Public Law Sector, etc.) that were involved in this file? If so, please describe their involvement and their impact on the file.
6. What was your experience in accessing and using the required tools to adequately fulfill your assignment (reference and guidance information, communication tools, etc.)? What challenges, if any, did you face?

### **Legal risk assessment**

7. How was the legal risk assessed on this file? Who was responsible for assessing the legal risk, and what process was used to complete the assessment?
8. How was the legal risk communicated to the client department or agency? How well did the client department or agency understand the legal risks involved in the file? How did the client use the assessment?
9. What challenges, if any, did you face in assessing or communicating the legal risk associated to this file?

### **Deployment of resources**

10. In your opinion, were the appropriate resources assigned to this file (in the extent to which sufficient resources were assigned in relation to the nature of the file, level of expertise, etc.)?
11. Since 2012, the portfolio has implemented a number of strategies to increase the efficiency of its resource utilization (initiatives related to process optimization and benchmarking). Based on your experience, have any of these initiatives had an impact (positive or negative) on the outcome of this file?
12. Please describe what changes, if any, could have been done to achieve a greater level of efficiency in managing this file?

### **Outcomes**

13. Were you in a position to deliver your services in a timely manner? What challenges, if any, have you faced in attempting to meet the time frame required by the client department or agency?
14. How would you describe the impact of the legal services you provided on the decisions made by the client department or agency?

### **Conclusion**

15. Do you have any further comments relating to this file?

*Thank you for your participation.*

## File Review

### Overview

1. File Number: \_\_\_\_\_
2. Date file opened: \_\_\_\_\_ (mm/dd/yy)    Date file closed: \_\_\_\_\_ (mm/dd/yy)
3. Lead department: \_\_\_\_\_
4. Other departments involved (as applicable): \_\_\_\_\_
5. Lead counsel  
Organizational unit:    <sub>1</sub> DLSU (provide name): \_\_\_\_\_  
                                  <sub>2</sub> Regional office (provide location): \_\_\_\_\_  
                                  <sub>3</sub> Other: \_\_\_\_\_
6. Other counsel involved in the file:  
Organizational unit:    <sub>1</sub> DLSU (provide name): \_\_\_\_\_  
                                  <sub>2</sub> Regional office (provide location): \_\_\_\_\_  
                                  <sub>3</sub> Other: \_\_\_\_\_
7. File type:    <sub>1</sub> Litigation    <sub>2</sub> Advisory    <sub>3</sub> Litigation support
8. Total number of counsel who worked on the file: \_\_\_\_\_  
a) Consecutively: \_\_\_\_\_    b) Simultaneously : \_\_\_\_\_    c) Cannot determine: <sub>0</sub>
9. Total number of paralegals who worked on the file: \_\_\_\_\_  
a) Consecutively: \_\_\_\_\_    b) Simultaneously : \_\_\_\_\_    c) Cannot determine: <sub>0</sub>

### Litigation files ONLY

10. Legal issue and brief description of the nature of the file, without waiving solicitor-client privilege. \_\_\_\_\_
11. Lead department is:    <sub>1</sub> Claimant/Applicant    <sub>2</sub> Respondent/Defendant    <sub>3</sub> Appellant  
                                  <sub>4</sub> Respondent on appeal    <sub>8</sub> Can't tell
12. Level of court:  
<sub>01</sub> Supreme Court of Canada    <sub>02</sub> Federal Court of Appeal    <sub>03</sub> Federal Court  
<sub>04</sub> Provincial Court of Appeal    <sub>05</sub> Provincial/Territorial Superior Court    <sub>06</sub> Provincial Court  
<sub>07</sub> Administrative Tribunal    <sub>66</sub> Other, please specify \_\_\_\_\_
13. What was the outcome of the case?  
<sub>01</sub> Settled    <sub>02</sub> Court decision on merits in favour of government    <sub>03</sub> Court decision on merits in favour of other party    <sub>04</sub> Case dismissed without a decision on the merits  
<sub>05</sub> Case withdrawn    <sub>06</sub> Partially successful    <sub>66</sub> Other, please specify \_\_\_\_\_



14. Has the case been appealed or judicially reviewed?

- <sub>1</sub> Yes      <sub>0</sub> No      <sub>7</sub> Not applicable (cannot appeal from decision – e.g., Supreme Court file)      <sub>8</sub> No decision re: appeal yet/ can't determine

**If yes, remember to complete the Appeal Schedule**

**Advisory File ONLY**

15. a) What was the advisory services requested:

- Advisory to support Policy Making (MC, TB sub, etc.)       Advisory to support Legislative Drafting  
 Advisory to support Agreement Drafting or Negotiation       Advisory to support Operation (including ATIP)  
 Advisory to support litigation

b) Legal issues encountered, without waiving solicitor-client privilege. \_\_\_\_\_

16. What was the outcome of the file? (Check all that apply.)

- <sub>01</sub> Advisory services was given      <sub>02</sub> Client considered Advisory services      <sub>03</sub> Client did not consider Advisory services given      <sub>04</sub> Unclear from the file

**iCase information TO BE COMPLETED BY THE EVALUATION DIVISION**

17. Potential client impact:

- <sub>01</sub> Affects administration of justice/ public confidence      <sub>02</sub> Affects federal, provincial, or international relations, treaties, or agreements      <sub>03</sub> Legal issues or events that may be controversial, attract significant national media attention, or involve Cabinet Ministers or prominent public figures  
<sub>04</sub> Limitations of federal jurisdiction      <sub>05</sub> Effect on fiscal resources of client or government      <sub>06</sub> Effect on human rights, personnel, access and privacy, gender, or diversity issues  
<sub>07</sub> Effect on law/ regulations of client or government      <sub>08</sub> Effect on programs/ policies/ initiatives of client or government      <sub>09</sub> Effect on relations with Aboriginal people, Métis  
<sub>10</sub> Effect on the Charter or Constitution      <sub>11</sub> Matter of national interest      <sub>12</sub> Impact on national security  
<sub>77</sub> Not applicable      <sub>88</sub> Unable to assess

18. Risk level (1-9 or Low-Medium-High): \_\_\_\_\_

b) Initial risk level (if available through iCase) \_\_\_\_\_

19. Complexity:

- <sub>1</sub> Low      <sub>2</sub> Medium      <sub>3</sub> High      <sub>4</sub> Mega      <sub>7</sub> Not applicable

20. What was the group/level of lead counsel (note: the lead counsel may or may not be attached to PSDI)

- <sub>1</sub> LA0      <sub>2</sub> LA1      <sub>3</sub> LA2A      <sub>4</sub> LA2B      <sub>5</sub> LA3A      <sub>6</sub> LA3B      <sub>7</sub> LA3C      <sub>8</sub> Can't tell

21. How many hours did lead counsel spend on the file? \_\_\_\_\_ hours

22. Indicate the number of additional counsel on the file by seniority level and indicate the number of hours spent on the file (note: include all counsel, PSDI and non-PSDI, as applicable):

- <sub>1</sub> LA0 \_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_
- <sub>2</sub> LA1 \_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_
- <sub>3</sub> LA2A \_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_
- <sub>4</sub> LA2B \_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_
- <sub>5</sub> LA3A \_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_
- <sub>6</sub> LA3B \_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_
- <sub>7</sub> LA3C \_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_

23. Indicate the number of paralegals on the file and indicate the number of hours spent on the file by each paralegal:

\_\_\_\_\_ Hours for 1: \_\_\_\_\_; 2: \_\_\_\_\_; 3: \_\_\_\_\_; 4: \_\_\_\_\_; 5: \_\_\_\_\_

**Information from file [Answer the following questions based on documents in the file]**

24. Did legal counsel miss any client-imposed hard deadlines? <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess

25. (If yes to Q24) How many times, and for what reason(s) (if an explanation to the client is available on file)?

\_\_\_\_\_

26. Is there documented evidence that timelines were negotiated with clients? <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess

27. (If yes to Q26) What evidence is there in the files? \_\_\_\_\_

28. (Litigation files only) Did legal counsel miss any court deadlines? <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess

29. (If yes to Q28) How many times? \_\_\_\_\_

30. (If yes to Q28) Were additional court procedures required (e.g., <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess motions)?

31. How did PSDI legal counsel consult with client department(s)? Consultations can include oral/written updates or oral/written discussions of possible strategies, options, approaches to the file.

\_\_\_\_\_

<sub>7</sub> Not applicable, file handled by early resolution <sub>8</sub> Unable to assess

**(GO TO Q35)**

32. Is there documentation in the file that shows what the client department(s) was consulted about? (Check all that apply.) (If none apply, go to Q35.)

- <sub>01</sub> Identifying and assessing legal risk <sub>02</sub> Options to manage legal risk <sub>03</sub> Developing legal strategies and positions
- <sub>04</sub> To discuss the impact of legal risk <sub>05</sub> To discuss possible settlement (including early resolution) <sub>66</sub> Other \_\_\_\_\_
- <sub>08</sub> Unable to assess

33. (If identify any categories listed in Q32) What evidence is there in the files?

\_\_\_\_\_

34. Have client department(s) expressed any concerns relating to a lack of consultation? <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess
35. How often did PSDI legal counsel respond to documented client requests?  
<sub>1</sub> Always (100-90%) <sub>2</sub> Usually (90-60%) <sub>3</sub> About half the time (40-60%) <sub>4</sub> Rarely (40-10%) <sub>5</sub> Never (Less than 10%) <sub>8</sub> Unable to Assess
36. How often did PSDI paralegals respond to documented client requests?  
<sub>1</sub> Always (100-90%) <sub>2</sub> Usually (90-60%) <sub>3</sub> About half the time (40-60%)  
<sub>4</sub> Rarely (40-10%) <sub>5</sub> Never (Less than 10%) <sub>8</sub> Unable to Assess
37. On average, how soon after documented client requests did PSDI legal counsel respond?  
<sub>1</sub> 2-3 days <sub>2</sub> 4-10 days <sub>3</sub> 11-20 days <sub>4</sub> 21-30 days <sub>5</sub> More than 30 days
38. Was the file brought to the attention of any relevant PSDI committees? <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess
39. (If yes to Q38) Which committees?  
<sub>01</sub> National Litigation Committee <sub>02</sub> National Security and Intelligence Committee  
<sub>03</sub> Scratch Legal Issues Committee <sub>04</sub> Regional litigation committees  
<sub>66</sub> Other \_\_\_\_\_
40. Was the file brought to the attention of other Justice officials/structures?  
<sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess
41. (If yes to Q40) Which ones? <sub>66</sub> \_\_\_\_\_
42. Did counsel consult with specialized sections within Justice? <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess
43. (If yes to Q42) Which ones: \_\_\_\_\_
44. Were the specialized sections consulted about? (Check all that apply):  
<sub>01</sub> Identifying and assessing legal risk <sub>02</sub> Managing legal risk <sub>03</sub> Potential legal options  
<sub>04</sub> Potential litigation strategies <sub>05</sub> Questions of law <sub>66</sub> Other
45. Were other potentially affected departments and agencies consulted? <sub>1</sub> Yes <sub>0</sub> No <sub>8</sub> Unable to assess
46. If yes to Q45, which one(s)? \_\_\_\_\_
47. (If yes to Q45) Were they consulted about? (Check all that apply):  
<sub>01</sub> Identifying and assessing legal risk <sub>02</sub> Managing legal risk <sub>03</sub> Potential legal options  
<sub>04</sub> Potential litigation strategies <sub>05</sub> Questions of law <sub>66</sub> Other <sub>08</sub> Unable to assess

Questions 48-50 are for litigation files only.

48. At what stage were dispute resolution options considered? (Check all that apply.)  
<sub>00</sub> DR not considered **GO TO Q53**  
<sub>01</sub> Post-pleading <sub>02</sub> Post-production of documents <sub>03</sub> Post-discovery <sub>04</sub> Just prior to trial or hearing  
<sub>66</sub> Other (please specify) \_\_\_\_\_ <sub>88</sub> Don't know/can't tell

49. At what stage were dispute resolution options used?

- <sub>01</sub> Post-pleading      <sub>02</sub> Post-production of documents      <sub>03</sub> Post-discovery      <sub>04</sub> Just prior to trial or hearing
- <sub>66</sub> Other (please specify) \_\_\_\_\_      <sub>88</sub> Don't know/can't tell

50. What dispute resolution options were used?

- <sub>01</sub> Negotiation      <sub>02</sub> Voluntary mediation      <sub>03</sub> Court-mandated mediation      <sub>04</sub> Neutral evaluation
- <sub>66</sub> Other (please specify) \_\_\_\_\_      <sub>88</sub> Don't know/can't tell

51. (Advisory files only) Is there documented evidence in the file that the client department considered the PSDI Portfolio legal advice in program and policy development?

- <sub>1</sub> Yes      <sub>0</sub> No      <sub>8</sub> Unable to assess

52. (If yes to Q51) What evidence is there in the files? \_\_\_\_\_

53. Is there documented evidence in the file that the client department considered PSDI Portfolio legal advice to prevent, mitigate, and/or manage legal risk?

- <sub>1</sub> Yes      <sub>0</sub> No      <sub>8</sub> Unable to assess

54. (If yes to Q53) What evidence is there in the files? \_\_\_\_\_

55. Is there documentation in the file that shows that any of the following were used/prepared?

- <sub>01</sub> Risk assessment document (e.g., letter/memo to client re: likelihood of success and impact on client)
- <sub>02</sub> Contingency plan
- <sub>03</sub> Communication plan (should be part of contingency plan, but check to ensure it is)
- <sub>04</sub> Briefing notes
- <sub>05</sub> Documents on roles and responsibilities from Civil Actions toolkit or similar document (e.g., for litigation strategy, dispute resolution, risk assessment, communication strategy, contingency planning, etc.)
- <sub>06</sub> Early Warning Note for file
- <sub>07</sub> Documentation on structured review of facta/approval of facta
- <sub>08</sub> Early Resolution process
- <sub>09</sub> Practice directives
- <sub>10</sub> National Litigation Instructions

56. Was the file included in any of the following?

- <sub>01</sub> Early Warning Notes      <sub>02</sub> Justice Practice Group discussion      <sub>03</sub> Litigation report

**Risk assessment [from file or from text fields in iCase (background, impact, and status)]**

57. What legal risks are identified? Please check all that apply. Only include if there is documentation that specifies risks (in iCase or in file); do not try to interpret information (e.g., counsel indicates difficult facts in memo in file; the researcher should not make their own decision that facts are difficult). You do not have to enter risks that are already listed under potential client impact in iCase (see Q17). You should include other risks that might be identified in the Background, Impact, and Status sections of iCase as well as risks identified in the paper files.

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> <sub>01</sub> New/novel legal issue                                 | <input type="checkbox"/> <sub>02</sub> Constitutional or Charter issue                            | <input type="checkbox"/> <sub>03</sub> Issue with availability of evidence |
| <input type="checkbox"/> <sub>04</sub> Issue with availability of affiants/witnesses         | <input type="checkbox"/> <sub>05</sub> Difficult facts to support claim/defence                   | <input type="checkbox"/> <sub>06</sub> Unfavourable case law               |
| <input type="checkbox"/> <sub>07</sub> Significant media interest                            | <input type="checkbox"/> <sub>07</sub> Potential to lead to termination or elimination of program | <input type="checkbox"/> <sub>08</sub> Class action                        |
| <input type="checkbox"/> <sub>08</sub> Cabinet Ministers or other prominent figures involved | <input type="checkbox"/> <sub>09</sub> Legal issue considered controversial                       | <input type="checkbox"/> <sub>10</sub> Case involves national security     |
| <input type="checkbox"/> <sub>66</sub> Other, please specify _____                           |   | <input type="checkbox"/> <sub>88</sub> Can't tell                          |

58. Is there a discussion/indication of risk level indicated in the file?

- <sub>1</sub> Yes      <sub>0</sub> No **(GO TO Q66)**

59. What is the **initial (or only)** risk level (1-9 or Low-Medium-High)?

- \_\_\_\_\_ <sub>88</sub> Can't tell

60. Date of **initial (or only)** risk assessment:

- \_\_\_\_\_ (mm/dd/yy)      <sub>88</sub> Can't tell

61. (Litigation only) At what stage in the case was the **initial (or only)** risk assessment done?

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> <sub>01</sub> Post-pleadings              | <input type="checkbox"/> <sub>02</sub> Post-discovery                           | <input type="checkbox"/> <sub>03</sub> Pre-scheduled trial date | <input type="checkbox"/> <sub>04</sub> After decision                   |
| <input type="checkbox"/> <sub>05</sub> After appeal filed          | <input type="checkbox"/> <sub>06</sub> Leave stage                              | <input type="checkbox"/> <sub>07</sub> Post-leave stage         | <input type="checkbox"/> <sub>08</sub> Prior to judicial review hearing |
| <input type="checkbox"/> <sub>09</sub> Post-hearing                | <input type="checkbox"/> <sub>10</sub> Prior to decision on the judicial review |   |   |
| <input type="checkbox"/> <sub>66</sub> Other, please specify _____ |   |   | <input type="checkbox"/> <sub>88</sub> Can't tell                       |

62. Was risk **reassessed**?

- <sub>1</sub> Yes      <sub>0</sub> No **(GO TO Q65)**      <sub>8</sub> Can't determine **(GO TO Q65)**

63. (Litigation only) At what stage in the case was the risk **reassessed**?

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> <sub>01</sub> Post-pleadings              | <input type="checkbox"/> <sub>02</sub> Post-discovery | <input type="checkbox"/> <sub>03</sub> Pre-scheduled trial date | <input type="checkbox"/> <sub>04</sub> After decision |
| <input type="checkbox"/> <sub>05</sub> After appeal filed          |   |   |   |
| <input type="checkbox"/> <sub>66</sub> Other, please specify _____ |   |   | <input type="checkbox"/> <sub>88</sub> Can't tell     |

64. If case was **reassessed** to a higher risk level, did any of the following occur after the reassessment?

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> <sub>01</sub> Increased number of counsel on file | <input type="checkbox"/> <sub>02</sub> Assignment of senior counsel to file | <input type="checkbox"/> <sub>03</sub> Consideration of dispute resolution process | <input type="checkbox"/> <sub>04</sub> Use of dispute resolution process |
| <input type="checkbox"/> <sub>05</sub> Increased consultations             | <input type="checkbox"/> <sub>06</sub> Increased reporting                  |  |  |
| <input type="checkbox"/> <sub>66</sub> Other, please specify _____         |   |  | <input type="checkbox"/> <sub>88</sub> Can't tell                        |

65. What language was used to describe the level of legal risk to clients? Please give verbatim examples that show the range of language used.

\_\_\_\_\_

66. Any additional comments? (indicate applicable Q, if appropriate).

\_\_\_\_\_

## File Review – Appeal Schedule (use only for the last level of appeal)

### Overview

1. File Number: \_\_\_\_\_
2. Date file opened: \_\_\_\_\_ (mm/dd/yy)    Date file closed \_\_\_\_\_ (mm/dd/yy)
3. Lead department: \_\_\_\_\_
4. Other departments (as applicable): \_\_\_\_\_
5. Lead counsel:  
Organizational unit:    <sub>1</sub> DLSU (provide name): \_\_\_\_\_  
                                  <sub>2</sub> Regional office (provide location): \_\_\_\_\_  
                                  <sub>3</sub> Other: \_\_\_\_\_
6. Other counsel involved in the file:  
Organizational unit:    <sub>1</sub> DLSU (provide name): \_\_\_\_\_  
                                  <sub>2</sub> Regional office (provide location): \_\_\_\_\_  
                                  <sub>3</sub> Other: \_\_\_\_\_
7. Number of counsel on file: \_\_\_\_\_
8. Client is    <sub>1</sub> Claimant    <sub>2</sub> Respondent    <sub>3</sub> Appellant    <sub>4</sub> Respondent on appeal    <sub>8</sub> Can't tell
9. Last Level of court:  
<sub>01</sub> Supreme Court of Canada    <sub>02</sub> Federal Court of Appeal    <sub>03</sub> Federal Court  
<sub>05</sub> Provincial Court of Appeal    <sub>06</sub> Provincial/Territorial Superior Court  
<sub>66</sub> Other, please specify \_\_\_\_\_
10. What was the outcome of the case on appeal?  
<sub>01</sub> Settled    <sub>02</sub> Court decision on merits in favour of government  
<sub>03</sub> Court decision on merits in favour of other party    <sub>04</sub> Appeal dismissed without a decision on the merits  
<sub>05</sub> Partially successful  
<sub>06</sub> Other, please specify \_\_\_\_\_
11. What was the seniority level of lead counsel assigned to this level of appeal:  
<sub>1</sub> LA0    <sub>2</sub> LA1    <sub>3</sub> LA2A    <sub>4</sub> LA2B    <sub>5</sub> LA3A    <sub>6</sub> LA3B    <sub>8</sub> Can't tell
12. How many hours did lead counsel spend on this level of appeal? \_\_\_\_\_ hours





23. (If yes to Q21) Were the specialized sections consulted about (Check all that apply):
- <sub>01</sub> Identifying and assessing legal risk    <sub>02</sub> Managing legal risk    <sub>03</sub> Potential legal options  
<sub>04</sub> Potential litigation strategies    <sub>05</sub> Questions of law    <sub>66</sub> Other
24. Is there documentation in the file that shows that any of the following were used/prepared?
- <sub>01</sub> Risk assessment document (e.g., letter/memo to client re: likelihood of success and impact on client)  
<sub>02</sub> Contingency plan  
<sub>03</sub> Communication plan (should be part of contingency plan, but check to ensure it is)  
<sub>04</sub> Briefing notes  
<sub>05</sub> Documents on roles and responsibilities from Civil Actions toolkit or similar document (e.g., for litigation strategy, dispute resolution, risk assessment, communication strategy, contingency planning, etc.)  
<sub>06</sub> Early Warning Note for file  
<sub>07</sub> Documentation on structured review of facta/approval of facta  
<sub>08</sub> Practice directives  
<sub>09</sub> National Litigation Instructions  
<sub>10</sub> Litigation reports
25. Was the file included in any of the following?
- <sub>01</sub> Early Warning Notes    <sub>02</sub> Top 100 High Impact Report    <sub>03</sub> Radar Screen  
<sub>04</sub> Scanning News    <sub>05</sub> Justice Practice Group discussion

### Risk assessment

26. Is there a discussion/indication of risk level indicated in the appeal file?
- <sub>1</sub> Yes    <sub>0</sub> No
27. What is the risk level for this level of appeal (1-9)? \_\_\_\_\_ <sub>88</sub> Can't tell
28. If the case was **reassessed** from its earlier level of risk to a higher risk level at this appeal stage, did any of the following occur after the reassessment?
- <sub>01</sub> Increased number of counsel on file    <sub>02</sub> Assignment of senior counsel to file  
<sub>03</sub> Consideration of dispute resolution process    <sub>04</sub> Use of dispute resolution process  
<sub>05</sub> Increased consultations    <sub>06</sub> Increased reporting  
<sub>66</sub> Other, please specify \_\_\_\_\_  
 Can't tell
29. Complexity:
- <sub>1</sub> Low    <sub>2</sub> Medium    <sub>3</sub> High    <sub>4</sub> Mega    <sub>7</sub> Not applicable
30. Any additional comments? (Indicate applicable Q, if appropriate).
- \_\_\_\_\_