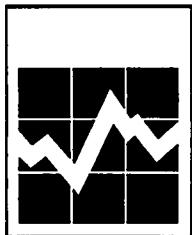


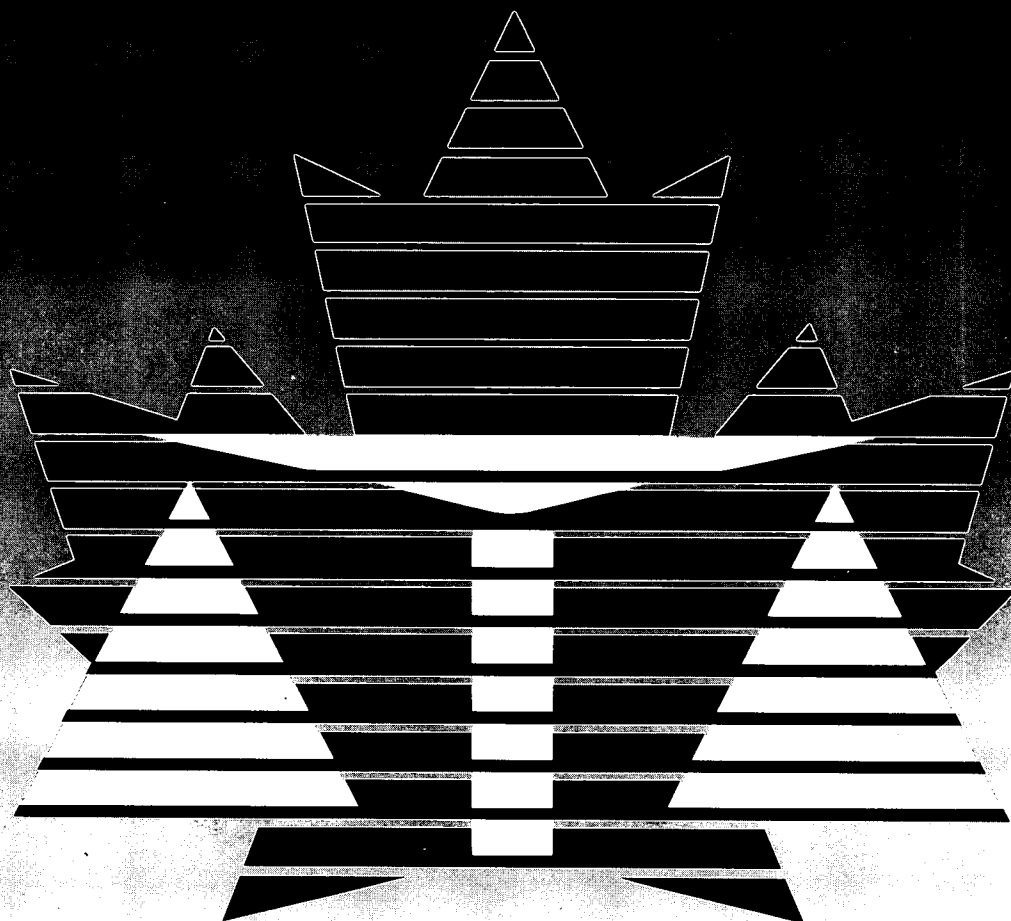
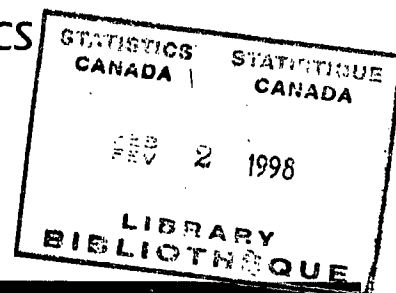
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Profile of Courts in Canada 1997

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Profile of Courts in Canada 1997

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Canada owes the success of its statistical system to a long-standing co-operation involving Statistics Canada, the citizens of Canada, its businesses, governments and other institutions. Accurate and timely statistical information could not be produced without their continued co-operation and goodwill.

PREFACE

Courts Program, Canadian Centre for Justice Statistics

The Canadian Centre for Justice Statistics (CCJS) is the focal point of a federal-provincial-territorial initiative dedicated to the production of national statistics and information on the justice system in Canada. The objective of the Courts Program at the CCJS is to collect and disseminate information on the operation of the court system in Canada. This information includes data on court caseloads, on the characteristics of cases and persons moving through the courts, on resources used in the operation of courts, and on the provision of legal aid and prosecution services. Descriptive information is also gathered on the organization and operation of courts in Canada, as presented in this report.

This report was prepared with the assistance of the twelve provincial and territorial court jurisdictions together with the Supreme Court of Canada, the Federal Court, the Tax Court and the Office of the Commissioner for Federal Judicial Affairs. Everyone within the federal-provincial-territorial Initiative who contributed up-to-date information deserves thanks, as does Mimi Gauthier at CCJS who received the contributions and incorporated them into a final product with dedication.

Information in this report is current as of March 31, 1997.

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COURTS IN NEWFOUNDLAND

I. SUPREME COURT: COURT OF APPEAL

A. Composition of the Court

This Court is established by the Judicature Act, R.S.N. 1990, c. J-4. The Court of Appeal consists of the Chief Justice of Newfoundland and five other judges who are all appointed federally by the Governor in Council as recommended by a federal judicial council. There is one supernumerary judge.

The Court usually sits with a panel of three judges.

B. Geographic Distribution

The Court of Appeal sits permanently in St. John's.

C. Jurisdiction of the Judges

The Court of Appeal has appellate jurisdiction in both criminal and civil matters from the Trial Division, Unified Family Court, Provincial Court (indictable offences) and designated boards and administrative tribunals.

Appeals from this Court are to the Supreme Court of Canada.

D. Jurisdiction and Duties of the Registrar

The Registrar of the Supreme Court is the Registrar of the Court of Appeal and is appointed by the Lieutenant Governor in Council. The Registrar is assisted by one deputy registrar who presides in the Court of Appeal. The Registrar of the Court of Appeal is also the Registrar of the Trial Division. The Registrar is assisted by a senior deputy registrar and two assistant deputy registrars in the Trial Division in St. John's, a deputy registrar and an assistant deputy registrar in Corner Brook, and an assistant deputy registrar in each of the other four judicial centres.

A list of the duties of the Registrar may be found in the section on the Trial Division.

II. SUPREME COURT: TRIAL DIVISION

A. Composition of the Court

This Court is established by the Judicature Act, R.S.N. 1990, c. J-4. The Trial Division consists of the Chief Justice of the Trial Division and 18 other judges who are all appointed federally by the Governor in Council as recommended by a federal judicial council.

Every judge of the Trial Division is a judge of the Unified Family Court, with one being appointed as presiding judge of the Unified Family Court.

B. Geographic Distribution

The Trial Division sits permanently in St. John's, Corner Brook, Gander, Grand Bank, Grand Falls and Happy Valley/Goose Bay. The Court goes on circuit regularly to Clarenville and Wabush.

C. Jurisdiction of the Judges

The Trial Division is a court of original jurisdiction and, as such, has jurisdiction in all civil and criminal cases arising in the province except those matters excluded by statute. It also acts as a civil and criminal appellate court.

1. Civil Jurisdiction

The Trial Division has original jurisdiction over all civil actions not expressly excluded by statute. However, cases involving financial disputes are generally above the small claims limit of \$3,000.

The Trial Division hears appeals from the Provincial Court (Family Division) including appeals by way of stated case, and appeals from the Provincial Court (Small Claims Division) including appeals by way of trial de novo.

2. Family Jurisdiction

The Trial Division has original jurisdiction over nullity, judicial separation, corollary relief, divorce, matrimonial property, custody, access, guardianship, and inter-spousal Criminal Code offences except in St. John's where these matters fall under the jurisdiction of the Unified Family Court.

3. Criminal Jurisdiction

The Trial Division has unlimited jurisdiction over all criminal cases bestowed upon it by the Criminal Code and relevant statutes. These include indictable offences under the Criminal Code requiring a trial by judge and jury. The Court also has exclusive jurisdiction over indictable offences under the Combines Investigation Act that are heard by a judge sitting without a jury.

The Trial Division hears appeals from summary conviction offences in the Provincial Court (Criminal Division).

All appeals from the Trial Division are to the Supreme Court, Court of Appeal.

D. Jurisdiction and Duties of the Registrar and Masters

The Registrar and masters are officers of the Court. The Registrar of the Supreme Court is appointed by the Lieutenant Governor in Council, while masters are appointed by the Chief Justice of Newfoundland.

Masters also are taxing officers of the Supreme Court.

The Registrar has statutory authority to undertake the following duties:

- issue subpoenas;
- tax bills of costs;
- settle orders;
- maintain cause books and computer storage and retrieval systems; and
- sign certificates under the Quieting of Titles Act.

In addition to the above, the Registrar is responsible for the following:

- receiving, filing and having custody of all pleadings, petitions, reports, affidavits, bonds, notices, judgements and other papers and proceedings in every action or suit, matter and proceeding in the Court;
- having the care and custody of all documents ordered to be deposited for safekeeping or produced under any order of the Court or a judge;
- entering in a cause book or computer storage and retrieval system all proceedings of the Court, and all entries for trial, appeals, special cases, and other business coming before the Court;
- certifying proceedings, examining and authenticating office copies of pleadings and other proceedings;
- signing all orders of the Court and entering the same;
- keeping the minutes of the proceedings in Court and in chambers;
- sealing and signing all grants of letters of probate, letters of administration, letters of guardianship and exemplifications thereof, that have been ordered by the Court or a judge;
- collecting the fees to be taken by the Registrar as set out in Rules of the Supreme Court;
- keeping an account of all money paid into and out of Court; and
- supervising all persons employed in the Supreme Court.

The Registrar may assign any of the duties listed above to the senior deputy registrar, the two deputy registrars, any of the seven assistant deputy registrars or any other clerk or officer of the Court.

E. Estates Division

The Estates Division of the Supreme Court operates under the direction of the Registrar of the Supreme Court who is assisted by the Director of Supreme Court Services, the Estates/Trusts administrator and staff. This Division administers estates and provides guardianship services bestowed by a specific court order, or by operation of law. It also acts as the financial branch when monies are paid into and out of court.

III. SUPREME COURT: UNIFIED FAMILY COURT

A. Composition of the Court

This Court is established by the Unified Family Court Act, R.S.N. 1990, c. U-3, and is a division of the Supreme Court Trial Division. Every judge of the Supreme Court Trial Division is a judge of the Unified Family Court, but only one is appointed as the presiding judge of the Unified Family Court. Judges of the Trial Division may preside over the Unified Family Court at the request of the Chief Justice of the Trial Division.

B. Geographic Distribution

The Unified Family Court sits only in St. John's and serves the geographical area within a 25-mile radius of the judicial area of metropolitan St. John's.

C. Jurisdiction of Judges

Within the 25-mile judicial area of metropolitan St. John's, the Unified Family Court has exclusive jurisdiction for all family matters (including divorce, annulment of marriage, judicial separation, support, custody, access, matrimonial property, establishment of parenthood, adoption, child welfare, adult welfare and inter-spousal Criminal Code offences).

Appeals from the Unified Family Court are to the Supreme Court, Trial Division and to the Court of Appeal. The Unified Family Court has no appellate jurisdiction.

D. Jurisdiction and Duties of the Administrator

Under the direction of the Registrar of the Supreme Court, the Administrator of the Unified Family Court is responsible for the overall administrative and case processing activities of the Court. Administration of the Court is divided into two segments, the Registry and Counselling/Mediation.

The Clerk of the Unified Family Court is responsible for the Registry and is assisted by a trial coordinator, five staff and a judge's secretary. Counselling/Mediation is the responsibility of a senior Family Court counsellor who is assisted by two Family Court counsellors.

IV. PROVINCIAL COURT

A. Composition of the Court

This Court is established by the Provincial Court Act, S.N. 1991. There are five divisions of the court: Small Claims, Family, Youth, Traffic and Criminal.

The Court consists of the Chief Judge of the Provincial Court, and 23 other judges appointed provincially by the Lieutenant Governor in Council based on the recommendations of a judicial council.

The Chief Judge determines the division in which a judge will sit. The Chief Judge has the power to supervise the judges and designate the case or matter or court facility in which a particular judge will act, and to assign special duties considered appropriate.

B. Geographic Distribution

The Provincial Court may sit at any place in the province for the orderly dispatch of the business of the Court. There are 12 Provincial Court locations with permanent registries, out of which, 10 Provincial Court locations have resident judiciary. Thirty six locations are served on a regular circuit basis without permanent registries or resident judiciary.

C. Jurisdiction of the Judges

Section 4 of the Provincial Court Act generally sets out the jurisdiction of the Court. The Court is a court of record, and every judge has jurisdiction throughout the province to exercise the powers and perform the duties conferred or imposed on a judge of the Provincial Court, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.

1. Small Claims Jurisdiction

The Court has jurisdiction in all civil matters where the amount claimed does not exceed \$3,000.

The Court has no jurisdiction over cases:

- in which the title to land is brought into question;
- in which the validity of any devise, bequest, or limitation is disputed;

- for malicious prosecution, false imprisonment, defamation, criminal conversation, seduction or breach of promise of marriage; or
- against a judge of any court, justice or public officer for anything done while executing the duties of office.

Appeals from Small Claims Court are usually to the Supreme Court Trial Division.

2. Family Jurisdiction

The Provincial Court (Family Division) outside of the St. John's area has jurisdiction over marriage, support/maintenance, child welfare, legitimacy, paternity, adoption and inter-spousal Criminal Code offences. Appeals on family matters are to the Supreme Court Trial Division.

3. Youth Jurisdiction

The Provincial Court is a Youth Court under the meaning of the Young Offenders Act (Canada) and can hear all youth matters. Appeals on youth cases are to the Supreme Court Trial Division in summary matters and to the Supreme Court: Court of Appeal in indictable matters.

4. Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle;
- obtaining money or property by false pretences;
- possession of stolen property;
- having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$5,000; and
- mischief under s. 430(4), where the subject matter of the offence

is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$5,000;

- (b) an attempt to commit any offence referred to in paragraph (a); or
- (c) gaming and betting;
- (d) betting, pool-selling, or book-making;
- (e) placing bets for consideration;
- (f) lotteries;
- (g) cheating at play;
- (h) operating a bawdy house;
- (i) driving while disqualified; and
- (j) fraudulently obtaining transportation.

For some more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Provincial Court (Criminal Division) rather than take the case to the Supreme Court for trial.

Those cases include all indictable offences other than those listed in s. 469 of the Criminal Code (for which the Supreme Court has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under s. 553.

If the accused does not elect trial in the Provincial Court (Criminal Division), the Provincial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Supreme Court.

In hybrid offences, a case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

Other acts from which charges are heard in the Criminal Division include:

- Narcotics Control Act;
- Food and Drugs Act;
- Income Tax Act;
- Fisheries Act;

- Unemployment Insurance Act; and
- Migratory Birds Act.

Appeals in summary offence proceedings are to the Supreme Court Trial Division, and to the Supreme Court: Court of Appeal in indictable matters.

D. Duties of the Clerks

In addition to participating in case processing activities, court clerks are appointed as justices of the peace for purposes of:

- taking informations;
- signing court documents except autopsy reports;
- signing warrants of committal, search warrants, and warrants for arrest; and
- endorsing affidavits.

Justices of the peace also provide services of endorsing affidavits and taking informations.

COURT SERVICES

I. ORGANIZATION OF COURT SERVICES

The law courts include all the staff who perform administrative, case processing and court reporting in the province.

In addition, two branches of the Department of Justice provide services to the courts in Newfoundland.

The Civil Law and Related Services Branch provides Sheriff Services and the Public Protection and Support Services Branch provides central personnel, financial and administrative support services to all branches of the Department of Justice, including law courts.

The organization chart at the end of this chapter indicates where these services are located within the overall structure of the Department of Justice.

A. Law Courts

In Newfoundland, the Deputy Minister of Justice/Deputy Attorney General is responsible generally for the law courts. The various divisions are headed by the Registrar of the Supreme Court and the Director of Court Services of the Provincial Court. While the High Sheriff reports to the Associate Deputy Minister, Civil Law and Related Services, the Office of the High Sheriff is an

arm of the Supreme Court. Through these divisions all of the services in the courts and court registries are provided. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses, and warrants for arrest;
- storing and retrieving court documents;
- trial scheduling;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust;
- receiving, storing and maintaining the integrity of court exhibits;
- preparing interim or final court orders;
- scheduling justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;
- completing forms and compiling data for statistical analysis;
- providing information to the general public and to lawyers;
- preparing invoices and bills regarding the sale of transcripts;
- administering youth document records (access and destruction);
- making arrangements for circuit court sittings; and
- providing information for other services.

In Provincial Court locations outside of St. John's, court officers act as court clerks.

The Court's main library collection in St. John's is owned and staffed by the Law Society of Newfoundland.

1. Sheriff's Office

The authority for the appointment of the High Sheriff, sub-sheriffs and bailiffs lies in the Sheriff's Act, S.N. 1991, c.39. Pursuant to s. 2 of the Criminal Code, the sheriff is a peace officer and, in Newfoundland, has province-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is the ex-officio Admiralty Marshall.

Sheriffs perform a number of services related to both criminal and civil case processing and court operations in the Supreme Court, as follows:

- the service of criminal documents
 - criminal summonses and subpoenas;
- the service of civil documents
 - civil summonses and subpoenas, garnishee orders, petitions, notices and any other civil documents;
- jury management
 - summon, pay, provide comforts for juries;
 - prepare attendance lists;
 - seclude and guard juries;
- executions
 - enforcement of notices of judgment and orders issued under the Supreme Court Rules;
 - writs of federal court orders;
 - warrants to arrest ships;
 - sale of real and personal property; and
 - recovery orders.

In addition to the High Sheriff, there is currently one sheriff and five bailiffs on staff.

The 33 deputy-sheriffs appointed pursuant to section 2 of the Sheriffs Act, 1991, provide for the service of documents on a fee-for-service basis and are paid an annual retainer by the Department of Justice.

In Newfoundland, court security and escort of prisoner services are provided by police agencies except in the Supreme Court and Provincial

Court in St. John's where court security is provided by deputy-sheriffs.

2. Court Reporting

Court reporters who record proceedings are full-time salaried staff in either the Supreme Court or the Provincial Court.

The responsibilities of the court reporters include:

- maintaining recording equipment and supplies;
- setting up reporting/recording systems in the courtroom and monitoring the recordings onto the tape during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- providing transcription services; and
- keeping inventory and storage of notes and recorded tapes.

Transcripts are prepared for oral judgements given in the Supreme Court. Transcripts are also automatically prepared for all preliminary inquiries and reciprocal maintenance hearings.

Original copies of transcripts are filed with the registry where the case originated. Copies are sent to Crown Counsel and to defense counsel. All copies of Appeal Books are given to the party initiating the appeal.

B. Public Protection and Support Services Branch

The Public Protection and Support Services Branch is responsible for providing centralized personnel, financial and administrative support services to the Department, including the Law Courts. This Branch coordinates the budget procedures and acts as a liaison between the Law Courts and other government agencies.

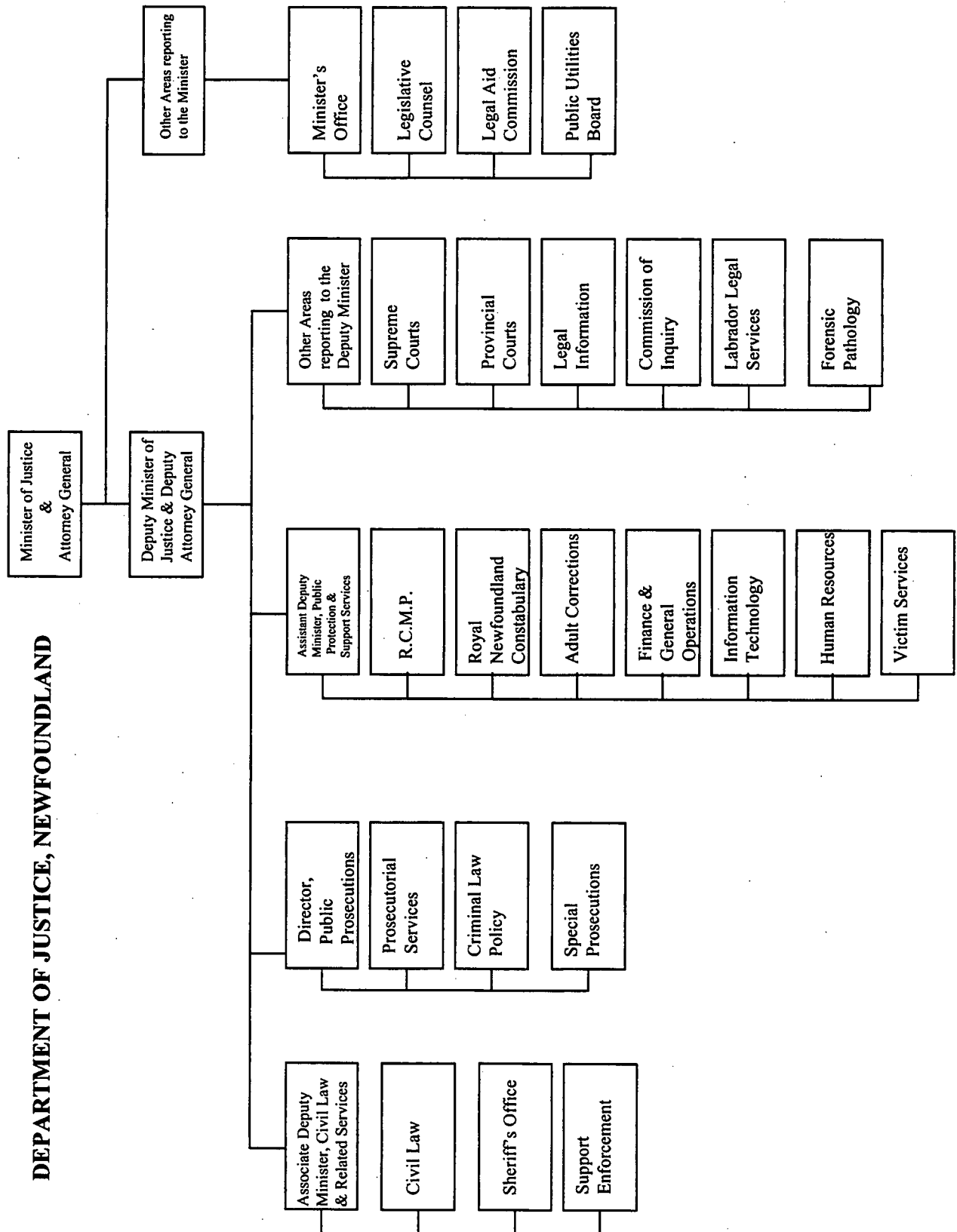


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COURTS IN PRINCE EDWARD ISLAND

I. SUPREME COURT: COURT OF APPEAL

A. Composition of the Court

This Court is established by the Supreme Court Act, R.S.P.E.I. 1988, C. 2p, s-10. It consists of the Chief Justice and two other justices.

Every proceeding in the Court of Appeal must be heard by not fewer than three justices sitting together.

B. Geographic Distribution

The Court of Appeal sits permanently in Charlottetown and does not go on circuit.

C. Jurisdiction of Justices

An appeal lies to the Court of Appeal from a decision of the Supreme Court Trial Division or from an order of a judge of that Division or the prothonotary.

D. Jurisdiction and Duties of the Registrar

The Registrar of the Court of Appeal is also the Registrar of the Supreme Court Trial Division. The jurisdiction and duties of the Registrar are the same as those described for the Supreme Court Trial Division.

II. SUPREME COURT: TRIAL DIVISION

A. Composition of the Court

This Court is established by the Supreme Court Act, R.S.P.E.I. 1988. It consists of the Chief Justice and four other justices appointed federally by the Governor in Council.

The Court is composed of four sections: the General Section; the Family Section; the Estates Section; and the Small Claims Section. All Supreme Court justices can hear cases related to these areas.

B. Geographic Distribution

The Supreme Court sits permanently in Charlottetown and goes on circuit to Summerside and Georgetown as required. Charlottetown and Summerside each have a Supreme Court registry.

C. Jurisdiction of Justices

The Supreme Court Act sets out the jurisdiction of the Supreme Court. It is a court of original jurisdiction and has jurisdiction in all cases civil and criminal arising in the province. It also hears summary conviction appeals from the Provincial Court.

1. General Section

The Supreme Court General Section has jurisdiction over all matters except family, estate and small claims cases. The General Section hears appeals from Provincial Court decisions.

The General Section has jurisdiction in the following matters:

- all matters relating to trusts;
- the redemption or foreclosure of mortgages;
- the sale and distribution of the proceeds of property subject to a charge or lien;
- the raising of portions or other charges on land;
- the partition and sale of real and personal property;
- fraud, mistake, accident, undue influence and duress;
- all matters relating to specific performance;
- all matters relating to injunctions;
- the dissolution of partnership, appointment of receivers and the taking of partnership accounts;
- the power to appoint a receiver;
- the rectification, setting aside, or cancellation of deeds or other written instruments; and
- the distribution of monies of absent persons.

2. Family Section

The Family Section has jurisdiction in respect of the following matters:

- formation and dissolution of marriage;
- judicial separation and separation orders;

- actions and causes concerning matrimonial property including injunctions, partitions and settlements;
- restitution of conjugal rights;
- jactitation of marriage (the offence of falsely claiming to be a person's wife or husband);
- declarations of status including validity of marriage, legitimacy and legitimation;
- alimony and maintenance (inter-spousal) including protection orders for deserted wives;
- maintenance of children including affiliation proceedings and agreements;
- enforcement of alimony and maintenance orders including reciprocal enforcement of these orders;
- property rights, support obligations and other matters under the Family Law Reform Act;
- custody and access;
- adoption;
- charges or proceedings under the Criminal Code or any statute of the province relating to non-support and children in need of protection;
- guardianship of the person and property; and
- causes under the Victims of Family Violence Act, (1996) P.E.I.

3. Estates Section

The Estates Section has jurisdiction in probate matters as outlined in the Probate Act.

4. Small Claims Section

The Small Claims Section has original jurisdiction:

- in all personal actions of debt, covenant, assumpsit and tort, where the debt or damages claimed do not exceed the prescribed sum of \$5,000;
- in actions of replevin where the value of the property sought to be recovered does not exceed \$5,000;

- in any action for the recovery of the amount due upon a money bond where the real debt does not exceed the prescribed sum, notwithstanding that the amount of the penalty may exceed that sum;
- in any action on a bond the value of which does not exceed the prescribed sum given to the sheriff or otherwise in any case in the Supreme Court, whatever may be the penalty; and
- in any action on a bond given to secure the payment of money payable by installments, although the amount remaining unpaid at the time of action brought exceeds the prescribed sum, if the amount of the installment or installments due does not exceed that sum.

The Small Claims Section may also hear the following:

- any action where, after an admitted setoff of any debt or demand claimed by the defendant, the amount claimed does not exceed the prescribed sum; and
- any action whereby the plaintiff has abandoned that amount of the claim which exceeds the prescribed sum such that the remainder of the claim subsequently falls within the prescribed sum (the resulting judgement discharges fully all demands in respect of the claim).

The issue of facts and the assessment or inquiry of damages in every small claims action are to be heard, and judgement subsequently rendered, by a judge sitting without a jury.

The current limit on small claims is \$5,000.

5. Chambers Jurisdiction

Supreme Court judges sitting in chambers have jurisdiction to hear all originating applications, and, unless made in the course of trial, all interlocutory applications. The prothonotary handles uncontested motions and certain applications where he has jurisdiction under an act or rules of court.

Generally, the following matters can be heard and disposed of in chambers:

- appeals from applications to confirm, vary or set aside orders, reports or certificates granted by court clerks;
- actions or issues in actions which have been ordered to be proceeded with by affidavit or on documents before the Court,

and special cases and hearings on a point of law;

- applications for summary judgement, applications for judgement in default of pleading, and applications for judgement on the basis of an admission;
- applications to set aside or vary a judgement; and
- matters which being otherwise proceeded with by action are ordered to be disposed of in chambers.

D. Jurisdiction and Duties of the Prothonotary

The Prothonotary is an officer of the Court and is appointed under the Civil Service Act. The Prothonotary is responsible for carrying out the duties assigned to him or her by any specific statute or enactment by the Rules of Court.

These duties include the following:

- acting as examiner in the Court;
- taxing costs respecting proceedings in the Court;
- registering orders for the sale, leasing or mortgaging of any lands in administration, partition, infant or mental incompetency proceedings;
- executing conveyances, transfers or mortgages ordered by the Court;
- selling mortgaged premises under order of the Court;
- inquiring into the merits of an application to the Court for an order for the sale or other disposition of the real or personal property seized, possessed or entitled to a term of years by an infant or mentally incompetent person;
- registering bankruptcies and hearing bankruptcies; and
- small claims mediation.

III. PROVINCIAL COURT

A. Composition of the Court

This Court is established by the Provincial Court Act, R.S.P.E.I. 1988, c.2p, p.25. The Court is composed of the Adult Criminal Division and the Youth Division.

The Provincial Court consists of the Chief Judge and two other judges appointed provincially by the Lieutenant Governor in Council. All appointments are to both the Criminal Division and the Youth Division.

B. Geographic Distribution

The Provincial Court may sit at any place in the province for the orderly dispatch of the business of the Court. There are five locations where the Provincial Court (Criminal and Youth) sits. Charlottetown and Summerside have permanent locations while Alberton, Souris and Georgetown are served on circuit. These court locations have permanent Provincial Court registries.

C. Jurisdiction of Judges

Section 6 of the Provincial Court Act generally sets out the jurisdiction of the Court. The Provincial Court is a court of record, and the Court and every judge have jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a magistrate, provincial magistrate, or one or more justices of the peace under any act of the Province or of Canada.

1. Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle;
- obtaining money or property by false pretences;
- possession of stolen property;
- having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$5,000; and
- mischief under s.430(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$5,000;

- #### **(b)**
- an attempt to commit any offence referred to in paragraph (a);
or

- (c) gaming and betting;
- (d) betting, pool-selling or book-making;
- (e) placing bets for consideration;
- (f) lotteries;
- (g) cheating at play;
- (h) operating a bawdy house;
- (i) driving while disqualified;
- (j) fraudulently obtaining transportation; and
- (k) provincial statute offences.

For more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Provincial Court rather than take the case to the Supreme Court for trial. Those cases include all indictable offences with the exception of those listed in s. 469 of the Criminal Code (for which the Supreme Court has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under s. 553.

If the accused does not elect trial in the Provincial Court, the Provincial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Supreme Court. In hybrid offences, a case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

2. Youth Jurisdiction

All Provincial Court judges are also Youth Court judges for the purposes of the Young Offenders Act (Canada), and can hear all youth matters.

D. Jurisdiction and Duties of Judicial Clerks

In Prince Edward Island, Provincial Court case processing and administrative tasks are performed by legal services officers and judicial clerks. The legal services officer is generally responsible for administrative and supervisory functions, but also assists the judicial clerk with counter services and case processing activities as required. Both positions include appointments as justices of the peace. The functions performed include:

- swearing of informations;

- issuing service such as summonses, warrants for arrest, search warrants, and appearance notices;
- taking pleas in provincial statutes and assessing fines;
- conducting show cause hearings;
- conducting bail hearings;
- releasing remandees; and
- preparing interim and final court orders.

The Provincial Court in Alberton and Souris are each staffed by a part-time clerk/justice of the peace responsible for maintaining the local registry and hearing guilty pleas in summary (provincial) offences.

The registrar of the Supreme Court is also the chief clerk of the Provincial Court.

COURT SERVICES

I. Organization of Court Services

Court services in Prince Edward Island are provided by the Judicial Services Division of the Department of Community Affairs and Attorney General. This Division provides all staff necessary for court administration, case processing, sheriff services and court reporting.

The Community and Correctional Services Division provides two full-time family counsellors to the Family Section in the Supreme Court Trial Division.

The Administration Division of the Department of Community Affairs and Attorney General prepares budget estimates, maintains personnel records, and acts as an agent for Treasury Board requests and submissions.

The organization charts at the end of this chapter outline the location of these services within the overall structure of the department and the Judicial Services Division.

A. Judicial Services Division

1. Court Administration

Under the Deputy Attorney General, the Registrar is responsible for the administrative activities of the courts. Through this office, services to all court locations are coordinated.

The administrative duties include:

- receiving and processing legal documents;
- storing and retrieving court documents;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing, maintenance and releasing of court exhibits;
- providing court stenographers in court who open and close court, call cases, administer oaths, monitor electronic recording equipment, take custody of documents and evidence submitted in court, document log sheets, and maintain exhibits in the courtroom during trials;
- trial scheduling;
- witness management;
- monitoring the enforcement of court orders;
- completing forms for statistical purposes;
- access and destruction of youth documents and records;
- making arrangements for circuit court sittings; and
- law library maintenance.

2. Sheriff Services

The authority for the appointment of a sheriff lies in the Sheriffs Act, S.P.E.I. 1990. Pursuant to s. 2 of the Criminal Code of Canada, the sheriff is a peace officer. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is a marshall of the Federal Court in admiralty causes.

Sheriffs perform a number of services related to both criminal and civil case processing and court operations including:

- the service of civil documents
 - civil summonses and subpoenas, originating notices, garnishing orders, petitions, notices and any other civil documents; and
 - general process serving;
- jury management

- summon, provide comforts for juries;
- prepare attendance lists;
- seclude and guard juries; and
- attend to and look after a jury during a trial;
- escorts
 - accused and convicted young persons and as a supplement to provincial correctional centre escort services especially with young persons and in emergency situations;
 - family court matters including arrest on an order of the judge, and ensuring litigants' attendance in court (default under maintenance order);
- executions
 - execution orders and sale and other writs of execution issued;
 - writs of fieri facias (federal courts);
 - warrants to arrest ships;
 - sheriff sales (land);
 - recovery orders;
 - attachment orders;
 - arrests on civil warrants of committal;
 - evictions; and
 - landlord and tenant seizures;
- prisoner holding
 - supervise holding units in courthouse in Charlottetown;
 - provide food for persons in custody while in holding unit awaiting court proceedings; and
 - guard R.C.M.P. prisoners in holding unit;
- bailiff
 - seize, detain, advertise and sell goods under chattel mortgages and conditional sale agreements;
- auctioneer
 - when ordered by the court as in a foreclosure proceeding;
 - power of sale proceedings under a land mortgage;
 - personal property under execution orders;
 - statutory execution on lands;
 - chattel mortgages and conditional sale agreements;
 - sales under the Garage Keepers Lien Act; and
 - sales under the Landlord and Tenant Act (commercial leases).

All sheriffs receive a salary, and casual deputies are on an hourly wage.

Court security in Prince Edward Island is the responsibility of the police and sheriffs.

3. Court Reporting and Recording Services

Court stenographers who record proceedings are all full time staff in the Judicial Services Division. They are present at all civil and criminal trials, appeals and chambers matters, using electronic recording equipment. Reporting of discoveries is done by private individuals. Stenographers are paid a salary for their court services and do not receive fees for the preparation of transcripts. Revenues from the sale of transcripts go to the Provincial Treasury, Consolidated Revenue Fund.

In addition to providing secretarial assistance to the judiciary, court stenographers are also responsible for the following:

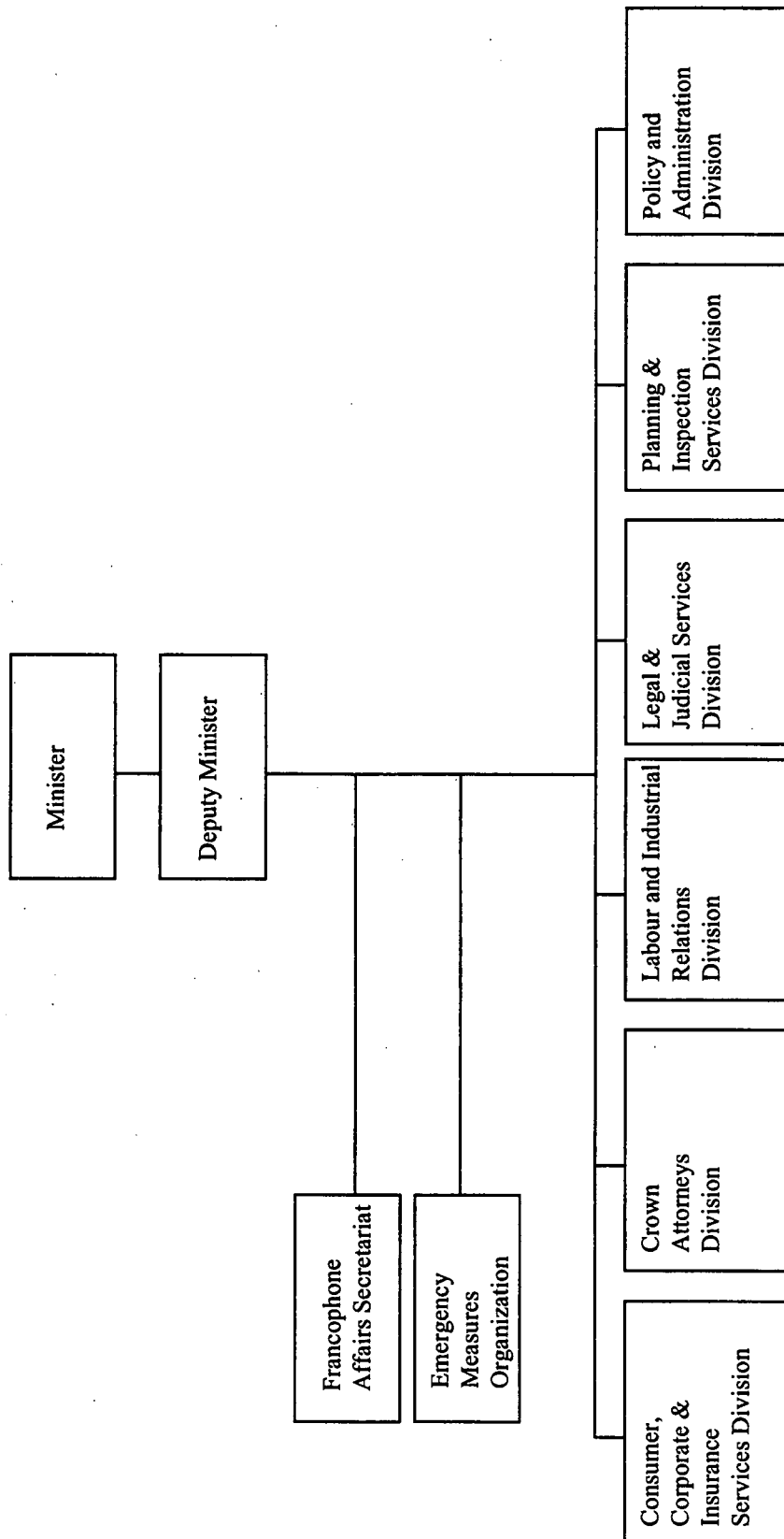
- monitoring electronic recording equipment;
- maintaining the court log of participants and events during proceedings;
- maintaining recording equipment and supplies;
- transcribing court tapes; and
- preparing invoices and billings.

Transcripts are provided for all oral judgements and submitted to the judge. Transcripts are also automatically prepared for all preliminary inquiries and reciprocal maintenance hearings. Original copies of transcripts are filed with the registry where cases originated. Copies are sent to Crown counsel and defence counsel, and to plaintiffs and respondents in civil matters.

B. Administration Division

The Administration Division of the Department of Community Affairs and Attorney General is responsible for providing centralized budgeting, and for purchase and supply services to the Department including the Judicial Services Division. In addition, it maintains personnel records and acts as a liaison between the Judicial Services Division and the Deputy Minister, Cabinet, and Treasury Board.

DEPARTMENT OF COMMUNITY AFFAIRS AND ATTORNEY GENERAL, PRINCE EDWARD ISLAND



JUDICIAL SERVICES DIVISION, DEPARTMENT OF COMMUNITY AFFAIRS AND ATTORNEY GENERAL, PRINCE EDWARD ISLAND

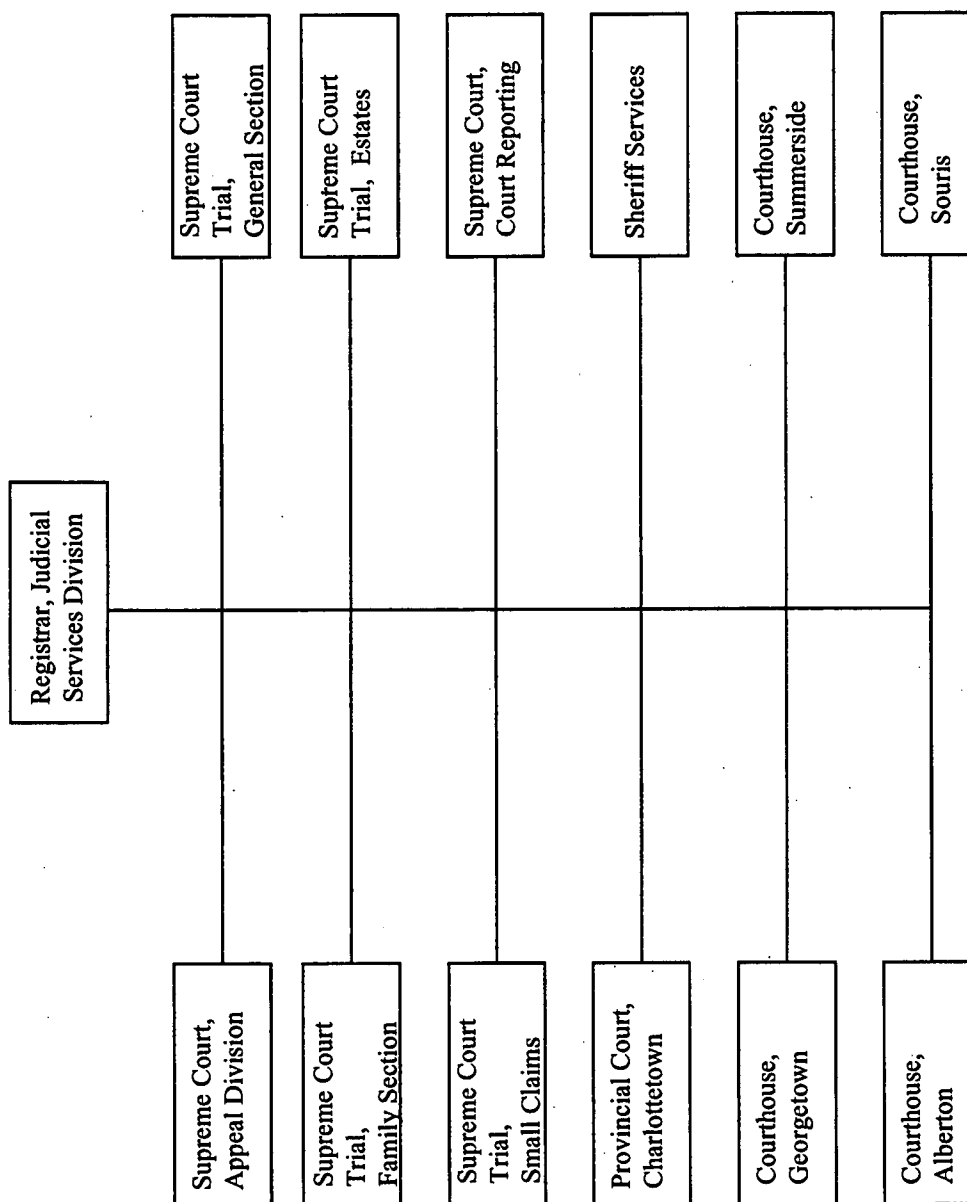


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COURTS IN NOVA SCOTIA

I. NOVA SCOTIA COURT OF APPEAL

A. Composition of the Court

This Court is established by the Judicature Act, C. 240, R.S.N.S., 1989 as amended. The Court of Appeal consists of the Chief Justice of Nova Scotia and seven other justices who are appointed federally by the Governor in Council. There is one supernumerary justice.

The Court generally sits with a quorum of three justices, and on occasion, with five. It may sit with one or more divisions of three justices. One justice may hear interlocutory matters in chambers.

B. Geographic Distribution

The Court of Appeal sits regularly in Halifax.

C. Jurisdiction of Justices

Section 7 of the Judicature Act sets out the jurisdiction of the Court of Appeal. It has appellate jurisdiction in both civil and criminal matters from the Supreme Court.

D. Jurisdiction and Duties of the Registrar

Appointed by the Lieutenant Governor in Council, the Registrar of the Court of Appeal may hear interlocutory applications, administer estates, sign all orders of Court of Appeal decisions, and ensure that all appeals are perfected.

The Registrar of the Court of Appeal is also appointed as Registrar in Bankruptcy.

II. SUPREME COURT

A. Composition of the Court

This Court is established by the Judicature Act, C.240, R.S.N.S., 1989, as amended. The Supreme Court consists of the Chief Justice of the Supreme Court, an Associate Chief Justice and 23 other justices who are appointed federally by the Governor in Council. Additionally, there is one supernumerary justice.

B. Geographic Distribution

The Supreme Court sits regularly in Halifax, and in 17 other locations with permanent registries, as required, in spring and fall sessions.

C. Jurisdiction of Justices

Section 8 of the Judicature Act sets out the general jurisdiction of the Court. The Supreme Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the province, except those matters or cases expressly excluded by statute.

1. Civil Jurisdiction

Civil jurisdiction is unlimited as to the monetary amount involved.

2. Family Jurisdiction

The Court has jurisdiction over nullity, judicial separation, corollary relief, divorce, matrimonial property, custody, access, legitimacy and intra-family Criminal Code offences.

3. Criminal Jurisdiction

The Court has original jurisdiction in indictable offences tried by judge and jury.

D. Jurisdiction and Duties of Prothonotaries and Clerks

Prothonotaries and clerks are appointed in accordance with the Civil Service Act, C.70, R.S.N.S., 1989, pursuant to the Prothonotaries and Clerks of the Crown Act, C.364, R.S.N.S., 1989. Where a Supreme Court order is consented to by all parties, a prothonotary may:

- change solicitor on the record;
- amend any pleading;
- appoint a special examiner to take evidence abroad;
- fix a date for assessing damages, taking accounts, advertising or creditors;
- release any exhibit;
- confirm a verbal order made by the Supreme Court;
- discontinue a proceeding;
- dismiss a proceeding of any party who is not a person under disability;
- waive the provision for any rule;
- grant an order to issue and serve a petition for divorce outside of the province;

- tax solicitors' bills of costs;
- grant leave to review an originating notice for a further period of six months;
- grant leave to renew an execution order for a further period of 12 months; or
- grant other orders for interlocutory or final judgement.

In addition, prothonotaries supervise persons employed in the court registry.

In Nova Scotia all prothonotaries are also appointed clerks of the Small Claims Court. The prothonotary at Halifax is, by tradition, a member of the Nova Scotia Bar.

III. SMALL CLAIMS COURT

A. Composition of the Court

The Small Claims Court was established as a court of record of junior jurisdiction by the Small Claims Court Act, C.430, R.S.N.S., 1989.

The Court is presided over by 24 fee-paid adjudicators, all of whom are practising lawyers in the community, who are appointed as required by the Lieutenant Governor in Council.

Hearings are conducted at night.

B. Geographic Distribution

There are 27 locations of the Small Claims Court in Nova Scotia. Most of these are located in the local Supreme Court facility. In Halifax and areas without a Supreme Court, the Small Claims Court is located in the Provincial Court facility. In other counties the local court house is utilized. Community buildings such as fire halls are used if there is no local court house.

C. Jurisdiction of the Adjudicators

Section 9 of the Small Claims Court Act sets out the jurisdiction of the Court. The adjudicator has the authority to hear claims:

- seeking a monetary award in respect of a matter or thing arising under a contract or a tort where the claim does not exceed \$5,000 inclusive of any claim for general damages but exclusive of interest;
- notwithstanding s. 5(1), for municipal rates and taxes, except those which constitute a lien on real property, where the claim does not exceed \$5,000 exclusive of interest;

- requesting the delivery of specific personal property where the personal property does not have a value in excess of \$5,000; or
- respecting a matter or thing authorized or directed by an Act of the Legislature to be determined pursuant to this Act.

The Small Claims Court does not have jurisdiction in actions:

- for the recovery of land or an estate or interest therein;
- in respect of a dispute concerning the entitlement of a person under a will, settlement, or on an intestacy;
- for defamation or malicious prosecution;
- involving a dispute between a landlord and a tenant; or
- for general damages in excess of \$100.

D. Jurisdiction of the Clerks

The Small Claims Court clerk handles paper flow and guides claimants and defendants through the process but does not provide legal advice on their claims.

IV. PROBATE COURT

A. Composition of the Court

This Court is established by the Probate Act, C.359, R.S.N.S., 1989. It consists of Supreme Court judges who sit as Probate Court judges.

B. Geographic Distribution

The Probate Court sits regularly in Halifax, and in 19 other locations with permanent registries, as required.

C. Jurisdiction of Judges

Section 10 of the Probate Act sets out the jurisdiction of the Court. The Court has the jurisdiction and power to:

- grant probates of wills and letters of administration, whether general or limited, of the estates of deceased persons;
- revoke or cancel such probates of wills and letters of administration;
- effect and carry out the judicial administration of the estates of deceased persons through the representatives, and to hear and determine all questions, matters and things in relation thereto

necessary for such administration; and

- appoint guardians and to take the accounts of such guardians under the Guardianship Act.

All appeals from Probate Court are to the Appeal Court.

D. Duties of the Registrar

Appointed in accordance with the Civil Service Act, C.70, R.S.N.S., 1989, pursuant to the Registry Act, C.392, R.S.N.S., 1989, the Registrar of Probate is responsible for registering all letters granted by the Court and filing and registering all orders and decrees. Contentious matters are referred to a Supreme Court judge for adjudication.

V. PROVINCIAL COURT

A. Composition of the Court

This Court is established by the Judges of the Provincial Court Act, C.238, R.S.N.S., 1989. The Provincial Court consists of the Chief Judge of the Provincial Court, an associate chief judge and 23 other judges appointed provincially by the Lieutenant Governor in Council.

B. Geographic Distribution

The Provincial Court sits in 15 locations with permanent registries, and in 23 circuit locations.

C. Jurisdiction of Judges

Section 7 of the Judges of the Provincial Court Act generally sets out the jurisdiction of the Court. It is a court of record and every judge has jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a judge of the Provincial Court, a magistrate, justice or two or more justices of the peace sitting together, by or under an enactment of the province or of Canada.

1. Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under section 553 of the Criminal Code of Canada.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle,

- obtaining money or property by false pretences,
 - possession of stolen property,
 - having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$5,000, and
 - mischief under s. 430(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$5,000;
- (b) an attempt to commit any offence referred to in paragraph (a); or
- (c) gaming and betting;
- (d) betting, pool-selling or book-making;
- (e) placing bets for consideration;
- (f) lotteries;
- (g) cheating at play;
- (h) operating a bawdy house;
- (i) driving while disqualified; or
- (j) fraudulently obtaining transportation.

For more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Provincial Court rather than take the case to the Supreme Court for trial. Those cases include all indictable offences with the exception of those listed in s. 469 of the Criminal Code (for which the Supreme Court has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under s. 553.

In hybrid offences, if the accused does not elect trial in the Provincial Court, the Provincial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Supreme Court. A case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

2. Youth Jurisdiction

The Provincial Court is a Youth Court within the meaning of the Young Offenders Act, and has jurisdiction to hear cases involving 16 and 17 year old youths. Cases involving youths under the age of 16 are heard in the Family Court, and is a Youth Court within the meaning of the Young Offenders Act.

Appeals of indictable offences under the Young Offenders Act are to the Court of Appeal while appeals of summary conviction offences are to the Supreme Court.

D. Duties of the Clerks

Each permanent Provincial Court location has a court administrator who is primarily responsible for supervising registry case processing activities. Most personnel have justice of the peace appointments and can perform quasi-judicial functions as required.

VI. FAMILY COURT

A. Composition of the Court

This Court is established under the Family Court Act, C.159, R.S.N.S., 1989. It consists of a Chief Judge and 17 other judges who are appointed provincially by the Lieutenant Governor in Council.

B. Geographic Distribution

The Family Court sits in nine permanent locations and in 16 circuit locations.

C. Jurisdiction of Judges

The Family Court is a court of summary procedure with jurisdiction in such family matters as child protection, child custody and family violence. The Family Court is also designated as a Youth Court under the Young Offenders Act (Canada) and the Young Persons Summary Proceedings Act (Nova Scotia) for matters involving young people aged 12 to 15 years. The Court also has jurisdiction in the following areas:

- matters under the Children and Family Services Act, the Employment of Children's Act and the Adult Protection Act;
- s. 172 of the Criminal Code regarding persons who endanger the morals of children;
- s. 215 of the Criminal Code regarding the failure to provide the necessities of life for children under the age of 16 years or for a spouse;

- s. 266, s. 810 and s. 811 of the Criminal Code dealing with common assaults or threats involving husband and wife or parent and child;
- sections of the Solemnization of Marriage Act relating to the performance of marriage and to hearing applications from persons under the age of 16 years desiring permission to marry; and
- other acts or matters as the Governor in Council may from time to time approve.

The Court may also hear applications to vary divorce orders that are registered with the Family Court and may recommend variance respecting maintenance, access and custody to the Supreme Court of Nova Scotia.

Appeals of indictable offences under the Young Offenders Act are to the Court of Appeal while appeals of summary conviction offences are to the Supreme Court.

D. Duties of the Family Court Officers

Officers of the Family Court supervise and participate in case processing activities, are commissioners of oaths and are appointed as justices of the peace for the purposes of signing court documents and taking informations.

COURT SERVICES

I. ORGANIZATION OF COURT SERVICES

Two branches of the Department of Justice provide support services to the courts.

Courts and Registries provides staff who perform all local administrative, case processing, court reporting and sheriff services necessary for the operation of Nova Scotia's courts.

The Finance and Administration Branch provides central support services for all branches of the Department of Justice including Courts and Registries.

Until August 1994, the Department of Community Services administered the Family Court in Nova Scotia. Since that time, the Family Court has been administered by the Department of Justice.

The organization chart at the end of this chapter indicates where departmental services are located within the overall structure of the Department of the Attorney General of Nova Scotia and the Courts and Registries Branch. The Family Court is more fully discussed in the section entitled Family Court Administration.

A. Courts and Registries Branch

1. Court Administration (Provincial Court)

Reporting to the Executive Director, the Director of Court Support Services is responsible for the administration of all levels of court (except Family and Probate) in Nova Scotia. Through this Branch all of the services in the court registries for all of the courts (with the exception of the municipally funded Provincial Court in Halifax) are provided. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses and warrants for arrest;
- storage and retrieval of court documents;
- trial scheduling and coordinating trial participants including witnesses;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing and maintaining the integrity of court exhibits;
- preparing interim or final court orders;
- scheduling justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;
- completing forms and compiling data for statistical analysis;
- providing information to the general public and to lawyers;
- administering youth document records (access and destruction);
- making arrangements for circuit court sittings; and
- providing information necessary for other related services such as monitoring of restitution and maintenance.

2. Sheriff Services

Sheriffs are appointed in accordance with the Civil Service Act, C.70, R.S.N.S., 1989, pursuant to the Sheriffs Act, C.426, R.S.N.S., 1989.

Pursuant to s. 2 of the Criminal Code, the sheriff is a peace officer and in Nova Scotia has province-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is a marshal or deputy marshal of the Federal Court in admiralty causes.

Sheriffs perform a number of functions related to civil and criminal case processing and court operations in all courts. They include:

- the service of civil documents
 - civil summonses and subpoenas, garnishing orders, petitions, notices and other civil documents;
- court security
 - escort and protect judges while attending court;
 - supervise and protect accused;
 - protect the public attending court;
 - protect witnesses; and
 - arrest on order of the judge (contempt);
- jury management
 - provide comforts for juries; and
 - seclude and guard juries;
- prisoner holding
 - supervise holding units in courthouses; and
 - provide food for persons in custody while in holding unit awaiting court proceedings;
- escorts
 - accused and convicted persons both adult and youth on remands, after first appearance, from lockup or detention centre to court, or after sentence to provincial or federal detention centres; and
 - witnesses when in custody;
- executions
 - writs of seizure and sale and other writs of execution issued under the Supreme Court Rules;
 - writs of fieri facies (federal courts);
 - warrants to arrest ships;
 - sheriff sales (land);
 - orders of replevin;
 - arrests on warrants for non-payment of fines;
 - arrests on civil warrants of committal; and
 - evictions.

Police agencies provide court security in the Halifax City Court and assist the sheriffs as required in other court locations throughout the province.

3. Court Reporting

Court reporters who record proceedings are full-time staff in the Courts and Registries Branch. They cover all cases in all courts except for small claims matters. Reporters are paid a salary for their services and do not receive fees for the preparation of transcripts.

The administrative responsibilities of the reporters and recorders include:

- the maintenance of recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto the tape during proceedings;
- maintaining a written log of participants and events during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription and playback;
- preparing invoices and billings;
- acting as clerks as requested; and
- providing secretarial services to the judiciary.

Transcripts are provided forthwith for all oral judgements given in the Supreme Court and are submitted to the judge. Transcripts are also automatically prepared for all preliminary inquiries and upon request in Provincial Court trials. Daily transcripts are generally prepared immediately following the hearing.

Original copies of transcripts are filed with the registry where the case originated. Copies are sent to Crown counsel and to defense counsel. All copies of appeal books are given to the party initiating the appeal.

4. Financial and Statistical Service

This division provides a central service to Courts and Registries with respect to the receipt and disbursement of fees, fines and trust funds and the preparation of statistical reports. This division also provides user support to the Justice Oriented Information System (J.O.I.S.).

B. Finance and Administration Branch

Under the Deputy Attorney General, this Branch is responsible for the development, direction, implementation and maintenance of the total financial, personnel and administrative activities within all branches of the Department.

C. Family Court Administration

Until August 1994, the Family Court was administered by the Department of Community Services. In August 1994, the Family Court including staff and judges transferred to the Department of Justice.

Day to day administrative responsibilities for Family Court operations rest with court supervisors who report to the Director of Family Courts.

Although it is primarily judicial in scope, the Family Court is also concerned with the fundamental relationships of the family, in that it acts as a conciliator in family problems and as a protector of the rights of clients coming before the Court. The primary goal of the Court is to provide services specializing in family law linked to related social and enforcement services.

The services provided through the Family Court are Judicial Services, Intake Services, Enforcement Services and Young Offender Services.

1. Judicial Services

The judicial component of the Family Court consists of Family Court judges who hear and dispose of matters before the Court pursuant to legislation within the jurisdiction of the Family Court, and are designated as Youth Court judges within the meaning of the Young Offenders Act.

2. Intake Services

Intake Services assess with the client the nature of a problem and assist with initiating appropriate action. In Halifax, Dartmouth, Sydney and New Glasgow these services are provided by Intake Services workers. In other areas of the province, Family Court officers are responsible for this service.

Short-term counselling may be offered to clients of the Family Court at the Intake Services stage or on referral by judges of the Court through staff initiative or referral by other social agencies. Families and individuals requiring long-term counselling are referred to appropriate services in the community.

D. Maintenance Enforcement Program

Enforcement of maintenance orders originating from either the Nova Scotia Family Court, the Nova Scotia Supreme Court, or any jurisdiction with which

Nova Scotia has a reciprocal agreement, is carried out by the Nova Scotia Maintenance Enforcement Program. The new program differs significantly from the previous Family Court system it replaced, with an emphasis on administrative rather than court-based enforcement and an expanded range of enforcement options in dealing with non-compliance.

DEPARTMENT OF JUSTICE, NOVA SCOTIA

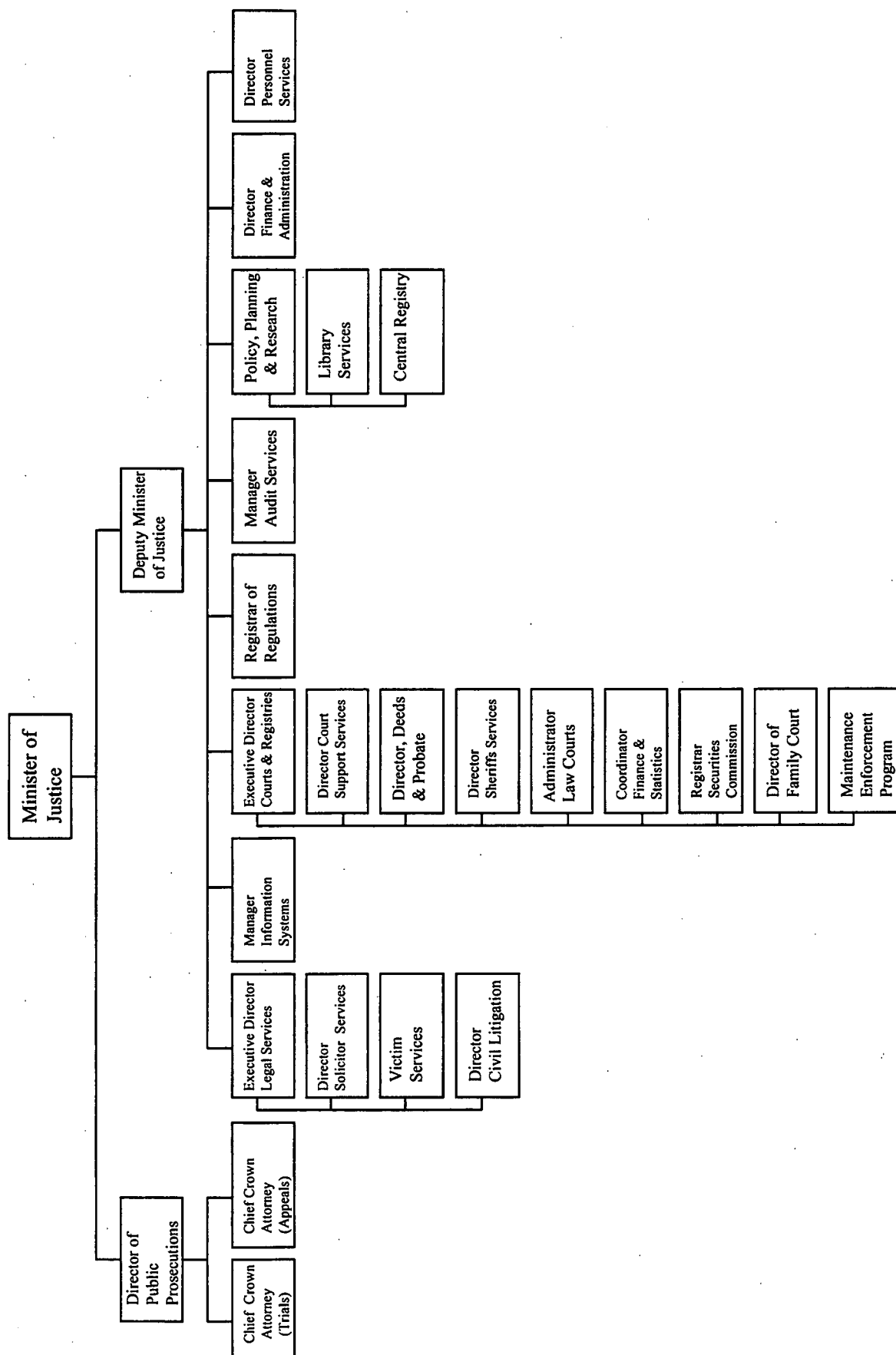


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COURTS IN NEW BRUNSWICK

I. COURT OF APPEAL

A. Composition of the Court

This Court is established by the Judicature Act, R.S.N.B. 1973. The Court of Appeal consists of the Chief Justice of New Brunswick and five other justices who are appointed federally by the Governor in Council. In some circumstances, a judge of the Court of Queen's Bench can sit as a Court of Appeal judge.

Every appeal, motion, or application to the Court of Appeal shall, unless otherwise provided, be heard before not fewer than three justices sitting together.

B. Geographic Distribution

The Court of Appeal sits permanently in Fredericton, but may sit elsewhere at the request of the Chief Justice of New Brunswick.

C. Jurisdiction of Justices

Section 8 of the Judicature Act sets out the jurisdiction of the Court. It has appellate jurisdiction in civil and criminal matters, and with jurisdiction and power to hear and determine motions and appeals respecting any judgement, order or decision of any judge of the courts of New Brunswick.

An appeal to the Court of Appeal may be taken by any party from any judgement, order or decision:

- made in the Court of Queen's Bench or by a judge thereof;
- made by a judge of the Court of Queen's Bench who is persona designate by the provisions of an act that does not expressly deal with the matter of an appeal from that judgement, order or decision; or
- that is stated in any other act as being subject to an appeal to the Court of Appeal.

Where a party seeks to appeal from an interlocutory order or decision, an order or decision as to costs only, or an order made with the consent of the parties, leave to appeal must be obtained by motion to a judge of the Court of Appeal.

D. Jurisdiction and Duties of the Registrar

The Registrar of the Court of Appeal is appointed by the Lieutenant Governor in Council, pursuant to s. 57 (1) of the Judicature Act. The Registrar is assisted by a deputy registrar. The Registrar may transact all business and

exercise all jurisdiction of the Court or judge of the Court, in respect of the following proceedings and matters:

- granting leave for service out of the jurisdiction of a writ or notice of a writ of summons, ordering substituted or other service or the substitution of notice for service and perfecting service of writs of summons, and enlargement of time for filing writs of summons; and
- judgement in default of appearance or pleadings in all actions, and in all proceedings arising from them, or in connection with them.

Additionally, the Registrar is responsible for:

- signing and sealing all processes of the Court;
- drawing all orders, decrees and judgements;
- taxing all bills of costs where taxation is necessary;
- settling appeal books;
- issuing orders under various acts;
- executing conveyances, transfers or mortgages ordered by the Court;
- inquiring into the merits of an application to the Court;
- issuing subpoenas to debtors;
- settling orders;
- settling cause books;
- making declarations as to the state of title to land;
- granting leave to renew an originating notice or execution order;
- granting orders for interlocutory or final judgement;
- administering oaths;
- taking affidavits and statutory declarations; and
- receiving affirmations.

II. COURT OF QUEEN'S BENCH

A. Composition of the Court

This Court is established by the Judicature Act, R.S.N.B. 1973. The Court of Queen's Bench consists of the Chief Justice and 22 other judges who are appointed federally by the Governor in Council. The Court is composed of two divisions: the Trial Division with 14 judges; and the Family Division with 8 judges. There are also two (2) supernumerary judges.

B. Geographic Distribution

New Brunswick is divided into eight judicial districts. An office of Clerk/Administrator of the Court is located in each judicial district. In addition, the Court of Queen's Bench also hears matters at satellite locations as required.

C. Jurisdiction of Judges

Section 7(3) of the Judicature Act generally sets out the jurisdiction of the Court. The Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the province, except those matters or cases expressly excluded by statute. It also acts as a criminal appellate court.

1. Trial Division

The Trial Division of the Court of Queen's Bench exercises general and original jurisdiction in all causes and matters, (except family related cases which are usually heard by the Family Division) including jurisdiction in the following matters:

- all causes and matters, civil and criminal, that were within the exclusive common law jurisdiction of the Supreme Court in the exercise of its original common law jurisdiction, before the commencement of the Judicature Act, 1909;
- all causes and matters that prior to July 1, 1966, were assigned to the Chancery Division;
- all causes and matters that prior to September 4, 1979 were within the jurisdiction of the County Court of New Brunswick; and
- all causes and matters that prior to September 4, 1979, were within the jurisdiction of the Queen's Bench Division of the Supreme Court.

The Trial Division also has responsibility for small claims matters with a monetary limit of \$3,000. These matters are heard by Trial Division judges.

2. Family Division

The jurisdiction of the Family Division of the Court of Queen's Bench is set out in Schedules A and B of the Judicature Act and includes the following:

- jactitation of marriage (the offence of falsely claiming to be a person's wife or husband);
- judicial separation;
- rights to property in disputes among members of the same family, including dower, partition and sale, and settlements;
- restitution of conjugal rights;
- maintenance of a deceased person's dependents;
- alimony, maintenance and protection for spouses;
- maintenance of children;
- maintenance of parents;
- enforcement of alimony and maintenance orders;
- affiliation proceedings;
- custody of and access to children;
- adoption;
- declarations of status, including validity of marriage, legitimacy and legitimation;
- charges or proceedings under the Criminal Code of Canada with respect to incest and other sexual offences committed by a family member against another member of the same family, corrupting children, failing to provide necessities, abandoning children, abduction of children by members of the same family, assaults by a member of a family against another member of the same family, and thefts by a family member from another member of the same family;
- charges or proceedings against a person under eighteen years of age in respect of an offence under any provincial statute;
- charges or proceedings against a person in relation to an offence under a provincial statute against another member of his/her family;
- guardianship of the person and property of minors;

- consent to medical treatment of minors;
- actions in tort where the defendant, or any defendant, is a member of the same family as the plaintiff;
- the committal, custody or detention of any person, or the management of his/her property, for reasons of alcoholism, mental illness, mental incompetency or mental or physical infirmity;
- change of name; and
- presumption of death.

All appeals from the Court of Queen's Bench are to the Court of Appeal.

D. Jurisdiction and Duties of the Registrar, Administrators, and Clerks

The jurisdiction of the Registrar of the Court of Queen's Bench is the same as described for the Court of Appeal. The Registrar is assisted in these duties by deputy registrars.

The Registrar of the Court of Queen's Bench is also responsible for matters involving the annulment of marriages. The Registrar executes this duty by virtue of the Court of Divorce and Matrimonial Causes, which remains an operational court falling under the jurisdiction of the Registrar of the Court of Queen's Bench.

Administration of local Queen's Bench registries is performed by regional managers. Legal officers are responsible to carry out statutory obligations and provide legal expertise in the administrative region. In two of the six administrative regions, the regional manager performs a dual function as legal officer. Regional managers and legal officers have been appointed by the Lieutenant Governor in Council as clerks/administrators (legal officers) pursuant to s. 68 of the Judicature Act and deputy clerks/administrators (regional administrators/regional managers) pursuant to s. 69 of the Judicature Act. Regional managers and legal officers in New Brunswick have law backgrounds. They perform quasi-judicial functions similar to the Registrar. For example, Deputy clerks and clerks of the Court of Queen's Bench, Trial Division may perform marriages.

III. PROBATE COURT

A. Composition of the Court

This Court is established by the Probate Court Act, S.N.B. 1982. It consists of Court of Queen's Bench judges who are all ex-officio judges of the Probate Court.

B. Geographic Distribution

The Court sits in nine permanent locations of which eight correspond to the locations of the Court of Queen's Bench.

C. Jurisdiction of Judges

Sections 2 and 3 of the Probate Court Act set out the jurisdiction of the Court. Generally, the Court has jurisdiction and power to take the probate of wills, to grant administration of the estates of deceased persons throughout the province, to recall or revoke grants, and to supervise the administration and distribution of estates. More specifically, the Court has exclusive jurisdiction and authority in the following items:

- over all of the estate of a deceased person, whether or not a resident of the province at the date of death if the estate is located in the province, and whether it consists of real or personal property or both;
- in respect of the grant, recall and revocation of letters probate of a will, letters of administration whether with or without a will annexed, and resealing as described in s. 73 of the Act; and
- subject to the concurrent jurisdiction of the Court of Queen's Bench, in the issuance of any orders or directions in connection with the administration, passing of accounts and execution of the estate of a deceased person as described above.

D. Duties of the Registrar and Clerks

Administration and case processing functions are provided by the Registrar and Clerks of the Court of Queen's Bench, who are ex-officio officers of the Probate Court.

IV. PROVINCIAL COURT**A. Composition of the Court**

This Court is established by the Provincial Court Act, R.S.N.B. 1973. Judges of the Provincial Court are appointed provincially by the Lieutenant Governor in Council.

The Provincial Court consists of the Chief Judge, an associate chief judge and 23 other judges.

B. Geographic Distribution

There are 14 permanent Provincial Court locations. The Provincial Court regularly hears matters at satellite locations as well.

C. Jurisdiction of Judges

1. Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle,
- obtaining money or property by false pretences,
- possession of stolen property,
- having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$1,000, and
- mischief under s. 430(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$1,000;

(b) an attempt to commit any offence referred to in paragraph (a);
or

(c) gaming and betting;

(d) betting, pool-selling or book-making;

(e) placing bets for consideration;

(f) lotteries;

(g) cheating at play;

(h) operating a bawdy house;

(i) driving while disqualified; and

(j) fraudulently obtaining transportation.

For more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Provincial Court rather than take the case to the Court of Queen's Bench for trial. Those cases include all

indictable offences with the exception of those listed in s.469 of the Criminal Code (for which the Queen's Bench has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under s. 553.

If the accused does not elect trial in the Provincial Court, the Provincial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Queen's Bench. In hybrid offences, a case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

2. Youth Jurisdiction

Adjudication of youth matters is the responsibility of the Provincial Court.

Appeals on summary matters are to the Court of Queen's Bench, Trial Division and on indictable matters to the Court of Appeal.

COURT SERVICES

I. ORGANIZATION OF COURT SERVICES

Three branches of the Department of Justice provide services to the Courts.

Court Services Division provides staff who perform all local administrative, case processing and court reporting activities necessary to operate all of New Brunswick's courts.

The Administrative Services Division provides financial, human resources and general administrative services to the Department.

The Research and Planning Branch conducts research, strategic planning and evaluation for all branches of the Department including Court Services Division.

In addition, the Sheriffs/Coroners Branch of the Department of Solicitor General provides a full range of sheriff functions including document service and court security.

The organization charts at the end of this chapter indicate where Department of Justice services are located within the overall structure of the Department itself, and within the Court Administration Branch.

II. COURT SERVICES DIVISION

Under the Deputy Minister of Justice, the Executive Director, Court Services, is responsible for the administration of courts in New Brunswick. The Registrar of Courts provides functional authority over the legal officers who support the Court.

The division is managed through six administrative regions and supported by a Program Support Unit which provides operational policy, procedures and monitoring.

A. Court Services

Appeal Court administrative functions are performed by the Registrar with the aid of the Deputy Registrar of the Court of Appeal. With respect to the Court of Queen's Bench and the Provincial Court, the regional managers, who are responsible for the overall operation and management of services and programs delivered in the administrative regions, oversee administrative staff and legal officers.

Activities performed in support of the court process:

- receiving and processing legal documents;
- issuing notices, summonses, warrants for arrest;
- storing and retrieving court documents;
- trial scheduling and coordinating trial participants including witness management;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing and maintaining the integrity of court exhibits;
- monitoring the enforcement of court orders;
- completing forms and compiling data for statistical analyses;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;
- providing information to the general public and to lawyers on procedural requirements;
- making arrangements for satellite court sittings;
- providing information necessary for other related services to operate such as the monitoring of restitution and maintenance; and
- law library maintenance.

Sheriff's Officers provide security while the Court stenographers handle exhibits. For sittings of the Provincial Court, a police officer performs court clerk functions. For family and civil matters heard in the Court of Queen's

Bench, court clerk activities are performed by a court stenographer or a judge while a Sheriff's Officer provides services for family matters. A court clerk is provided for some criminal matters in the Court of Queen's Bench.

B. Court Reporting and Recording Services

Court stenographers/recorders who record and transcribe certain proceedings are full-time staff in the Court Services Division and attend all court sittings. Since responsibility for small claims was transferred to the judiciary, small claims proceedings are recorded just as any other trial. The administrative responsibilities of the court stenographers/recorders include:

- maintaining recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto tape during proceedings;
- maintaining a written log of participants and events during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services; and
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription and playback.

In the Provincial Court, stenographers who provide court reporting services also participate in case processing, court clerk and other general office duties. Transcripts are prepared upon request.

III. SHERIFF/CORONERS BRANCH (DEPARTMENT OF THE SOLICITOR GENERAL)

The Sheriff/Coroners Branch is part of the Department of the Solicitor General. General supervision of the Branch is the responsibility of the Chief Sheriff/Coroner located in Fredericton, who is assisted by a Deputy Chief. In addition, three district sheriff/coroners report directly to the Chief. They are responsible for all sheriff/coroner activities within designated geographic areas of the province and are located in Campbellton, Moncton and Saint John.

The authority for the appointment of the sheriffs and deputy sheriffs lies in the Civil Service Act and the Sheriffs Act. All sheriffs and deputy sheriffs are ex-officio coroners, although not all are utilized as coroners within the system. There are also a limited number of lay coroners (17) under the Coroners Act who act on a nominal fee-for-service basis in areas of the province not readily served by the ex-officio coroners.

The Sheriff/Coroners Branch performs a number of services related to civil case processing and court operations. They include:

- court security (Court of Appeal, Court of Queen's Bench and at some Provincial Court sites)
 - protect judges while attending court;
 - supervise and protect accused;
 - protect the public attending court;
 - separate and protect witnesses; and
 - arrest on order of the judge (contempt);
- jury management
 - summon, provide comfort for juries;
 - prepare attendance lists; and
 - seclude and guard juries;
- escorts
 - accused and convicted adults and young persons on remands, after first appearance in court, and after sentence to provincial or federal detention centres; and
 - witnesses when ordered by court and when in custody;
- executions
 - orders of seizure and sale and other orders of execution issued under the New Brunswick Rules of Court;
 - orders for fieri facias (federal courts);
 - warrants to arrest ships;
 - sheriff sales;
 - orders for interim recovery of personal property;
 - seizures under the Repairers Lien Act and Woodworker Lien Act;
 - arrests on civil warrants of committal; and
 - evictions;
- prisoner holding
 - supervise holding units in courthouses; and
 - provide food for persons in custody while in holding unit awaiting court proceedings;
- mental patients
 - escort to provincial psychiatric hospital; and
- all coroner's services
 - cause investigations to be conducted; and
 - conduct coroner's inquests.

Sheriffs provide court security at all criminal and family hearings in the Court of Queen's Bench and may also act as court criers. Court security in civil matters in the Court of Queen's Bench is provided by sheriffs upon request.

IV. RESEARCH AND PLANNING BRANCH

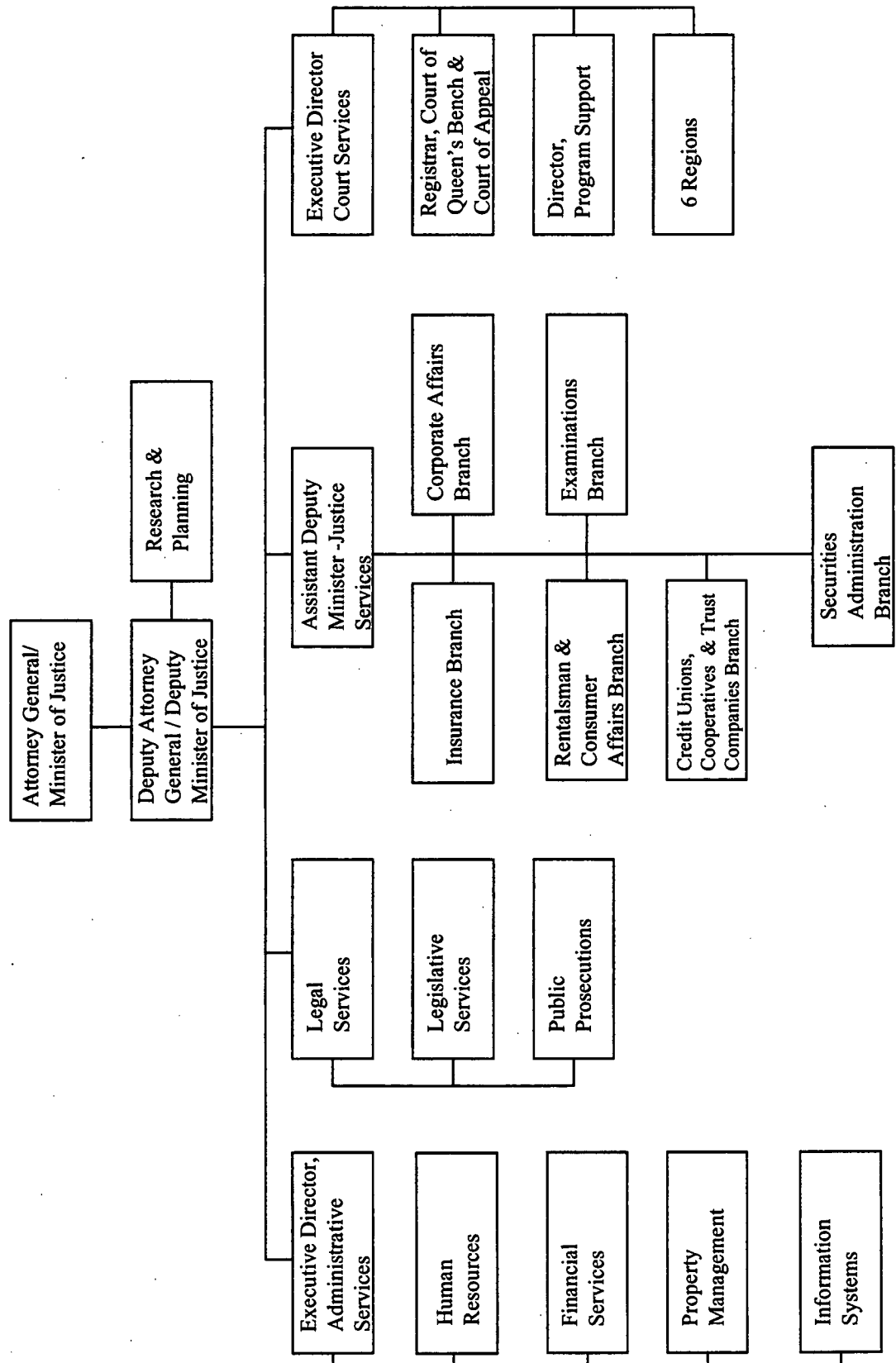
The Research and Planning Branch, under the Deputy Minister, undertakes specific research and evaluation projects and develops policy proposals. It assists in the strategic planning process and prepares all statistical reports and conducts statistical analyses.

This Branch provides considerable research and planning services to the Court Administration Branch as well as to other branches of the Department of Justice.

V. ADMINISTRATIVE SERVICES DIVISION

Under the Executive Director of Administrative Services, this Division provides administrative and support services to the three divisions of the Department of Justice. These services include all financial, human resources (including training and payroll), and general departmental services such as records management, supply acquisition, accommodations planning, capital construction and information systems.

DEPARTMENT OF JUSTICE, NEW BRUNSWICK



COURT SERVICES DIVISION, DEPARTMENT OF JUSTICE, NEW BRUNSWICK

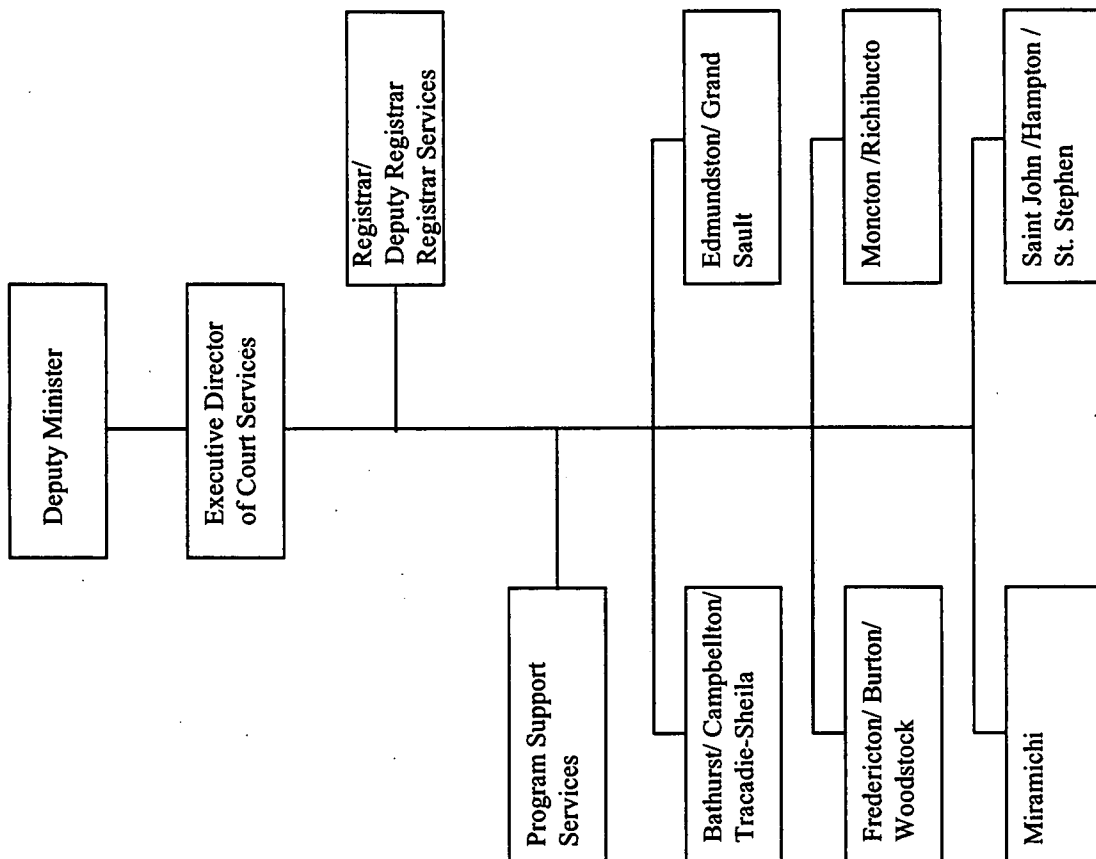


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COURTS IN QUEBEC

I. COURT OF APPEAL

A. Composition of the Court

The Court of Appeal is established by the Courts of Justice Act (R.S.Q. c. T-16). The Court consists of one Chief Justice (the Chief Justice of Quebec) and 19 puisne justices. These justices are governed by the Judges Act (R.S.C. 1985 c. J-1) and are appointed federally by the Governor in Council. Additionally, at March 31, 1997, there are currently two supernumerary justices.

B. Geographic Distribution

The jurisdiction of the Court of Appeal extends throughout Quebec. Appeals from judgements rendered in certain western judicial districts of the province are heard in Montreal, while all others are heard in Quebec City. Seven judges must reside at or near Quebec City and 13 judges must reside in the Montreal area. These 20 judges must sit in rotation in Quebec City and in Montreal, although the Chief Judge may vary the arrangement.

C. Jurisdiction of Judges

The Court of Appeal is the general appeal tribunal for Quebec. It hears appeals on any judgement from which an appeal lies, failing a provision to the contrary.

In civil matters, an appeal lies to the Court of Appeal from:

- any final judgement of the Superior Court or the Provincial Court, except in cases where the amount of the claim involved is less than \$20,000;
- any final judgement of the Provincial Court in cases where that court has exclusive jurisdiction under any act other than the Code of Civil Procedure;
- any other final judgement of the Superior Court or the Provincial Court, with leave of a judge of the Court of Appeal, when the dispute is one which ought to be submitted to the Court of Appeal;
- any final judgement rendered in matters of contempt of court for which there is no other recourse;
- any interlocutory judgement of the Superior Court, the Provincial Court, or, in adoption matters, the Youth Division, when such judgement decides an issue in part, or when it orders the doing of anything which cannot be remedied by the final judgement, or when it needlessly delays proceedings (an interlocutory judgement rendered

during a hearing cannot be appealed immediately unless it leads to an objection to evidence);

- any judgement or order rendered under Book VI of the Code of Civil Procedure (non-contentious matters);
- any judgement or order rendered in adoption matters; and
- a judgement of the Superior Court ruling on a motion to set aside an attachment before judgment.

The Court of Appeal has jurisdiction to hear, on first appeal, any appeal resulting from a trial held before a court of criminal jurisdiction. Such appeal may be from a verdict made by a judge and jury or from a judgement rendered by a judge alone. It also hears with leave, on second appeal, appeals from decisions rendered by the Superior Court in summary conviction cases for offences contained in Part XXVII of the Criminal Code.

Appeals are heard by three judges, although, pursuant to s. 9 of the Courts of Justice Act, the Chief Justice may increase this number when he or she deems it appropriate.

The Court of Appeal also studies various constitutional questions put before it by the Government.

D. Jurisdiction and Duties of the Clerk

The duties of the clerk are performed by the Clerk of Appeals. There is a Clerk of Appeals at both Montreal and Quebec and each is assisted in the performance of duties by a deputy clerk. For the duration of their appointment, neither the Clerk nor the deputy clerk may practise law in Quebec.

The Clerk delivers copies and keeps up to date a register in which is entered for each case detailed information as to the names of the parties, the date of appearance, the date of filing of documents, etc. The Clerk also has the power to refuse any factum not in conformity with the law or the Rules of Practice. The Clerk also taxes the memorandum of costs, prepares the roll for hearing and forwards copies of the roll to the attorneys at least thirty days before the beginning of the term.

The Rules of the Quebec Court of Appeal in criminal matters are essentially the same as those of civil matters.

II. SUPERIOR COURT

A. Composition of the Court

The Superior Court is established by the Courts of Justice Act (R.S.Q. c. T-16). The Court consists of 143 judges, including a Chief Justice, a senior associate chief justice and an associate chief justice, appointed federally. At March 31, 1997, there are also 35 supernumerary judges.

B. Geographic Distribution

In civil matters, the Superior Court sits in 42 permanent locations and goes on circuit to five others. In criminal matters, the Court sits in 42 permanent locations and five circuit locations. The Chief Justice resides in either Montreal or Quebec.

When the Chief Justice resides in Quebec City, the senior associate chief justice performs the duties of the Chief Justice in the Montreal division and must reside at or near Montreal. When the Chief Justice resides in Montreal, the senior associate chief justice performs the duties of the Chief Justice in the Quebec City division and must reside at or near Quebec City. Each of the puisne judges is assigned to a specific judicial district but may sit in other districts when necessary.

C. Jurisdiction of Judges

The Superior Court is the court of original general jurisdiction for Quebec. It holds supervisory powers over all lower courts in Quebec and hears in first instance every case not assigned exclusively to another court by a specific provision of law. It has both civil and criminal jurisdiction. The Superior Court holds all of the powers of a court as outlined in s. 96 of the Constitution Act, 1867. Judges of the Superior Court are also justices of the peace throughout Quebec.

1. Civil Jurisdiction

In civil matters, the Superior Court generally hears cases in which the value of the claim exceeds \$30,000. It also has jurisdiction in non-contentious matters such as correction of the vital statistics registers, probate, and matters falling under the Divorce Act or the Bankruptcy Act (federal statutes).

2. Criminal Jurisdiction

In criminal matters, the Court sits as a court of first instance for trials by judge and jury and certain extraordinary remedies. It also sits as an appeal court, hearing appeals allowed under Part XXVII of the Criminal Code. When sitting as a criminal court of first instance, the Superior Court is required, pursuant to s. 74 of the Courts of Justice Act, to hold at least three terms per year in each district.

D. Duties of the Prothonotary, the Clerk of the Crown and the Sheriff

The prothonotary and the sheriff are officers of the Superior Court in civil matters. In criminal matters, they are known as Clerks of the Crown. The duties of the prothonotary include preparing the rolls, issuing summonses, rendering default judgements in certain matters, and keeping the records and books of account. In non-contentious matters, prothonotaries may be granted additional powers. The prothonotary is assisted by deputy prothonotaries who may hold part or all of the powers conferred on the prothonotary.

In Quebec, in criminal matters, the sheriff is responsible for drawing up the jury panel. In civil matters, the sheriff is empowered to execute seizures of real property. The powers of the registrar of bankruptcy as conferred by s. 192 of the Bankruptcy Act include hearing ex parte applications and requests for debtor discharge.

E. Jurisdiction of the Judge in Chambers and the Prothonotary

The powers of the judge in chambers and the prothonotary are set out in articles 38 to 45 of the Code of Civil Procedure and in the various rules of practice adopted by the courts.

The judge in chambers may refer to the court any matter submitted to him or her if it is considered that the interests of justice so require.

The prothonotary has the powers of a judge:

- in cases where expressly provided by law;
- when the judge is absent or unable to act and delay might result in the loss of a right or cause serious harm.

In the latter case, a decision of the prothonotary may be revised by the judge or the Court upon a demand filed within ten days of the decision. The prothonotary may also sign the minutes of any judgement entered upon a motion granted by consent.

Actions in recovery of funds may be inscribed for judgement by the prothonotary, provided they are based on:

- authentic documents or private agreements;
- a verbal agreement for the payment of a specific sum; or
- a detailed account of services rendered or merchandise sold and delivered.

The deputy prothonotary may exercise the powers conferred concurrently on the prothonotary and the judge if chosen for that purpose by the prothonotary with the consent of the Minister of Justice or his or her appointee. For acts

which do not require the exercise of judicial or discretionary power, the prothonotary may designate members of staff to act on his or her behalf.

III. PROVINCIAL COURT

A. Composition of the Court

The Quebec Court is a court of record consisting of 290 judges, including a Chief Judge, a senior associate chief judge and three associate chief judges and 10 coordinating judges all appointed by the Quebec government.

B. Geographic Distribution

The Quebec Court comprises three branches, covering civil matters, criminal and penal affairs, and the youth division.

The Court also has an Expropriation Tribunal.

The Quebec Court sits:

- in Civil matters, in 54 permanent locations, and goes on circuit to twelve others, except for the Small Claims Court, which sits in 58 permanent locations and 27 circuit locations;
- in Criminal and penal affairs, in 51 permanent locations and 30 circuit locations; and
- in Youth affairs, in 50 permanent locations and 28 circuit locations.

The Expropriation Tribunal, established by the Expropriation Act (R.S.Q. c. E-24), has two sections; that of Quebec has jurisdiction in the judicial districts for which the appeals are brought before the Court of Appeal sitting at Quebec City, and that of Montreal in the district for which such appeals are brought at Montreal. Each of its members (judge or assessor) may, however, sit throughout Quebec.

C. Jurisdiction of the Court and its Divisions

The Court or its judges may sit in administrative matters or as an appeal court in cases provided for by the legislation.

1. Civil Division

The Civil Division has jurisdiction to the extent provided for by the legislation governing civil proceedings under the Code of Civil Procedure (R.S.Q. c. C-25) or any other Act.

2. Criminal and Penal Division

The Criminal Division has jurisdiction in the first instance throughout Quebec for proceedings under the Criminal Code (R.S.C. 1985 c. C-46), the Code of Penal Procedure (R.S.Q. c. C-25.1), or any other statute.

3. Youth Division

The Youth Division has jurisdiction throughout Quebec concerning proceedings under the Young Offenders Act (R.S.C. 1985, c. Y-1); the Youth Protection Act (R.S.Q. c. P-34.1); the Code of Penal Procedure when the defendant is less than 18 years of age or was less than 18 years of age at the time of the offence; and concerning adoptions.

4. Expropriation Tribunal

The Expropriation Tribunal has jurisdiction over expropriations of buildings and real immovable property rights.

5. Small Claims Division

The Small Claims Division was established under the Act to Promote Access to Justice, 1971. Hearings in this Court are presided over by a judge of the Provincial Court. The jurisdiction of the Small Claims Division is set out in Book VIII of the Code of Civil Procedure and includes claims:

- not exceeding \$3,000 (s. 953);
- having as cause a contract or quasi-contract only;
- against a debtor residing in Quebec or having a place of business in Quebec; and
- against a natural person or legal person in his or her own name and on his or her own behalf or by a tutor or curator in his or her official capacity.

A legal person may, as a creditor, only take advantage of the provisions of Book VIII of the Code of Civil Procedure if, at all times during the 12 month period preceding the request, he/she had under its management and control at most five persons associated with him/her by a contract of employment.

The same applies to any motion for the dissolution or cancellation of a contract where the value of the contract or, as the case may be, the amount claimed does not exceed \$3,000. The Clerk receives requests to be heard by the Assessment Review Office and summary appeals in revenue matters.

D. Jurisdiction and Duties of the Clerk

The Clerk of the Quebec Court, Civil Division, is appointed by order of the Quebec Minister of Justice (s. 4 of the Courts of Justice Act, R.S.Q. c. T-16). The clerk must keep the records of the Court and the minutes of all hearings as well as the books of accounts. The clerk may also render default judgements on matters within the jurisdiction of the Court. In addition, the clerk is in charge of financial services of his or her district.

The Clerk of the Quebec Court, Criminal and Penal Division keeps the records of the Court and enters all proceedings. The clerk also keeps the books of account and makes a report of the state of the accounts and of all information received in the performance of the duties of office whenever required to do so.

The Clerk of the Quebec Court, Youth Division, is appointed by order of the Quebec Minister of Justice pursuant to s. 4 of the Courts of Justice Act. The clerk drafts the minutes of Court proceedings, keeps the records, and may, when there is no judge present or able to act, perform any official act or procedure with the exception of rendering judgement or passing sentence. The deputy clerk has the same powers and performs the same duties as the clerk.

The Clerks and the deputy clerks of the Quebec Court are chosen from persons appointed in accordance with the Public Service Act (R.S.Q. c. F-3.1.1).

E. Jurisdiction and Duties of Justices of the Peace

Under s. 158 of the Courts of Justice Act, the Minister of Justice may, by order, appoint justices of the peace with jurisdiction over all of Quebec or over those specific judicial districts named by the Minister. Any justice of the peace thus appointed is primarily an officer of Court Services. Lawyers may be appointed as justices of the peace but may not continue to practise law at the same time. The jurisdiction of any justice of the peace may be limited by the policy established in the order.

Certain justices of the peace in Montreal and Quebec hold broader powers. They may hear provincial penal matters falling under the Summary Convictions Act as well as cases under Part XXVII of the Criminal Code, including federal offences subject to prosecution as set out in this Part.

IV. MUNICIPAL COURTS

A. Composition of the Court

Municipal councils may request the government to establish a local municipal court or a common municipal court by passing a regulation or, as the case may be, an agreement which must be approved by the government upon recommendation of the Minister of Justice and the Minister of Municipal Affairs. The Municipal Court is a court of record and is governed by two statutes:

- An Act respecting Municipal Courts, R.S.Q. c. C-72.01; and
- Courts of Justice Act, R.S.Q. c. T-16;

The government appoints one or more judges for each Municipal Court designated.

Municipal Court employees are hired by the municipality.

B. Geographic Distribution

The territorial jurisdiction of a Municipal Court is generally limited to the territory of the municipality. However, the Municipal Courts Act provides for the establishment of a common municipal court serving the territories of several municipalities.

There are currently 132 municipal courts in Quebec, serving 741 municipalities.

C. Jurisdiction of Judges

In civil matters, municipal judges hear actions primarily for the recovery of sums of money owing to municipalities, such as for payment of taxes or license or permit fees. In penal matters, their jurisdiction extends to breaches of municipal by-laws and of certain provincial laws such as the Highway Code. In criminal matters, municipal judges are ex-officio justices of the peace in the municipalities where the Court has territorial jurisdiction. As soon as a regulation or, as the case may be, an agreement concerning the establishment of a Municipal Court comes into force and a municipal judge is appointed, no judge of the Quebec Court or justice of the peace may, as such, give consideration to infringements of the Municipal Charter, or of a regulation or a resolution or a by-law of the municipality, unless a municipal judge refers the case to such a judge or justice.

An appeal lies to the Court of Appeal from the final decision of any Municipal Court case where the amount in dispute is a tax, licence, tariff, permit, fee or compensation exceeding \$1,000, or where the action relates to the interpretation of a contract having a value in excess of \$1,000 to which the municipality is a party.

Whenever the judgement of a municipal judge affects future rights, a defendant may ask that the case be sent to the Superior Court of the same district for hearing and judgement.

Municipal Courts may sit on any juridical day of the year and as often as necessary. However, at least half of the sittings must take place after 6 p.m.

The rules of conduct and the duties set out in the Courts of Justice Act with respect to judicial ethics and the dismissal of judges apply to municipal judges. As well, the Act respecting Municipal Courts provides ethics guidelines

applicable to municipal judges.

The Municipal Courts of Montreal, Quebec City and Laval are governed by special statutes. While the judges of other Municipal Courts generally sit part time, these three courts have permanent judges with more extensive powers in penal and criminal matters. Their jurisdiction is similar to that of the judges of the Criminal and Penal Division of the Provincial Court.

The large size of the Municipal Court of Montreal (17 judges and 31 prosecutors) makes it unique among courts of its type. It is empowered under article 1118 of the Charter of the City of Montreal to hear and try in particular:

- any action brought by the city for the recovery of taxes or dues owing to it;
- any action for city by-law enforcement;
- any action for recovery of fees, permits or licences; and
- any action for recovery or imposition of any penalty resulting from an infringement of the provisions of the city's Charter or by-laws.

D. Jurisdiction and Duties of the Clerk

The Act respecting Municipal Courts provides that the Council of the municipality responsible for the administration of the Court seat must appoint the clerk of the Court by resolution of the council and determine his salary. The council may, in the same manner, appoint a deputy clerk.

The clerk's principal duties are to hear oaths or solemn affirmations, issue warrants for witnesses, authorize special methods of service, assist the judges during hearings, verify and approve judiciary costs, including bailiffs' accounts, and keep the Court records.

V. HUMAN RIGHTS TRIBUNAL

This special court is empowered to hear any application from the Human Rights Commission in matters relating to discrimination, harassment and equal opportunity when attempts to find solutions through arbitration or conciliation have not been successful. It is composed of a responsible judge, the chairman of the tribunal, selected from among the judges of the Quebec Court and after consultation with the Chief Judge of this court, and of 8 assessors.

The Clerk and the personnel of the Quebec Court are required to provide to the tribunal the services that they normally provide to the Quebec Court.

VI. ADMINISTRATIVE TRIBUNALS

The Labour Tribunal has full-time offices in Montreal and Quebec City. With the exception of penal matters, the case is tried at the principal place of the judicial district where the case has arisen, unless the parties agree otherwise or the chief judge decides that such case shall be tried elsewhere.

The Department of Justice, through the Court Services Division, provides basic services to the Labour Tribunal. These services include file maintenance, issuance of notices of appearance, recording and transcription of proceedings, and provision of support staff.

DEPARTMENT OF JUSTICE

Court support services are handled principally by the Justice Services General Directorate. The Management Services Division provides to the Department services relating to the improvement of administrative effectiveness and departmental coordination in matters relating to the development, allocation and use of human, material, financial, technological and informational resources.

The individual responsible for the official registry in the Justice Services General Directorate is responsible for the enforcement of various provisions of the Courts of Justice Act and the Act respecting Municipal Courts.

I. JUSTICE SERVICES GENERAL DIRECTORATE

Following a major restructuring, the Quebec Registration and Judicial Services general directorates merged to become the Justice Services General Directorate, on April 1, 1996.

The eleven (11) judicial services regional directorates and the three sector-level rights publicity directorates were reorganized to create six regional directorates administering both legal services and rights publicity offices. This structure is complemented by a provincially oriented operational directorate—the Personal and Real Moveable Property Rights Registry Directorate—plus central support units.

Judicial services provided by the Justice Services General Directorate involve support for civil, penal and criminal court operations.

Its rights publicity services involve registry of personal and real moveable property rights, real-estate rights and any other document for which the law requires registry of rights publicity, as well as government documents.

In this section, we shall describe the organization, its purpose and its units.

A. Its Purpose

The Justice Services General Directorate, in conjunction with its partners, and as a division of the Quebec Ministry of Justice, is responsible for making citizen rights known and recognized.

Accordingly, it:

- administers the resources needed for the proper functioning of the courts, while safeguarding judicial autonomy;
- ensures full performance of activities aimed at making both public and fully effective, rights and legal institutions pertaining to civil marriage, to real-estate and moveable-property rights, to responsibilities to the Quebec Registrar, to the registration of corporations and companies, to voluntary deposits and to crime victims;
- develops and provides citizens with services stipulated by the National Assembly, encouraging the emergence and maintenance of better access to justice in our society;
- participates in administering the judicial system, notably by providing the expertise required by ministerial and judicial authorities.

B. The Organization

All Justice Services employees work to achieve and accomplish this purpose according to their respective fields and areas of responsibility.

The Justice Services General Directorate accomplishes its task through all its units. These are:

- **Administrative units**
 - the office of the Associate Deputy Minister;
 - regional justice services directorates;
 - the Personal and Real Moveable Property Rights Registry Directorate;
 - **Operational units**
 - Justice Service Centres and their divisions ;
 - the Personal and Real Moveable Property Rights Registry Service Centre;
 - **Central units**
 - the Office of Assistance to Victims of Crime;
 - the Judicial Services Development Directorate;
 - the Rights Publicity Development Directorate; and
 - the Registry Funds and Administrative Services Directorate.
1. **The Associate Deputy Minister** is responsible for organization and operation of the Justice Services General Directorate and provides leadership in the area of partnership to bring together various contributors to the common project.

This responsibility involves administration of resources needed for an independent judiciary, implementation of measures intended to ensure full performance by officers of the law, officers of publication rights and public officers, the development and direct provision to the general public of services stipulated by the National Assembly and participation in running the judicial organization.

More specifically, the Associate Deputy Minister:

- periodically sets specific and strategic goals and assesses qualitatively and quantitatively how well they are achieved;
- allocates human and financial resources;
- approves activity structure and organizational plans to ensure implementation of departmental programs; and
- ensures communication between chief justices, the Bar, the Elected Board of the Notary Profession and other partners in providing justice services.

Organizationally, the Associate Deputy Minister heads a team composed of six (6) regional directors, the director of Registry Funds and Administrative Services, the director of Judicial Services Development, the director of Rights Publicity Development, the director of the Office of Assistance to the Victims of Crime and the director of the Personal and Real Moveable Property Rights Registry Directorate.

2. **Regional Justice Service Directorates** incorporate activities of the 56 Quebec courthouses and 73 rights publicity offices. These are regional Justice Services administrative units. Under the immediate authority of the Associate Deputy Minister, these regional administrative units help define the goals of the General Directorate and put them into action on their respective territories, based on citizen needs.

The operational concern of Justice Services administration focuses on management of output plus training in and management of change. Another key area involves promoting increased partnership activity regionally. Each regional directorate maintains and develops channels of communication within its region. Regional directorates do so both internally, with their various units, and externally, with their clients and partners.

The regional director provides support and guidance to regional administrators. This individual represents the Associate Deputy Minister to those involved on a regional level.

This is the forum that co-ordinates General Directorate actions to ensure they apply regionally.

In the case of Montreal, the regional directorate is also the central administration for Justice Services. This means its administrative structure is complemented by service directorates. The latter fall under the immediate authority of the regional director. Each service directorate manages assigned resources to fulfil its purpose and to meet goals set by the administration. Each is also responsible for meeting the goals set by the directorate. Service directorates participate with the regional directorate in the decision-making process on all matters affecting formulation of policies and their orientation, as well as the definition of operational objectives. They assume active roles liaising between and communicating among the regional directorate and its service units. They report on their management activities to the regional directorate, set up monitoring mechanisms and, take remedial measures when necessary.

3. **The Personal and Real Moveable Property Rights Registry Directorate**, under the immediate authority of the Associate Deputy Minister, participates in defining the orientation for the General Directorate and implements them in the area of moveable property publicity, throughout its territory in accordance with citizen needs.

Its operational concern focuses on management of yield and promotion of partnership development. It maintains and develops internal channels of communication with its various units and external channels with partners.

The Personal and Real Moveable Property Rights Registry Directorate is also responsible for developing goods and services and for administering organizational changes in the area of moveable property rights publicity.

Its director provides support and guidance to administrators and represents the Associate Deputy Ministers to those involved in this area of activity.

Organizationally, in addition to the Personal and Real Moveable Property Rights Registry Directorate Service Centres (below), it includes the Development Service.

4. **The Justice Service Centres and the Personal and Real Moveable Property Rights Registry Directorate Service Centres** are frontline operational administrative units where service units and work teams provide services to the general public with greater autonomy. Under the immediate authority of its regional director, each service centre ensures fulfillment of its function and the goals of the general directorate, by optimally administering the set of allocated resources.

Each Centre acts as the recognized representative of the General Directorate, both internally with respect to administration and

externally, with respect to its partners and those involved in its areas of activity.

Centre staff members are in direct daily contact with the general public and partners in this area.

Organizationally, the structure of certain centres includes divisions.

5. **The Office of Assistance to Victims of Crime** is responsible for promoting victim rights recognized under the Crime Victims Assistance Act. It thus ensures the creation of assistance programs and oversees co-operation and co-ordination of activities of individuals, ministries and agencies providing services to crime victims. Furthermore, it encourages community organizations and groups to set up Crime Victim Assistance Centres by offering them the technical help needed to create such Centres and make them run.

Finally, the Bureau also oversees administration of crime victim funds. In particular, these funds permit the provision of financial assistance to individuals, community organizations and groups to set up or run Centres of Assistance to Crime Victims.

6. **Development Directorates** are advisory units falling under the immediate authority of the Associate Deputy Minister. Their jobs are to oversee their respective areas of responsibility, the development of goods and services, the implementation of ministerial programs and reforms and the administration of organizational changes that could result. They provide the key expertise in the legal area and ensure consistency in applying rules of law. The Rights Publicity Development Directorate also assumes functions vested in the Quebec Registry, particularly those involving issuance of government documents.

Organizationally, the Rights Publicity Development Directorate includes the Official Registration Service and the Reform of Real Estate Advertising Systems Project. The Judicial Services Development Directorate includes, for its part, the Municipal Courts Services, the Native Communities Service and the central criminal courts clerk.

7. **The Registry Funds and Administrative Services Directorate** is an advisory unit falling under the immediate authority of the Associate Deputy Minister. Its task is to offer organizational support with human resources administration and with informational, financial and material resources. It is responsible for administering the Registry Funds.

Organizationally, it includes the Analysis and Planning Service, the Management Information and Technologies Service and the Material, Financial and Budgetary Resources Service.

II. SERVICES DIVISION

Among the complementary services offered by Justice Services, please note the following:

A. Family Mediation Service

A family mediation service is provided in the courts of Quebec City, Laval and Montreal and comes under the jurisdiction of the Social Services Centres. It is a public service and is free of charge. Mediation services are also provided by private sector mediators, and if there are dependant children, the Province assumes the costs.

B. Psycho-social Consultation

The psycho-social consultation service is expected to provide, at their request, to Superior Court judges hearing cases in family-related matters, complete, impartial expertise by professionals that will inform them about the family and social situation of a minor child whose custody and visitation rights are the cause of serious dispute between parents. This service is provided free of charge and is offered by the provincial Department of Health and Social Services and the Social Services Centres.

QUEBEC DEPARTMENT OF JUSTICE

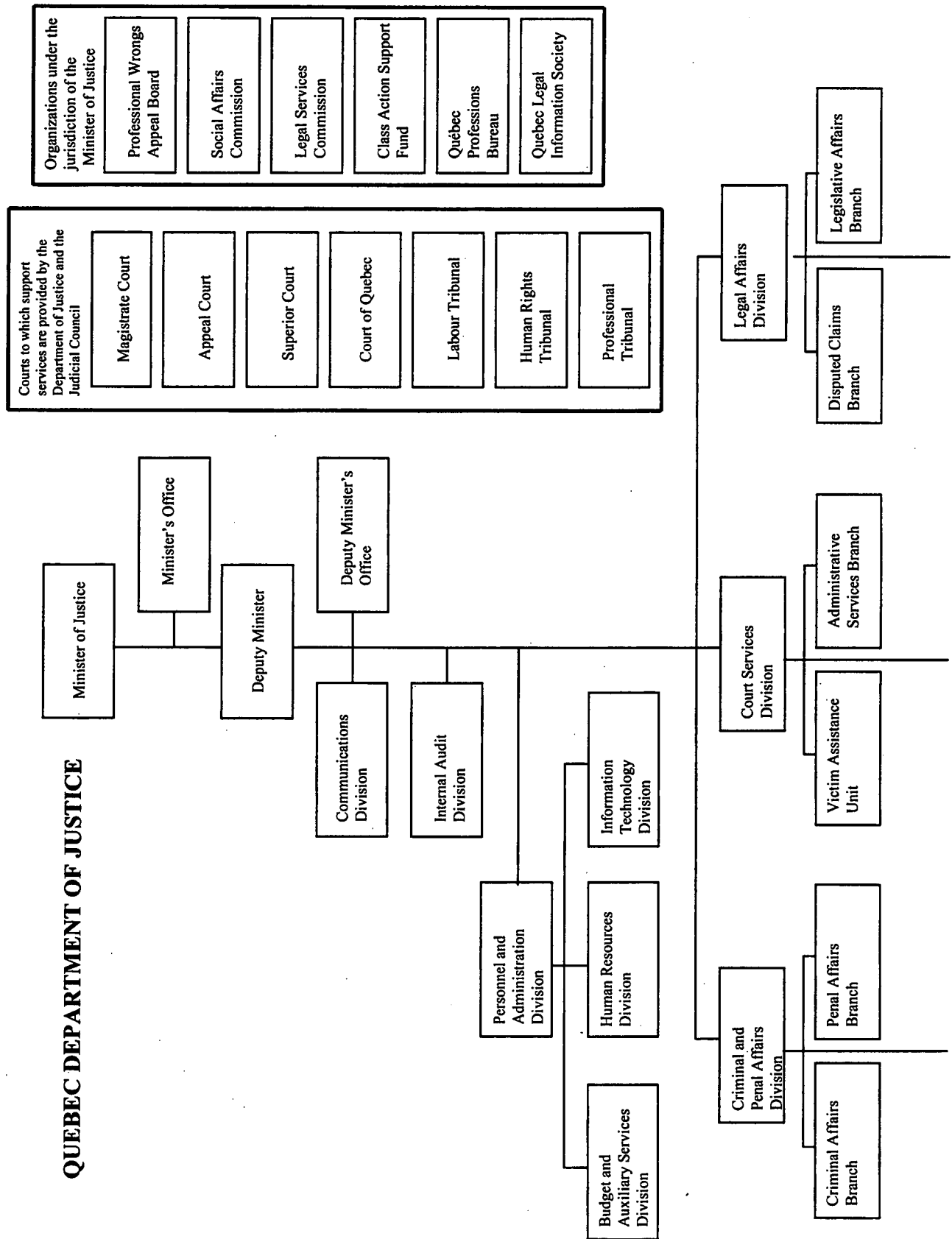




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COURTS IN ONTARIO

I. COURT OF APPEAL FOR ONTARIO

A. Composition of the Court

This Court is established by the Courts of Justice Amendment Act, 1989. The Court of Appeal consists of the Chief Justice of Ontario, the Associate Chief Justice and 16 other justices who are appointed federally by the Governor in Council. There are five supernumerary justices for the Court of Appeal.

A proceeding in the Court of Appeal is heard and determined by not fewer than three justices sitting together, and always by an uneven number of justices.

B. Geographic Distribution

The Court of Appeal sits on a regular basis in Toronto and hears inmate appeals in Kingston once a month.

C. Jurisdiction of Justices

The Court of Appeal is a superior court of record with appellate jurisdiction in both civil and criminal matters.

An appeal lies to the Court of Appeal from:

- an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;
- a final order of a justice of the Ontario Court (General Division), except an order referred to in clause 19(1)(a) of the Courts of Justice Amendment Act, 1989; and
- a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of the court.

The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to or is taken to the Court of Appeal.

The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal.

D. Jurisdiction and Duties of the Registrar

The Registrar of the Court of Appeal has similar duties to those described for the Registrar of Ontario Court (General Division).

II. ONTARIO COURT (GENERAL DIVISION)

A. Composition of the Court

This Court is established by the Courts of Justice Amendment Act, 1989. The Court consists of the Chief Justice of the Ontario Court, the Associate Chief Justice of the Ontario Court, a regional senior justice of the General Division for each region, a senior justice of the General Division for the Family Court, and such number of justices as is fixed by the Lieutenant Governor in Council. As required from time to time, there are such additional offices of supernumerary justice of the General Division.

B. Geographic Distribution

There is at least one justice of the General Division assigned to each county or district. This represents 49 permanent court locations in Ontario.

C. Jurisdiction of Justices

1. Civil Jurisdiction

The Ontario Court (General Division) has jurisdiction in all civil matters not excluded by statute. Civil jurisdiction is unlimited as to the monetary amount involved, but cases generally deal with financial disputes over \$6,000.

Appeals on civil cases heard by the Ontario Court (General Division) are to Divisional Court in divorce and construction lien matters, and to the Court of Appeal in all other matters.

An appeal lies to the General Division from:

- an interlocutory order of a master; and
- a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court.

2. Criminal Jurisdiction

The Ontario Court (General Division) has jurisdiction over all indictable offences, and exclusive jurisdiction for indictable offences under s. 469 of the Criminal Code. These include treason, murder,

mutiny and corrupting justice. All of these offences require a trial by justice and jury.

Appeals on criminal cases heard by the Ontario Court (General Division) are to the Court of Appeal.

D. Jurisdiction and Duties of Masters and Registrars

In Ontario, both masters and registrars are appointed by the Lieutenant Governor in Council. Masters are judicial officers and under the Rules of Civil Procedure can hear any motion proceeding in the Ontario Court (General Division). Masters have all the jurisdiction of an Ontario Court (General Division) justice in respect of a motion, except:

- a motion where the power to grant the relief sought is conferred expressly on an Ontario Court (General Division) justice;
- a motion to set aside, vary or amend an order of an Ontario Court (General Division) justice;
- a motion relating to the security of the subject;
- a motion for judicial review; or
- a motion in an appeal.

Additionally, all masters are assessment officers in party/party and solicitor/client assessments, and can act as referees on a reference.

The jurisdiction and duties of registrars and deputy registrars include:

- ensuring that all filings in the Ontario Court (General Division) are in accordance with the Rules of Civil Procedure;
- advising the legal profession and general public of procedural requirements;
- supervising persons employed in the Office of the Registrar;
- processing actions in the Ontario Court (General Division);
- signing documents including orders, default and interlocutory judgements, mortgage foreclosures and judgements resulting from court decisions;
- issuing and signing writs of seizure and sale and writs of possession;
- collecting and accounting for all fees payable in the Ontario Court (General Division);
- acting as assessment officers in party/party and solicitor/client

assessments;

- conducting Landlord and Tenant Act hearings;
- collecting statistics; and
- staff performance development and reviews.

Case Management Master (as of October 31, 1996) has the same power as a Master plus such additional duties with respect to Case Management as assigned to them under the Rules of Civil Procedure.

III. DIVISIONAL COURT

A. Composition of the Court

The Divisional Court, which is a branch of the Ontario Court (General Division), consists of the Chief Justice of the Ontario Court who is president of the court and such other justices of the General Division as the Chief Justice designates from time to time.

A proceeding in the Divisional Court is heard and determined by three justices sitting together.

B. Geographic Distribution

An appeal to the Divisional Court is heard in the region in which the order appealed from was made, unless the parties agree otherwise. Any other proceeding in the Divisional Court may be brought in any region. There are 8 divisional courts within the six regions.

C. Jurisdiction of Justices

An appeal lies to the Divisional Court from:

- a final order of a justice of the General Division:
 1. for a single payment of not more than \$25,000, exclusive of costs;
 2. for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order;
 3. dismissing a claim for an amount that is not more than \$25,000; or
 4. dismissing a claim for an amount that is more than \$25,000 and in respect of which the justice indicates that if the claim had been allowed the amount awarded would have been not more

than \$25,000;

- an interlocutory order of a justice of the General Division, with leave as provided in the rules of court; or
- a final order of a master.

The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court, if an appeal in the same proceedings lies to and is taken to the Divisional Court.

No appeal lies from an interlocutory order of a justice of the General Division made on an appeal from an interlocutory order of the Provincial Division.

D. Jurisdiction and Duties of the Registrar

Registry support functions for Divisional Court matters are the responsibility of the Ontario Court (General Division) registrars.

IV. SMALL CLAIMS COURT

A. Composition of the Court

The Small Claims Court is a branch of the Ontario Court (General Division) consisting of the Chief Justice of the Ontario Court, who is president of the court and such other justices of the General Division as the Chief Justice designates from time to time.

A proceeding in the Small Claims Court is heard and determined by one justice of the General Division or an appointed deputy justice. Deputy justices are appointed by the senior regional justice in each region.

B. Geographic Distribution

The Small Claims Court sits in 79 locations throughout Ontario. The Court does not go on circuit.

C. Jurisdiction of Justices

The Small Claims Court has jurisdiction:

- in any action for the payment of money where the amount claimed does not exceed \$6,000 exclusive of interest and costs; and
- in any action for the recovery of possession of personal property where the value of the property does not exceed \$6,000.

The Small Claims Court hears and determines in a summary way all questions of law and fact and may make such order as is considered just and agreeable.

D. Duties of the Clerk and Bailiff

There is a clerk and one or more bailiffs for each division of the Small Claims Court who are appointed by the Lieutenant Governor in Council.

V. FAMILY COURT

A. Composition of the Court

This Court is established by the Courts of Justice Amendment Act, 1989. The Family Court consists of a justice of the Ontario Court (General Division) appointed as senior justice for the Family Court or a justice of the Ontario Court (General Division) who is authorized to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

B. Geographic Distribution

The Family Court sits permanently in Hamilton, London, Napanee, Kingston, Barrie and Orillia, and serves the counties of Hamilton-Wentworth, Lennox & Addington, Frontenac, Simcoe and Middlesex. Family matters for other locations are dealt with at the Provincial Court (Family Division).

C. Jurisdiction of Justices

The Family Court is a court of record and is presided over by justices of the General Division.

1. Criminal Jurisdiction

A justice presiding over the Family Court has all the powers of a magistrate under the Criminal Code for the purposes of proceedings under the Criminal Code. The Family Court is:

- deemed to be and sits as the Provincial Offences Court for the purpose of dealing with young persons as defined in the Provincial Offences Act; and
- a Youth Court for the purposes of the Young Offenders Act of Canada.

2. Family Jurisdiction

The Family Court has jurisdiction over all family matters under the following legislation:

- Annulment of Marriages Act (Ontario, Canada);

- Change of Name Act, 1986;
- Child and Family Services Act, 1984 (Parts III, VI and VII);
- Children's Law Reform Act (Except s. 60 & s. 61);
- Divorce Act, 1985 (Canada);
- Education Act (s. 29 and s. 30);
- Family Law Act, 1986 (Except Part V);
- Marriage Act (s. 6 and s. 9);
- Minor's Protection Act (s. 2);
- Partition Act;
- Reciprocal Enforcement of Maintenance Orders Act, 1982;
- Support and Custody Orders Enforcement Act, 1985; and
- Young Offenders Act (Canada).

An appeal from cases heard in this Court are to:

- (a) the Court of Appeal from a final order, except an order referred to in section (b);
- (b) the Divisional Court from a final order;
 - 1. for a single payment of not more than \$25,000, exclusive of costs;
 - 2. for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order;
 - 3. dismissing a claim for an amount that is not more than \$25,000; or
 - 4. dismissing a claim for an amount that is more than \$25,000 and in respect of which the justice indicates that if the claim had been allowed the amount awarded would not have been more than \$25,000;
- (c) the Divisional Court from an interlocutory order, with leave as provided in the rules of court.

D. Jurisdiction and Duties of the Court Administrator

The Administrator of the Family Court is also a clerk of the court and performs the normal functions of a clerk.

In addition to overseeing the administration of the Court, the Administrator also has jurisdiction to:

- perform (under Family Court rules) references by justices of that Court;
- act as an assessment officer in party/party and solicitor/client assessments; and
- conduct first appearance hearings under the Family Law Act.

VI. ONTARIO COURT (PROVINCIAL DIVISION)

A. Composition of the Court

This Court is established by the Courts of Justice Amendment Act, 1989. The Court consists of the Chief Judge of the Provincial Division who is president of the Provincial Division, a regional senior judge of the Provincial Division for each region, such provincial judges as are appointed under subsection 41(1) for each region and such provincial judges as are assigned to the Provincial Court (Criminal Division) or the Provincial Court (Family Division). Judges of all the above courts are appointed provincially by the Lieutenant Governor in Council.

B. Provincial Court (Criminal)

The Ontario Court (Provincial Division) (Family) sits in 56 locations throughout Ontario.

The Ontario Court (Provincial Division) (Criminal) sits in 65 locations throughout Ontario.

C. Jurisdiction of Judges

A Provincial Court is a court of record, and every judge has jurisdiction throughout Ontario to exercise all the powers and perform all the duties conferred or imposed on a Provincial Court judge, a magistrate or one or more of the justices of the peace under any Act of the Legislature or of the Parliament of Canada.

The Ontario Court (Provincial Division) has jurisdiction in the following matters:

- prosecution of young persons under the Young Offenders Act (Canada) for offences and violations of federal law;

- child protection under the Child and Family Services Act, 1984, dealing with intervention by a local Children's Aid Society into a family's life when the care and treatment of a child by the family fall below certain minimum standards;
- adoption under the Child and Family Services Act, 1984, dealing with the dissolution of previous parent-child relationships and the legal establishment of new ones;
- inter-spousal rights and obligations under the Family Law Act, 1986, and the Reciprocal Enforcement of Maintenance Orders Act, covering such things as financial support of a dependent spouse and protection from spousal harassment and molestation;
- parent-child rights and obligations under the Children's Law Reform Act, the Family Law Act, 1986 and the Reciprocal Enforcement of Maintenance Orders Act, such as custody and access, findings of paternity, child support, protection from harassment and molestation by the non-custodial parent and extra-territorial enforcement of custody orders;
- at the administrative level, the enforcement of maintenance and support orders against federal civil servants and former civil servants under the Garnishment, Attachment and Pension Diversion Act (Canada);
- some offences under the Provincial Court Act of Ontario. Some intra-family offences (such as domestic assaults and incest) are heard by judges who, while they normally preside over the Provincial Court (Family Division), reconstitute their court as the Provincial Court (Criminal Division) or Provincial Offences Court because only the latter courts have the jurisdiction to hear these criminal and regulatory matters; and
- any action for the payment of money or the recovery of personal property subject to a monetary limit of \$1,000 exclusive of costs (in the judicial district of York the maximum limit is \$3,000).

An Ontario Court (Provincial Division) judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle;
- obtaining money or property by false pretences;
- possession of stolen property;
- having, by deceit, falsehood or other fraudulent means, defrauded the

Ontario

public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$5000; or

- mischief under s. 430(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$5,000;
- (b) an attempt to commit any offence referred to in paragraph (a); or
- (c) gaming and betting;
- (d) betting, pool-selling or book-making;
- (e) placing bets for consideration;
- (f) lotteries;
- (g) cheating at play;
- (h) keeping a bawdy house;
- (i) driving while disqualified; or
- (j) fraudulently obtaining transportation.

If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

The Ontario Court (Provincial Division) has jurisdiction over all municipal by-laws and provincial statutes not expressly reserved to other courts.

Appeals from provincial offences cases as heard by justices of the peace are to a Provincial Division judge. Those cases heard by Provincial Division judges are appealed to the General Division.

D. Duties of the Court Administrators / Clerks

Court administrators in the Ontario Court (Provincial Division) are appointed under the Public Service Act.

See the general discussion of court registry staff in the section entitled "Court Administration".

COURT SERVICES

I. ORGANIZATION OF COURT SERVICES

Two divisions of the Ministry of the Attorney General provide services to the courts. The Courts Administration Division provides staff who perform all direct administrative, case processing and support services to the courts. The Integrated Justice Corporate Services is responsible for corporate management, policy development and the coordination and provision of corporate support services for the Ministry.

A province-wide automated jury management system was developed by the Program Development Branch to coincide with the annual processing of jury lists by the ministries of Revenue and Government Services.

The Communications Branch is responsible for communications matters and for the preparation and distribution of all public information materials for the Ministry.

The Ministry of the Attorney General cost-shares the Ontario Native Criminal Courtwork Program with the Federal Department of Justice. The main function of the Native Criminal Courtwork Program is to ensure that Aboriginal persons understand and are able to exercise their right to legal counsel. The Ministry of the Attorney General provides funding to two aboriginal carrier agencies which administer the Native Criminal Courtwork Program. The Department of Justice reimburses almost half of the shareable costs to the Ministry in accordance with an approved budget. The actual 1996/97 program expenditures was \$1,276,836. The Aboriginal Issues Group manages the budget for the Ontario Native Criminal Courtwork Program in accordance with the existing Federal/Provincial Agreement.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Ministry of the Attorney General.

II. COURTS ADMINISTRATION DIVISION

The Courts Administration Division provides administrative support services to the court system of Ontario. Administrative services include:

- counter service to litigants and the bar;
- maintenance of court records and files;
- trial coordination and jury management; and
- the provision of courtroom staff such as clerks, reporters and interpreters.

More than 215 court offices across the province:

- serve as the links between the court litigants, counsel, the police, Crown attorneys and others involved with the justice system;
- support the enforcement of court orders through processing fine payments and

restitution in criminal matters; and

- administer civil enforcement processes such as garnishment, seizure and sale of goods, and distribute proceeds to creditors.

The program structure now consists of an Assistant Deputy Attorney General, a director for Program Development Branch and six regional directors. All directors and regional directors report to the Assistant Deputy Attorney General.

A. Program Development Branch

This Branch is responsible for providing support to regional operations and the Assistant Deputy Attorney General through the coordination of program policy development activities and operational and resource planning functions. It is also responsible for the management and monitoring of the divisional budget and for developing and administering the resource allocation process. It supports the regions by developing improved operational procedures, automated systems and service level standards as well as staff training programs. It also provides statistical services and management information support to the Ministry.

1. Operational Support

This section is responsible for the provision of technical support and assistance in operational matters to the regions and sections of the Branch and ensures division-wide standards for operations are developed. As well as responding to inquiries from court offices, it proactively identifies changes that may affect court support operations, such as new or revised legislation, process re-engineering opportunities, and provides direction to the field in the form of directives and memoranda on implementation and administration. Direction is also provided regarding new and revised policies and procedures and staff training relating to operational issues within Courts Administration. The section updates and maintains the operation manuals which serve as basic operational guides for court offices.

2. Strategic Planning & Issues

The mandate of this section is to help build management capacity within Courts Administration Division and to support delivery of key Ministry priorities. The Unit achieves this mandate by developing and leading strategic and operational planning initiatives with the Division, designing organizational processes, leading policy development and evaluation exercises of major initiatives impacting on the courts, and providing secretariat support to senior management within the Courts Administration Division. The Strategic Planning and Issues Unit is also responsible for facilitating the issues management process within the Division, including anticipating and developing strategies for emerging issues and coordinating responses to the Minister's correspondence, and media and public inquiries.

3. Corporate Analysis

The mandate of this section is to lead and manage divisional financial, human resource and management information systems and services which support the business plans and the on-going business requirements of the Division. The section ensures that comprehensive financial, statistical, technological, comprehensive communication and information access systems, human resource information and mechanisms are designed, established, implemented and maintained in order to provide timely and accurate information to meet the respective decision-making needs of the Division Heads and operations management team.

4. Information Planning and Court Statistics

The mandate of this section is to provide court statistics to the Ministry. It is also responsible for the identification of opportunities to improve management information reporting mechanisms within the Division. Its functions include providing ongoing and ad-hoc management information which is used primarily to support program planning and operations management activities. Defining workload indicators is an example of projects undertaken by this section

5. Caseflow Management Unit

This section is responsible for the interdivisional coordination of the Ministry in improving the flow of cases through the court system. The unit provides constant monitoring and evaluation of the flow of cases through the court system so that potential problems are identified early and mechanisms are put in place to prevent delays. The Red Alert System was developed and is used by this section. It also provides a coordinated multi-disciplinary approach to delay reduction within the Ministry and supplies Ministry expertise and support to local delay reductions committees.

6. Client Services

The Client Services Section coordinates the preparation of Critical Issue Papers on court administration issues; prepares briefing notes; exercises quality control over correspondence and written materials issuing out of the Division to ensure consistency with established Ministry policy or position, particularly on controversial or media-sensitive items; and undertakes special projects as assigned.

7. Court Interpretation, Translation and Reporting Services

This section is responsible for the delivery of French language and multilingual interpretation and translation services to the courts, and for standards and certification. It also establishes court reporting policies, procedures and standards designed to achieve consistency in reporting practices throughout the province.

8. Office of Judicial Support Services

The Office of Judicial Support Services is responsible for the administration of the appointment process for lay notaries public, commissioners for taking affidavits, justices of the peace and deputy judges of the Small Claims Court.

This office also provides administrative and budgetary support to Provincial Division judges, judges of the former Civil Division, masters of the former Supreme Court of Ontario, justices of the peace, the Native Justices of the Peace Program, the Justice of the Peace Review Council, the Ontario Judicial Council and the Rules Committee.

In addition, the Office of Judicial Support Services provides administrative support to the Judicial Appointments Advisory Committee, an independent body that recommends to the Attorney General suitable candidates for judicial appointment, and the Provincial Judges Remuneration Commission which is responsible for reviewing the salaries, allowances and benefits of Provincial Division judges and making recommendations to the government.

B. Regional Structure

This structure is composed of six regions, each headed by a regional director who is responsible for the regional administration of justice. The regional directors report to the Assistant Deputy Attorney General for Courts Administration.

1. Regional Directorates

Each region is composed of a Director of Court Operations, a Branch and Administrative Officer, support staff, and a Systems Officer position.

Each Regional Directorate is responsible for the overall management of regional operations including:

- budget monitoring and control for the region;
- human resource planning;
- implementation of new policies, programs and procedures within the region;
- delivery of staff training; and
- coordination of systems development within the region.

In addition, Regional Directorate staff coordinates the provision of input to the Program Development Branch regarding the development

of program planning and operational procedures.

(a) Courts Management Advisory Committee

Each of the six judicial regions across Ontario has a regional courts management advisory committee. These committees, composed of members of the judiciary, the private bar, Crown Attorneys, court administration and the public, work to help ensure the smooth operation of the court system.

2. Court Services Managers

Within the management structure, each major court office has a Court Services Manager who is responsible for managing the provision of administrative and support services to all courts within an assigned geographic area. Responsibilities include resources planning and management, development and control of operating budgets, determination of local court and office accommodation needs and local facilities management, and ensuring compliance with legal/technical court administration procedures.

In addition, managers are required to identify opportunities and formulate short and long range plans for improving the effectiveness and efficiency of local service delivery involving consultation with key interest groups at the local level such as the judiciary, Crown attorneys, bar, police, municipal officials and officials of other related provincial ministries.

3. Sheriff Services

In Ontario, sheriff staff (along with local registrars) have public service status and carry a wide range of duties. Sheriffs are not responsible for the provision of court security and escort of prisoners.

The responsibilities of sheriffs include:

- ensuring the service of legal documents relating to actions or applications before the courts;
- filing writs of seizure and sale, possession;
- providing certificates as to executions against individuals or corporations;
- placing levies on writs providing for seizure of goods, chattels, lands and tenements, sheriff's sales and eviction as directed;
- executing civil court orders as directed;
- overseeing the selection of jurors;

- issuing jury summonses, notices to vacate under the Landlord and Tenant Act, extracts, etc.;
- conducting sales by public auction of goods and chattels, lands and tenements; and
- executing writs of possession under the Landlord and Tenant Act.

III. INTEGRATED JUSTICE CORPORATE SERVICES DIVISION

This Division is responsible for administrative policy development, financial and administrative standards and policy, and provision of corporate support services for the Ministry of the Attorney General and the Ministry of the Solicitor General and Correctional Services. In addition, the Division provides administrative support to the Ontario Law Reform Commission, Assessment Review Board, Office of the Police Complaints Commissioner, and the Board of Inquiry.

A. Financial and Administrative Services Branch

The Branch provides effective appropriation control for all the funds voted to the Ministry and its agencies by the Legislature and in-year allocation approved by the Management Board of Cabinet; and provides related financial and administrative support services.

The Branch provides senior management with the financial information and planning framework required to determine the effective allocation of corporate resources; maintains a fair and equitable procurement system required to ensure that quality goods and services are acquired at the best price from the widest range of potential suppliers; and establishes appropriate financial and administrative policies and procedures.

The Branch also assists royal commissions and judicial inquiries with logistical and administrative support. Advice is offered on administration and operational guidelines.

B. Audit and Quality Assurance Branch

This Branch provides assistance to senior management of the Ministry by determining whether adequate administrative and financial control measures are in place to safeguard assets entrusted to the Ministry, and that Ministry resources are properly accounted for and effectively utilized.

C. Facilities Management Branch

The Facilities and Special Court Services Branch is headed by a director and is responsible for the coordination, planning, design and implementation of accommodations projects for all court and other Ministry office facilities.

Major court facility renovations were conducted in some sites because of changes introduced under court reform. Examples of alterations required included accommodations for the senior regional judges in Provincial and General Divisions within the six regional areas and the provision of training workshops for native court interpreters in the north.

1. Accommodation

The purpose of the Accommodation Section is the implementation of the minor capital accommodation projects which include alterations over \$15,000; upgrading of security/holding areas; new leases and forced relocations by providing design drawings, including ordering of furniture and project management.

2. Major Capital Planning and Projects

The purpose of this section is to: develop and coordinate the ministry's strategic planning; develop planning tools, standards and methodologies; provide assistance to senior management to identify and define strategic directions and priorities; and monitor the major capital projects as part of the User Committees.

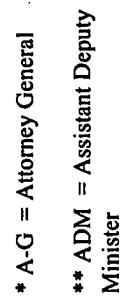
D. Office of the Coordinator of French Language Services

As part of the Integrated Justice Corporate Services Division, the Office of the Coordinator of French Language Services provides quality services, leadership and support for excellence in the delivery of French language justice services and the proper administration of justice in French to both the Ministry of the Attorney General and the Ministry of the Solicitor General and Correctional Services. Its goal for 1997-98 is to establish a clear, identifiable and visible framework for the delivery of FLS across the two ministries.

The Office provides strategic and operational advice to the Deputy Attorney General, the Deputy Solicitor General and management to support decision-making and business plan implementation. It also supports managers and staff in their responsibility to deliver French languages services (FLS) in their workplace, to support their program delivery needs and to ensure their accountability. The office sets, communicates and monitors standards and policy for the delivery of FLS, carries out corporate stakeholder management, investigates and resolves FLS complaints, and produces tools to help managers and staff provide effective FLS. It also provides contract management and quality control for translations and linguistic evaluations and French language training support and advice as well as translation of court documents (pleadings, Courts of Justice Act requirements).

E. Coordinator Freedom of Information

The Freedom of Information and Privacy Office (FOI) coordinates the implementation and administration of the Freedom of Information and Privacy Act within the Ministry. Responsibilities include developing policies, procedures and guidelines, tracking and responding to access requests from the public, coordinating appeal and mediation processes, preparing statistical reports, and ensuring adherence to privacy provisions and other legislative requirements of the Act.



COURTS ADMINISTRATION DIVISION, ONTARIO

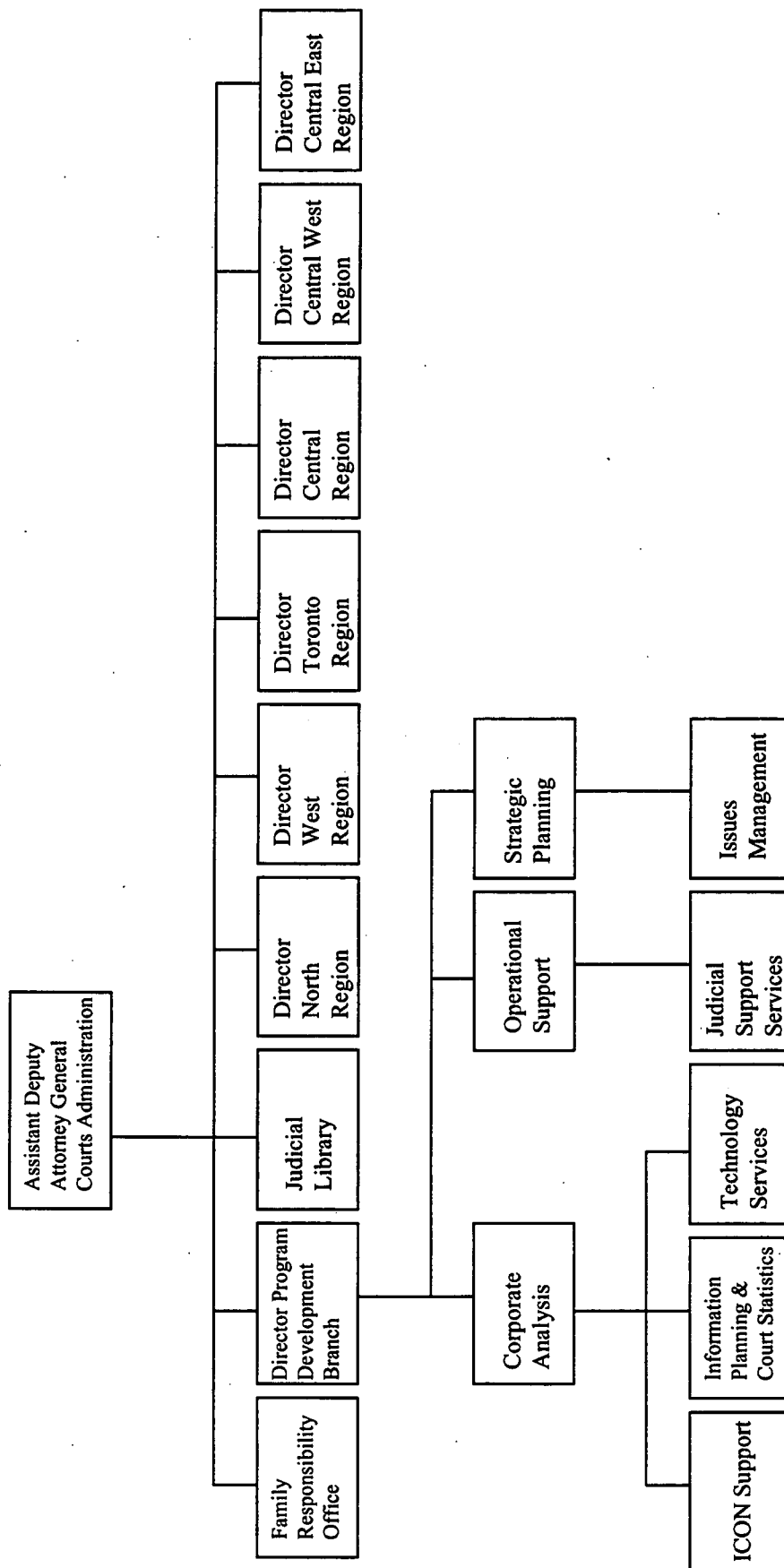


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COURTS IN MANITOBA

I. COURT OF APPEAL

A. Composition of the Court

This Court is established by The Court of Appeal Act. The Court of Appeal consists of the Chief Justice of Manitoba and six other justices who are appointed federally by the Governor in Council.

The Court generally sits with a quorum of three justices and on occasion with five. One justice may hear interlocutory matters in chambers.

B. Geographic Distribution

The Court sits on a regular basis in Winnipeg.

C. Jurisdiction of Justices

The Court of Appeal has appellate jurisdiction in civil and criminal cases heard by the Court of Queen's Bench and indictable offences heard by the Provincial Court. Justices of the Court of Appeal are all ex-officio judges of the Court of Queen's Bench. Similarly, the Court exercises appellate responsibility concerning some hearings before administrative boards.

D. Jurisdiction and Duties of the Registrar

The Registrar of the Court of Appeal is appointed under The Civil Service Act. The Registrar and deputy registrars have the same power as taxing offices of the Court and have authority to exercise the jurisdiction of a judge sitting in chambers. The specific functions of the Registrar include:

- placing appeals filed in the Court of Appeal before the judiciary;
- fixing the dates on which each appeal will be heard;
- ensuring that transcripts have been ordered for all other criminal appeals and for all civil appeals; and
- certifying all case books to the Supreme Court of Canada.

In addition, the Registrar supervises the daily administrative operations of the Court.

II. COURT OF QUEEN'S BENCH

A. Composition of the Court

This Court is established by The Court of Queen's Bench Act. The Court consists of the Chief Justice and Associate Chief Justice of the Court of Queen's Bench and an Associate Chief Justice of the Court of Queen's Bench, Family Division, 31 puisne justices who are all appointed federally by the Governor in Council. Additionally, there are 8 supernumerary justices.

Ten puisne justices are assigned to serve full time in the Family Division of the Court.

B. Geographic Distribution

The Court of Queen's Bench has 13 locations (administrative centres) with permanent registries. Civil, family and criminal matters can be heard at 11 of these locations (judicial centres) while jury trials cases can be heard at 6 of these locations.

C. Jurisdiction of Justices

The Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the province, except those matters expressly excluded by statute.

1. Civil Jurisdiction

The Court of Queen's Bench can hear all civil matters with no limits on the monetary amount involved.

Pursuant to The Surrogate Practices Act, 1984, Court of Queen's Bench justices also serve as Probate Court judges and have jurisdiction and authority in relation to all matters and causes testamentary.

Pursuant to The Small Claims Practices Act, 1984, small claims matters with a monetary limit of \$5,000 are generally heard by deputy registrars and hearing officers of the Court of Queen's Bench. Small claims hearings are not heard in a court of record. Appeals are to a judge of the Court of Queen's Bench and are conducted as a new trial.

2. Court of Queen's Bench (Family Division)

The Court of Queen's Bench (Family Division) has jurisdiction to hear all family actions. Family actions are defined as any civil proceeding for the determination or variation of the family status of the parties, or of custody or wardship of children, or of the family obligations and rights between married persons or persons who have been married or

between persons who are living or have lived together as husband and wife in a common-law relationship. Also included are family obligations and rights between parents and their children whether the action or proceeding is based on statute law, common law or the inherent jurisdiction of the Court, other than proceedings by way of summary conviction. Proceedings under the following may be heard:

- The Child and Family Services Act;
- s. 3(2) and s. 5(3) of The Change of Name Act;
- s. 6, s. 11, s. 12 and s. 13 of The Dower Act;
- every proceeding under The Family Maintenance Act;
- The Law of Property Act for a partition or sale of land between spouses, or former spouses or persons who are living or have lived together as husband and wife in a common-law relationship;
- s. 8 of The Married Women's Property Act;
- The Marital Property Act;
- every application under The Marriage Act for consent to an intended marriage of a minor;
- The Reciprocal Enforcement of Maintenance Orders Act;
- The Parents Maintenance Act;
- The Child Custody Enforcement Act;
- The Divorce Act (Canada);
- The Divorce and Matrimonial Causes Act;
- every proceeding for enforcement or variation of an order or judgement of any court requiring a person to pay maintenance or alimony to or on behalf of the person's to pay maintenance or alimony to or on behalf of the person's spouse, former spouse, child or other dependent or to or on behalf of another person with whom the first mentioned person is living or has lived as husband and wife in a common-law relationship; and
- every proceeding for an order, judgement or declaration respecting the family status of the parties, custody or wardship of an infant or any other similar application based on the inherent jurisdiction of the court other than proceedings by way of summary conviction.

Family matters are also heard in a number of Regional Court locations (both Queen's Bench and The Provincial Court).

3. Criminal Jurisdiction

The Court of Queen's Bench has jurisdiction in indictable offences under the Criminal Code of Canada.

The Court also hears appeals on summary conviction offences from the Provincial Court.

D. Jurisdiction and Duties of Court Officers

Officers of the Court of Queen's Bench are appointed under s. 11 of The Queen's Bench Act. In Winnipeg, these appointments may be held by individual persons while in the regional court locations the same person may act in several capacities.

1. Deputy Registrars

Under the Registrar, Court of Queen's Bench, deputy registrars are responsible for:

- registration of Family and Civil documents;
- registration of bankruptcies;
- uncontested personal bankruptcies;
- hearing small claims disputes (as hearing officers);
- taxing bills of costs;
- signing interim and final court orders;
- inquiring into the merits of an application to the Court; and
- issuing notices, summonses, warrants for arrest, writs and orders of the Court.

In addition, deputy registrars supervise persons employed in the court registry. Some deputy registrars are also appointed as marriage commissioners and perform marriages on a regular basis.

III. PROVINCIAL COURT

A. Composition of the Court

This Court is established by The Provincial Court Act. The Court is composed of 2 divisions: Criminal, and Family. In Winnipeg, the Provincial Court hears criminal and youth matters, while outside of Winnipeg it hears criminal, youth and family matters.

The Provincial Court consists of the Chief Judge of the Provincial Court, 3 Associate Chief Judges (Criminal Division), and 30 other judges all of whom are appointed provincially by the Lieutenant Governor in Council. There are also 14 part time judges of the Court.

B. Geographic Distribution

The Provincial Court sits in 13 locations with permanent registries and on circuit in 56 locations.

C. Jurisdiction of Judges

The Court is a court of record, and the Court and every judge have jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a judge of the Provincial Court, a magistrate, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.

1. Provincial Court (Family Division)

The Family Division hears cases under The Child and Family Services Act, The Reciprocal Enforcement of Maintenance Orders Act, and The Family Maintenance Act, as well as intra-family Criminal Code matters. Generally, family matters in the Provincial Court are heard only in areas outside the Winnipeg district which is served by the Family Division of the Court of Queen's Bench.

2. Provincial Court (Criminal Division)

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada and to all youth matters as conferred by the Young Offenders Act.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle;
- obtaining money or property by false pretences;

- possession of stolen property;
 - having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security; or
 - mischief under s. 430(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$5,000;
- (b) an attempt to commit any offence referred to in paragraph (a); or
- (c) keeping gaming or betting house;
- (d) betting, pool-selling or book-making;
- (e) placing bets for consideration;
- (f) lotteries and games of chance;
- (g) cheating at play;
- (h) operating a bawdy-house;
- (i) driving while disqualified; or
- (j) fraud in relation to fares.

For more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Provincial Court rather than take the case to the Queen's Bench for trial. Those cases include all indictable offences with the exception of those listed in s. 469 of the Criminal Code (for which the Queen's Bench has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under s. 553.

If the accused does not elect trial in the Provincial Court, the Provincial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Queen's Bench. In hybrid offences, a case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

Appeals from all cases originating in the Provincial Court are to the Court of Queen's Bench in summary matters and to the Court of Appeal in indictable matters.

D. Jurisdiction and Duties of Judicial Officers

Judicial officers (hearing officers, magistrates, or justices of the peace), perform many pre-trial informal court proceedings. Specific functions for which they are responsible may include:

- presiding in By-law Court when required;
- assessing penalties under summary conviction Criminal Code offences and provincial statutes;
- indicating bail for accused persons in custody; holding of contested bail hearings;
- taking informations and issuing search warrants;
- signing warrants of committal, sentencing warrants and also warrants for arrest where authorization may be given by a justice for release;
- advising the public of their rights regarding court matters;
- processing of breaches of probation regarding the non-payment of restitution ordered by the Court;
- taking informations and issuing orders and warrants under The Mental Health Act;
- assessing default convictions;
- endorsing out of province warrants; and
- trial coordination.

Clerks with justice of the peace appointments exercise many of the same functions as magistrates, but do not have jurisdiction in certain Mental Health Act matters.

The jurisdiction and duties of judicial officers in Provincial Court Winnipeg are generally the same as those of judicial officers in the Regional Courts. In addition, the senior judicial officers are responsible for the general supervision of registry staff.

COURTS DIVISION

I. ORGANIZATION OF COURTS DIVISION

The Courts Division provides administrative and operational services to the Court of Appeal, Court of Queen's Bench, and The Provincial Court through the Division's four branches: Court Services, Winnipeg Courts, Regional Courts, and Judicial Services.

A. Winnipeg Courts

Winnipeg Courts is the branch responsible for the administration of the court system in Winnipeg and its circuit courts. It processes matters in the Provincial Court and the Court of Queen's Bench; coordinates Winnipeg area youth and adult escorts; provides security for the judiciary and the courts; and provides clerk monitoring, court reporting and court transcript production. Winnipeg Courts serves the judiciary, the legal community, the police, government agencies and the general public in Winnipeg.

1. Court of Appeal

The court administrative functions provided through this Branch include:

- certifying each certificate of decision to be filed in the court of original jurisdiction; and
- directing the release from custody of prisoners once the terms of bail have been complied with.

2. Court of Queen's Bench - Winnipeg

The court administrative functions provided through the court registry include:

- clerical support to all masters, referees and registrars;
- collecting, accounting for, and depositing monies paid into court in the form of fees and funds held in trust; and
- data entry.

3. General Court Registry Functions

Those functions common to all court registries are as follows:

- processing documents in Queen's Bench and The Provincial Court, ensuring all filings in the court are in accordance with procedural requirements;

- receiving, storing, maintenance and release of court exhibits;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge, and provide secretarial and administrative support;
- completing forms and compiling data for statistical purposes;
- providing information to the general public and to lawyers on procedural requirements; and
- administering youth document records (access and destruction).

4. Court/Clerk Monitoring

The Department has introduced a blended approach to the provision of court reporting services. Computer aided transcription technology has been maintained, however, the majority of the court record is secured through the use of court/clerk monitors. Transcription of the court record is done through a network of private agencies and individuals who are coordinated through the Transcription Services Unit.

5. Escort and Security

The authority for the appointment of Sheriffs and Sheriff's Officers lies in The Public Service Act and The Sheriff Act. In Manitoba all Sheriff's Officers are appointed as Special Constables pursuant to The Provincial Police Act. Pursuant to the Criminal Code, Sheriff's Officers are also peace officers with province-wide jurisdiction.

The Sheriff's Officers in Winnipeg Courts provide the following services to court operations:

- court security
 - provide security for the judiciary;
 - provide courtroom security;
 - supervise and protect accused;
 - protect the public attending court;
 - protect witnesses;
- escorts
 - accused and convicted persons, both adult and young persons, after arrest between lockups or detention centres, from lockup or detention centre to court, on remands, and after sentence to provincial or federal detention centres, arrange and provide return

- transportation to home communities for prisoners released by courts;
 - witnesses when ordered by court and when in custody; and
 - persons committed to mental institutions under The Mental Health Act and for court ordered psychiatric assessments;
- prisoner holding
 - supervise holding units in courthouse;
 - provide food for persons in custody while in holding unit awaiting court proceedings; and
 - escort and supervise prisoners during court appearances.

6. Document Services

The Sheriff's Officers in Winnipeg Courts perform a number of services related to both criminal and civil case processing:

- the service of criminal documents
 - criminal summonses and subpoenas;
 - arrest on order of the judge (contempt); and bench warrants;
- the service of civil documents
 - civil summonses and subpoenas, garnishing orders, petitions, notices and other civil documents;
- jury management
 - summon, pay, provide comforts and lodging for jurors;
 - prepare attendance lists;
 - seclude and guard juries;
 - generate, prepare and distribute jury roles; and
 - conduct jury orientation sessions;
- executions
 - orders for seizure and sale and other orders for execution;
 - issued under the Queen's Bench Rules;
 - sheriff sales (seized goods);
 - orders of replevin;
 - evictions (court-ordered); and
 - execute distress warrants.

7. Provincial Court - Winnipeg

The administrative functions provided include:

- sorting and filing informations from court;

- typing necessary court documents such as probation orders, recognizances, remand warrants and jail release forms;
- preparing warrants of committal and warrants to apprehend for the signature of the judge;
- collecting, accounting for, and depositing monies paid into court in the form of fines, fees and funds held in trust;
- administering restitution monies; and
- updating the computer information system.

8. Forms Control

The Forms Control Committee orders all forms through an inventory system and assists in form design.

B. Regional Courts

Regional Courts is the branch responsible for the administration of the court system outside of Winnipeg. Regional Courts includes the Court of Queen's Bench, The Provincial Court, the Maintenance Enforcement Program, Sheriff's Services, and Transcription Services. The Regional Courts structure provides decentralized court services via 4 regions with regional centres located in Thompson, Brandon, Dauphin and Selkirk. Services are dispensed from 15 court offices in 13 communities, serving 43 circuit court locations. Regional Courts accomplishes the delivery of judicial services to the residents of Manitoba outside Winnipeg:

1. by providing court and administrative functions in 13 Queen's Bench and Provincial Court locations and 41 circuit points outside of the City of Winnipeg. This includes the provision in 5 larger regional judicial centres of Sheriff's Services (i.e. serving and execution of judicial documents, prisoner escorting and holding, court security and jury management). The Regional Court functions are generally the same as those provided in Winnipeg and include the following:
 - the administration of personnel, training, finances and documents flowing through the court system;
 - motions and trial co-ordination under the direction of the Chief Justice and the Chief Judge. It should be noted that trial co-ordination is not available in all areas of the Province at present;
 - the provision of support for the judiciary;
 - sorting, processing and filing informations from all Courts;

- typing necessary court documents such as probation orders, recognizances, remand warrants and jail release forms;
- preparing warrants of committal and warrants to apprehend;
- collecting, accounting for, and depositing monies paid into court in the form of fines, fees and funds held in trust;
- administering restitution monies;
- the enforcement of Family Maintenance Orders which includes monitoring all enrolled orders, enforcing delinquent accounts, as well as reciprocating with other provinces in accordance with The Reciprocal Enforcement of Maintenance Orders Act;
- library maintenance;
- providing selected statistics, legislation and procedures manuals;
- updating and revising the procedures, as required; and
- acting as liaison with police, Crown and judiciary.

C. Court Services

Court Services provides the Courts and Judicial Services with specialized expertise in administration, financial management, project reviews, management information systems, and facilities design and usage. The branch provides divisional resources to the branches in these areas and oversees delivery of three court-related programs: Aboriginal Court Worker Program, Legal Library Resources and Maintenance Enforcement.

1. Aboriginal Court Worker Program

The Aboriginal Court Worker Program, a jointly funded Federal-Provincial program, informs Aboriginal people about the criminal justice system and their rights, privileges, and obligations. Services are provided to Winnipeg courts and courts circuiting from Brandon, Dauphin, Pine Falls, Grand Rapids, Portage la Prairie, The Pas, and Thompson.

2. Court Information Systems

Court Information Systems is accountable for the planning, development, and support of divisional computerized information systems.

3. Facility Design and Usage

Facility Design and Usage is responsible for the acquisition, development, and renovation of all court facilities.

4. Legal Library Resources

Legal Library Resources operates a province-wide law library information system that offers a wide range of legal information services to the judiciary, the legal profession, government staff and the general public.

5. Maintenance Enforcement

The Maintenance Enforcement Program monitors/enforces court orders and separation agreements requiring payment of maintenance support.

6. Program Review and Development

Program Review and Development provides practical assistance to program managers through issues-related research and overseeing the development and implementation of projects and systems.

D. Judicial Services

Judicial Services provides administrative support, strategic planning, management information systems, financial and clerical support as well as assistance in the preparation of judgements to the justices, judges and masters of the Court of Appeal, Court of Queen's Bench and The Provincial Court. Judicial Services coordinates, delivers and supports all judicial activities performed by hearing officers, magistrates, and justices of the peace in the Court of Queen's Bench and The Provincial Court. The branch's trial and motion coordinators schedule and arrange all court activity including dockets, screening courts, motions and trials. The specific branch functions include:

1. Masters and Registrars in Bankruptcy

Masters adjudicate procedural motions in civil and family divisions, enforce maintenance orders, tax costs and hear various Child and Family Services Act matters. In addition, they adjudicate certain bankruptcy and surrogate court matters and conduct hearings on matters referred to them by judges of the Court of Queen's Bench.

2. Hearing Officers

The duties of hearing officers are principally the adjudication of small claims matters in the Court of Queen's Bench. In addition, they act as screening officers who conduct examination hearings pursuant to

provincial family legislation and monitor court orders in the Family Division of the Court of Queen's Bench. Hearing officers also hear contested matters relating to provincial statutory offences, by-law offences and some Criminal Code matters in the Provincial Court as magistrates.

3. Magistrates and Justices of the Peace

Magistrates and Justices of the Peace services are provided by resident community justices of the peace and magistrates in over 80 rural locations. These justices have the authority to take guilty pleas on provincial statutes, regulations and by-laws. Additionally they may take guilty pleas on specific summary Criminal Code and federal statute offences, the authority of which is granted on an individual basis, by the Chief Judge.

4. Small Claims and Maintenance Enforcement Hearings

Hearing Officers handle Small Claims Court, the screening of enforcement matters and taxation of costs. The decisions of these provincially-appointed judicial officers are subject to an appeal to a judge of the Court of Queen's Bench.

5. Trial and Motion Coordination

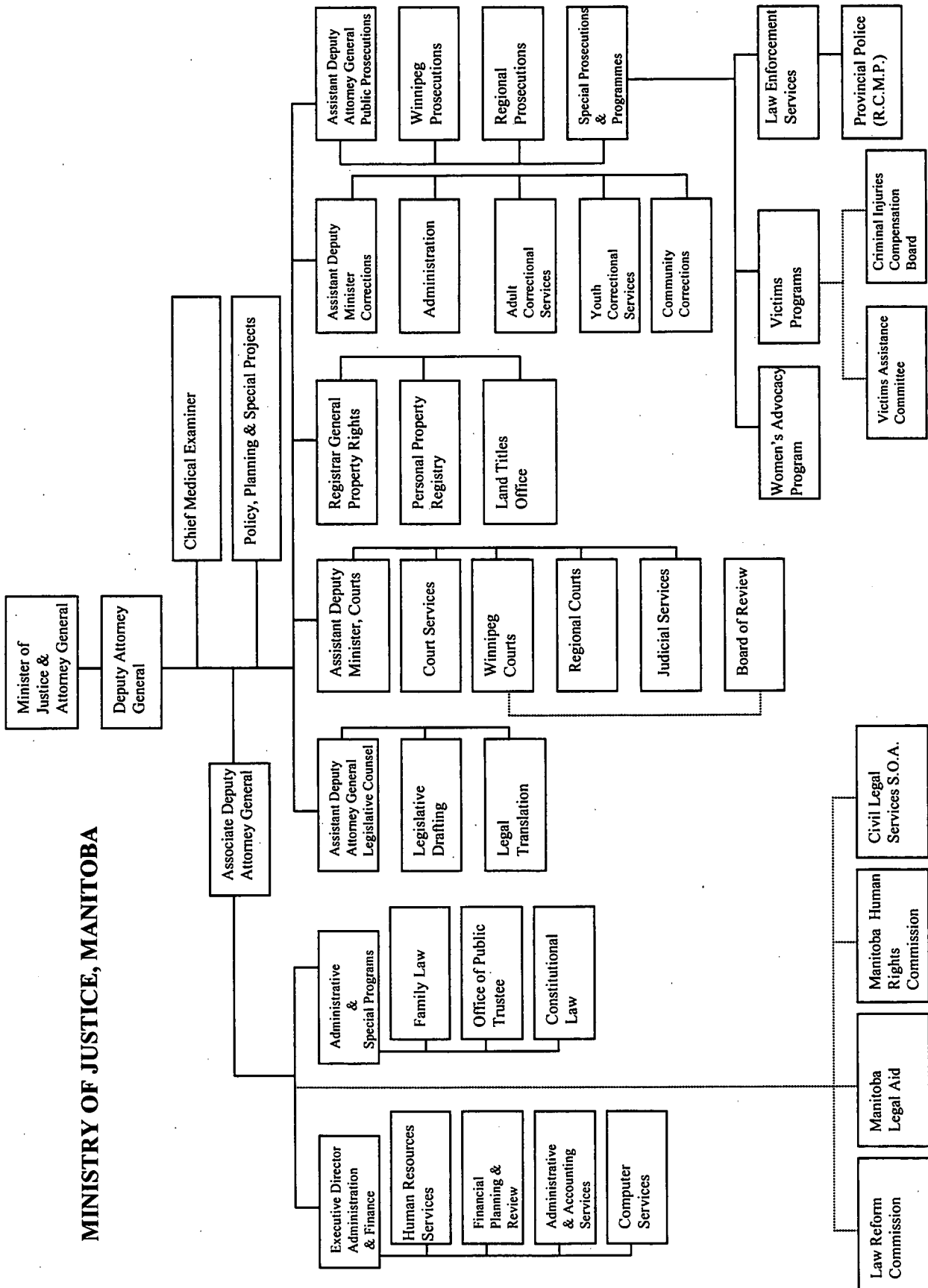
All motion and trial coordination is directed by the Chief Justice of the Court of Queen's Bench and the Chief Judge of the Provincial Court.

6. Judicial Support

The Branch provides all administrative, financial, clerical support, library and technical support required by the judiciary.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department of Justice and the Courts Division.

MINISTRY OF JUSTICE, MANITOBA



Manitoba

COURTS DIVISION, MINISTRY OF JUSTICE, MANITOBA

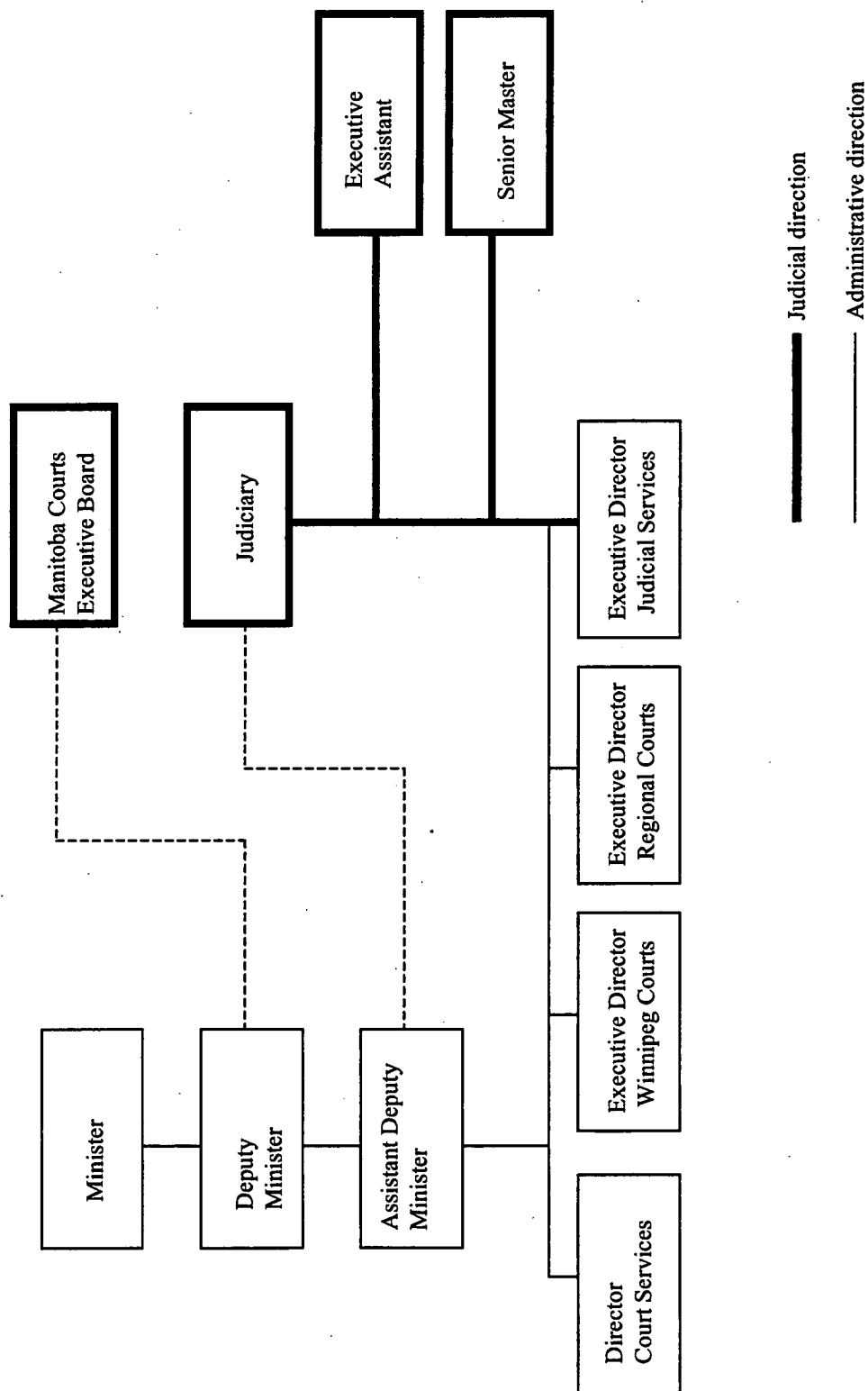


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COURTS IN SASKATCHEWAN

I. COURT OF APPEAL

A. Composition of the Court

This Court is established by The Court of Appeal Act, R.S.S. 1978. The Court of Appeal consists of the Chief Justice of Saskatchewan and eight other Appeal Court justices all of whom are appointed federally.

The Court generally sits with a quorum of three justices, of whom one may be a judge of the Queen's Bench sitting under the provisions of s. 14 of the Act, which deals with instances in which a justice of the Court of Appeal is unavailable. Occasionally a quorum of five or seven justices will sit on a special case.

B. Geographic Distribution

The Court of Appeal sits at Regina and at Saskatoon. The Chief Justice and the eight puisne justices reside in Regina, where the Court sits on a regular basis. The Court sits in Saskatoon on four occasions per calendar year.

According to the Act, the Court may hear, at the judicial centre of Saskatoon, any application or motion incidental to:

- an appeal in respect of an action tried at a northern centre;
- an appeal in respect of an application or motion heard at a northern centre; or
- an appeal entered for hearing at a sitting of the Court at the judicial centre of Saskatoon.

"Northern centre" in this context means the judicial centres of Battleford, Humboldt, Melfort, Prince Albert and Saskatoon and places nearest to these judicial centres.

C. Jurisdiction of Justices

The justices of the Court of Appeal are also ex-officio judges of the Court of Queen's Bench but preside over criminal trials only when requested to do so by the Chief Justice of the Court of Queen's Bench.

The Court of Appeal may hear appeals from:

- any judgement, order or decree made by the Court of Queen's Bench;
- judgements from Provincial Court (including Youth Court) on indictable offences;
- an opinion from the Court of Queen's Bench on matters referred by the

Lieutenant Governor in Council under The Constitutional Questions Act; and

- decisions of the Court of Queen's Bench concerning prerogative writs.

Cases which are heard by right in the Court of Appeal include:

- civil cases on questions of law or mixed fact and law; and
- criminal cases on questions of law alone.

Cases which will be heard with leave of the Court include:

- civil matters involving provincial statutes;
- criminal cases on questions of mixed fact and law;
- criminal cases on questions related to sentences; and
- appeals taken from rulings made on interlocutory applications in Court of Queen's Bench.

The judges of the Court have the power to make rules as to practice before the Court, the duties of officers thereto, tariff of fees and costs of barristers and solicitors, and matters affecting the administration of justice within the Court in general.

D. Jurisdiction of Judges in Chambers

A single judge in chambers may hear and dispose of any application or motion incidental to any cause or matter before the Court, so far as it does not involve the decision of the appeal. Any interlocutory order made or motions granted by a single judge may be discharged or varied by the Court.

E. Jurisdiction and Duties of the Registrar

The Court of Appeal Act provides for the appointment of a registrar and taxing officer. Any court presided over by a single judge of the Court of Appeal may also appoint a registrar. There may also be a deputy registrar and deputy taxing officer at each judicial centre. Similarly, any official of the Court of Queen's Bench may be declared to be ex-officio registrar and taxing officer of the Court of Appeal or deputy registrar or taxing officer for a judicial centre.

The duties of the Registrar of the Court of Appeal include the provision of information to local registrars on applications to the courts, rules of court, court procedure and policy matters. In addition, the Registrar of the Court of Appeal also exercises the jurisdiction and duties of the Registrar in Bankruptcy.

II. COURT OF QUEEN'S BENCH

A. Composition of the Court

The Court of Queen's Bench is the superior court of record for Saskatchewan and is established by The Queen's Bench Act, R.S.S. 1978. The Court consists of the Chief Justice and 31 other judges, as well as eight supernumerary judges. These judges are appointed federally and the Lieutenant Governor in Council may at any time by proclamation increase or decrease the number of judges of the Court. Six of the judges are dedicated Family Law Division judges.

B. Geographic Distribution

The Court of Queen's Bench sits in 13 judicial centres with permanent registries. Section 7.1 of the Act provides that the Lieutenant Governor in Council may direct that a judge reside at a specific centre, thus ensuring that at least one judge resides at or near each of Battleford, Estevan, Moose Jaw, Prince Albert, Regina, Saskatoon, Swift Current, Yorkton, and Humbolt. In addition, there is one Provincial Court location in which criminal jury cases may be heard (La Ronge).

C. Jurisdiction of Judges

The judges of this Court have broad criminal and civil jurisdiction. They are ex-officio coroners, justices of the peace and judges of the Provincial Court of Saskatchewan as well as judges of the Surrogate Court. The Court of Queen's Bench is a court of original jurisdiction and has, in addition to other powers, those vested in and exercised prior to 1873 by the English courts of Chancery, Queen's Bench, Common Pleas, Exchequer and Probate. The Court retains all of the jurisdiction inherent in the former Supreme Court and District Court of Saskatchewan (the District Court merged with the Queen's Bench in July, 1981).

1. Civil Jurisdiction

Civil jurisdiction is unlimited as to type or amount. The Court exercises exclusive jurisdiction over certain civil matters specified in federal and provincial statutes, including matters relating to testamentary dispositions such as wills, letters probate and letters of administration.

The Court of Queen's Bench hears appeals on civil matters from the Small Claims Court (Provincial Court) and the Family Court (Provincial Court).

2. Criminal Jurisdiction

A judge of the Court has jurisdiction to try any indictable offence except indictable offences under s. 469 of the Criminal Code. These offences

require a trial by judge and jury. In addition, the Court has exclusive jurisdiction over indictable offences under The Combines Investigation Act (Canada), which are heard by a judge alone.

The Court hears appeals from summary conviction offences originating in the Provincial Court.

3. Family Jurisdiction

The Court of Queen's Bench has jurisdiction over:

- matters arising under the Divorce Act (Canada);
- options under The Child and Family Services Act, a provincial statute;
- matters arising under The Children's Law Act relating to custody of, access to, or guardianship of children;
- judicial separation;
- alimony (pre-divorce) and maintenance (post-divorce);
- matrimonial property; and
- appeals of family cases heard in the Provincial Court.

In December 1994, the Saskatchewan legislature enacted amendments to The Queen's Bench Act which established a Family Law Division of the Court of Queen's Bench and newly related services, thereby expanding the Family Court concept throughout the province. All family law proceedings are now within the jurisdiction of the Family Law Division, rather than various levels of court, as was previously the case. In Regina, Saskatoon and Prince Albert, the Family Law Division has exclusive jurisdiction to hear and determine all family law proceedings.

The Family Law Division:

- provides an integrated approach to the handling of family law disputes;
- offers and promotes alternative methods of resolving disputes, which may lead to long lasting resolution of issues, thereby reducing cost and conflict for parties;
- provides specialized judges and court staff who have developed an expertise in family law matters; and
- provides court-based support services for families.

A number of court-based services available to families have been established. These include public education programs, mediation orientation and screening services, custody and access assessments and a supervised access program.

The public education program includes the delivery of workshops for parents going through separation or divorce. The workshops provide information on legal issues and court process, alternative dispute resolution, children's reactions to separation, and parenting after divorce. In addition, information pamphlets and self-help divorce kits have been developed and are available through court offices.

Mediation orientation and screening sessions are mandatory for parties to most family law proceedings. These sessions are conducted by staff mediators to provide information regarding the mediation process and to assist parties in deciding whether mediation is an appropriate method of resolving issues in their particular case. After the initial session, parties decide whether to participate in the mediation process further.

Custody and access assessments are completed by social workers and psychologists, upon court order. These assessments are requested in situations where the court requires further information in order to resolve custody or access disputes. The assessment provides detailed information to the court regarding the family situation, along with recommendations for a parenting arrangement. Eighty-eight percent of cases do not proceed to trial, where an assessment has been completed.

Supervised access may be ordered by the court in situations where there is some concern regarding the safety or well-being of the child during access periods. The goal of the Supervised Access Program is to provide a safe environment where a child may have contact with the non-custodial parent under the supervision of a trained volunteer and staff social worker. The program also provides supervision of the exchange of children before and after unsupervised access, in order to reduce the potential conflict between the parents.

After a marriage or relationship breakdown, many women find themselves economically disadvantaged. The information and increased efficiency of the Family Law Division will be of assistance.

Cases under the Young Offenders Act heard in the Provincial Court may be appealed to the Court of Queen's Bench with leave of the Court (Summary conviction matters only).

The Court of Queen's Bench has concurrent jurisdiction with the Court of Appeal over applications for prerogative writs.

4. Chambers Jurisdiction

A judge of the Court of Appeal or a judge of the Queen's Bench shall sit in chambers upon certain designated days, with the local registrar of the Court acting as chamber clerk. If a judge sitting in chambers announces that he/she is sitting in court, he/she shall have all of the powers and incidents of the said Court. Any chambers decision may be appealed to the Court of Appeal, however leave of the court may need to be obtained.

Decisions of the Court of Queen's Bench in both criminal and civil cases may be appealed to the Saskatchewan Court of Appeal as permitted by law.

D. Jurisdiction and Duties of the Registrar

The Queen's Bench Act provides for the appointment of an officer of the Court to be known as the Registrar of the Court of Queen's Bench. The Registrar has an office in Regina and performs duties in accordance with the prevailing statutes and rules of the Court. Local registrars and deputy local registrars are appointed pursuant to The Court Officials Act.

The local registrars are responsible for the Court offices and records in their judicial centres. They maintain the registries in such centres, act as chambers clerks and coordinate chambers applications and the sittings of the Court with the Registrar at Regina.

The Court Officials Act provides that it shall be the duty of every local Registrar of the Court of Queen's Bench to:

- receive all papers required to be filed in Court;
- issue all statements of claims, warrants, writs of execution;
- gather documents necessary for the disposition of such matters, and to file all papers of actions in the office of the Court;
- tax costs, enter judgements and record all judgements and orders pronounced;
- keep a record of all accounts and fines, fees and monies payable or paid into court, to keep the books associated with these matters and to make them available to the public;
- deposit in a designated financial institution in a prescribed manner all monies paid into court;
- attend all sittings of the judge in chambers unless not required to do so by the judge; and

- attend all sittings of the Court.

In addition, the local registrars:

- sign documents including orders, default and interlocutory judgements, mortgage foreclosures as well as judgements resulting from decisions of the Court;
- act as official examiners;
- execute conveyances, transfers or mortgages ordered by the Court;
- release garnishing orders;
- issue subpoenas to witnesses;
- settle orders;
- grant leave to renew an originating notice for a further period;
- administer oaths;
- take affidavits and statutory declarations;
- receive affirmations; and
- supervise persons employed in the court registry.

III. PROVINCIAL COURT

A. Composition of the Court

The Provincial Court of Saskatchewan is established by The Provincial Court Act, R.S.S. 1978. It is a court of record of limited jurisdiction dealing with small claims, family and youth and criminal matters. In addition, The Traffic Safety Court of Saskatchewan Act, 1977 provides for a Traffic Safety Court presided over by justices of the peace. Traffic Safety Courts currently are located in Regina and Saskatoon.

The Provincial Court consists of a Chief Judge and 43 Provincial Court judges. Judges are appointed by the Lieutenant Governor in Council. Pursuant to The Justices of the Peace Act, 1988, the supervising justice of the peace (who reports to the Chief Judge) is responsible for scheduling the justices pursuant to a duty roster and is also generally responsible for advising the justices. The other justices are appointed in one of three categories:

- non-presiding justices of the peace can only administer oaths, swear informations and read the proclamation at a riot;
- presiding justices of the peace who are also court officials may issue

warrants, summonses, subpoenas and receive recognizances and undertakings. They may also, with permission of a Provincial Court judge, adjourn court proceedings, put the election to the accused, remand the accused and issue process to compel the accused to attend court; or

- presiding justices of the peace who are not court officials cannot preside at a trial or preliminary hearing but can grant adjournments or accept a guilty plea and sentence an accused charged with a summary conviction offence.

B. Geographic Distribution

The Provincial Court sits in 14 judicial centres with resident judiciary, and visits 74 other locations on circuit.

There are four Provincial Court locations which share the same facilities with the Court of Queen's Bench. Both courts share common supervisors and the staff at each location share the workload.

C. Jurisdiction of Judges

The Court exercises both civil and criminal jurisdiction.

1. Civil Jurisdiction

The civil jurisdiction of the Provincial Court is found in The Small Claims Act, 1988 and its attendant regulations. The Court is limited to hearing actions in which the amount in dispute does not exceed \$5,000 for both individuals and corporations.

The Act applies to claims and demands for debt, damages or recovery of goods and chattels. It does not apply to any matter in which the title to land is in question, nor to testamentary matters, malicious prosecution, malicious arrest, false imprisonment, libel, slander, seduction, breach of promise of marriage, or actions against magistrates or justices of the peace for acts done in the course of their office.

Appeals from the Small Claims Court may be taken to the Court of Queen's Bench at the nearest judicial centre. Such appeals take the form of an appeal in the record. Further appeal to the Court of Appeal is possible. However, when the amount in question is less than \$200, leave of a judge of the Court of Appeal is required.

2. Family and Youth Jurisdiction

The Provincial Court is a Youth Court within the meaning of the Young Offenders Act (Canada), and hears matters respecting children arising under Part 1 of The Child and Family Services Act, R.S.S. 1990, and matters under certain sections of The Provincial Court Act, R.S.S. 1978.

In these areas, the Provincial Court hears matters relating to support and maintenance, paternity, the welfare of children and young offenders.

The judges of the Provincial Court exercise jurisdiction in matters and proceedings arising under:

- The Marriage Act, R.S.S. 1978 (provides for a hearing by the Court of Queen's Bench in certain instances, including the solemnization of marriage and the formalities attendant upon the marriage ceremony, but in general, matters under the Act are held in Provincial Court); and
- The Family Maintenance Act, R.S.S. 1990 (concerning support for dependent spouses or children, and providing for a hearing by a Provincial Court judge).

3. Criminal Jurisdiction

The Provincial Court has general jurisdiction in matters arising under s. 553 and s. 554 and Part XXVII (summary convictions) of the Criminal Code of Canada. In addition, certain indictable offences are within the absolute jurisdiction of the Provincial Court. Other indictable offences may be heard by the Provincial Court or Court of Queen's Bench depending on the election of the accused.

Offences listed in s. 469 are the exclusive jurisdiction of the Court of Queen's Bench. Preliminary inquiries are generally held in the Provincial Court although the Attorney General of Saskatchewan may proceed by direct indictment to Queen's Bench. However this is a procedure that is rarely invoked.

The Traffic Safety Court is established by The Traffic Safety Court of Saskatchewan Act, R.S.S. 1978. It sits in Regina and Saskatoon, and is presided over by four traffic justices appointed provincially as justices of the peace. These justices are lay persons with law enforcement backgrounds. This Court deals with violations of The Vehicle Administration Act, 1986, certain sections of The Highway Traffic Act, 1986, and The Motor Carrier Act, 1986, relating to weight of vehicles and loads, moving violations, and bylaws of urban and rural municipalities. Parking infractions are not dealt with in the Traffic Safety Court.

Separate By-law courts have been established in Regina and Saskatoon, presided over by justices of the peace with extensive knowledge of court procedures. These justices are designated by the Chief Judge of the Provincial Court and hear guilty and not guilty pleas on most city by-laws (excluding zoning and building).

Appeals from the Provincial Court on indictable offences or matters of

contempt of court are heard by the Court of Appeal. Appeals from the Traffic Safety Court and By-law Court are heard by a Provincial Court judge designated by the Chief Judge and are by way of a trial de novo, and thereafter to the Court of Queen's Bench only.

D. Jurisdiction and Duties of the Clerk

Generally, The Court Officials Act, R.S.S. 1978 provides for the appointment of such registrars, clerks or deputy registrars and clerks of any court deemed necessary for the prompt and effective administration of justice within Saskatchewan.

Administratively, these officials are referred to as judicial officers. In the Provincial Court they assume the position of clerk of the court. They are responsible for the following functions:

- assuring availability of judges and courtrooms for trials, preliminary hearings, and any other special hearings;
- supervision of staff to ensure that instructions relating to administrative matters are carried out efficiently and expediently (in the larger centres of Regina, Saskatoon, Prince Albert and Yorkton there are supervisory judicial officers to oversee these duties);
- ensuring care, maintenance and control of government vehicles when directed by the Director of Court Operations; and
- maintaining liaison with other court offices, the legal profession, central administration and various police forces to ensure smooth operation of all court functions.

In the Small Claims division, the clerk may issue subpoenas, sign memoranda of judgement, sign certificates of judgement and/or adjourn any matter or cause as permitted by The Small Claims Act.

COURT SERVICES

I. ORGANIZATION OF COURT SERVICES

Court Services consists of four main Branches: Financial and Administrative Support, Court Operations, Legal and Technical Services, and Family Law Division Support Service.

In addition, several other agencies within the Department of Justice provide support and expertise to Court Services. This includes Administrative Services, Systems, Human Resources, Policy and Planning and Legislative Services.

The organization charts at the end of this chapter locate these services within the department and the Court Services Division.

A. Court Operations

Reporting to the Executive Director of Court Services, the Director of Court Operations Branch provides administrative support to the Court of Appeal, Court of Queen's Bench and the Provincial Court.

B. Court Administration

The court administration functions are carried out under the supervision of the local registrars and clerks of the court. These include:

- receiving and processing legal documents including notices, warrants for arrest, and orders of the court;
- ensuring that all filings in the court are in accordance with procedural requirements;
- storing and retrieving court documents;
- trial scheduling and coordinating trial participants;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust;
- receiving, storing, maintenance, and release of court exhibits;
- preparing interim and final court orders;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, record pertinent information about proceedings and disposition of cases, and when required, operate court recording equipment;
- completing forms and compiling data for statistical analysis;
- providing information to the general public and to lawyers on procedural requirements;
- administering youth document records (access and destruction); and
- providing information necessary for the operation of other related services.

The administration of the Commissioner of Oaths, the Notary Public and the Marriage Commissioner is provided for by Court Operations.

In addition, the Court Operations Branch provides the justices of the Court of Appeal and the Court of Queen's Bench with offices, furniture, clerical and

stenographic staff, and office equipment.

C. Court Reporting

Through a combination of electronic recording equipment, private sector court reporting firms and private sector transcript production, all proceedings in Saskatchewan are now recorded with electronic recording devices. The court clerk is currently responsible for monitoring trial proceedings, maintaining storage of recording equipment, and forwarding tapes for transcript production as required.

In the Court of Appeal, Court of Queen's Bench and Provincial Court, all proceedings are recorded on electronic recording equipment. If a transcript of the proceeding is required, the tapes of the proceeding are forwarded to the Transcript Unit which then allocates the production of that transcript to a private sector firm. Once the transcript is completed it is filed at the appropriate court office.

The one exception is for civil trials where lawyers may arrange for private sector court reporters at their expense.

Examinations for Discovery throughout the province are performed by private sector court reporting firms. The transcripts of the examination are the responsibility of the attending court reporter and are produced upon request.

D. Administrative Support Branch

Reporting to the Executive Director of Court Services, the Director of the Financial and Administrative Support Branch provides administrative support to the Court Services Division. Specific program activities include:

- the preparation, planning and allocation of budget resources for the Court Services Division to ensure that appropriate funding is provided;
- controlling all expenditures for the Division to ensure that resources are being utilized appropriately, including the preparation of monthly expenditure forecasts for all branches of the Division;
- monitoring the accounting function of the Division to ensure that Treasury Board Regulations are adhered to;
- preparing annual report material, Treasury Board submissions, Committee of Finance material and manuals for the Division;
- measuring the efficiency of administrative procedures and processes and initiating improvements to better meet program objectives;
- collecting statistical information from the branches and development and assessment of performance measurement standards; and

- establishing policies and implementing controls to regulate purchasing, allocation, repairs and disposal of equipment.

Administrative Support is responsible for the operation of the Provincial Court Payment and Information Centre (PCPIC) and the Non-Renewal Unit. The PCPIC is the central processing unit for all provincial offence tickets that have a voluntary payment option. The Non-Renewal Unit is responsible for enforcement of all traffic-related tickets. Failure to pay these fines results in the Unit withholding the ability of the offender to renew his driver's licence.

E. Aboriginal Courtworker Program

In July 1994, a report by the Minister of Justice was approved by Cabinet. It recommended that an interim Justice-administered Aboriginal Courtworker Program be implemented, to be followed by a legislative program in 1995.

The Interim Advisory Board was set up in July 1994, comprised of an independent chair, 2 Saskatchewan Justice officials, a representative from the Federation of Saskatchewan Indian Nations (FSIN) and Metis Society.

The Executive Director is responsible for the overall design, development, co-ordination and administration of the Program.

The courtworker services are co-managed by Indian and Metis organizations and the province; delivered by community-based carriers; and accountable to both Aboriginal communities and the wider Saskatchewan public.

The Saskatchewan Aboriginal Courtworker Program has enhanced Aboriginal access to justice by ensuring that Aboriginal youths and adults appearing before the criminal courts receive fair, just and culturally sensitive treatment. Courtworkers have been in place since May 1, 1995.

F. Sheriff Services Branch

The authority for the appointment of sheriffs, deputy sheriffs and sheriff's officers lies in The Court Officials Act, 1984. Pursuant to s. 2 of the Criminal Code, the sheriff is also a peace officer. Pursuant to the Federal Court Act, the sheriff is a marshal of the Federal Court.

The Sheriff Services Branch performs a number of services related to both criminal and civil case processing, and court operations in the Court of Queen's Bench including:

- the service of documents
 - civil and family related documents; and
 - documents for other government agencies including the Maintenance Enforcement Office;

- court security
 - for all jury trials in the Court of Queen's Bench. Security is augmented by local police;
 - for Court of Appeal hearings as required; and
 - in Provincial Court, by deputy sheriffs in Regina and Saskatoon and by the police detachments in all other locations;
- jury management
 - summoning jurors;
 - preparing attendance lists and providing comforts for jurors; and
 - providing jury guards;
- enforcement of various court orders.

Sheriffs Officers are responsible for processing and investigating the following legal remedies:

- writs of executions including seizure and sale;
- writs of possession;
- writs of replevin;
- seizures under The Garage Keepers Lien Act; and
- arrests on civil warrants of committal.

Sheriff Services Branch is also responsible for investigating writs of execution issued by governmental agencies including the Maintenance Enforcement Office. When acting on a writ, Sheriff Services is responsible for investigating debtors and determining possible assets. Upon instruction, sheriffs will seize and sell assets to realize the outstanding summons owing on judgements of the Court.

In Saskatoon and Regina, the Sheriff services are separate from the local registry office. In the other centres, the local registrar is also the sheriff and senior judicial officers are both deputy sheriffs and deputy registrars.

II. MANAGEMENT SERVICES DIVISION

The Management Services Division provides a variety of support services to all divisions and agencies of the Department of Justice including Court Services.

The Administrative Services Branch provides central financial, audit and administrative functions as well as data entry, central file and mail services.

The Human Resources Branch activities include:

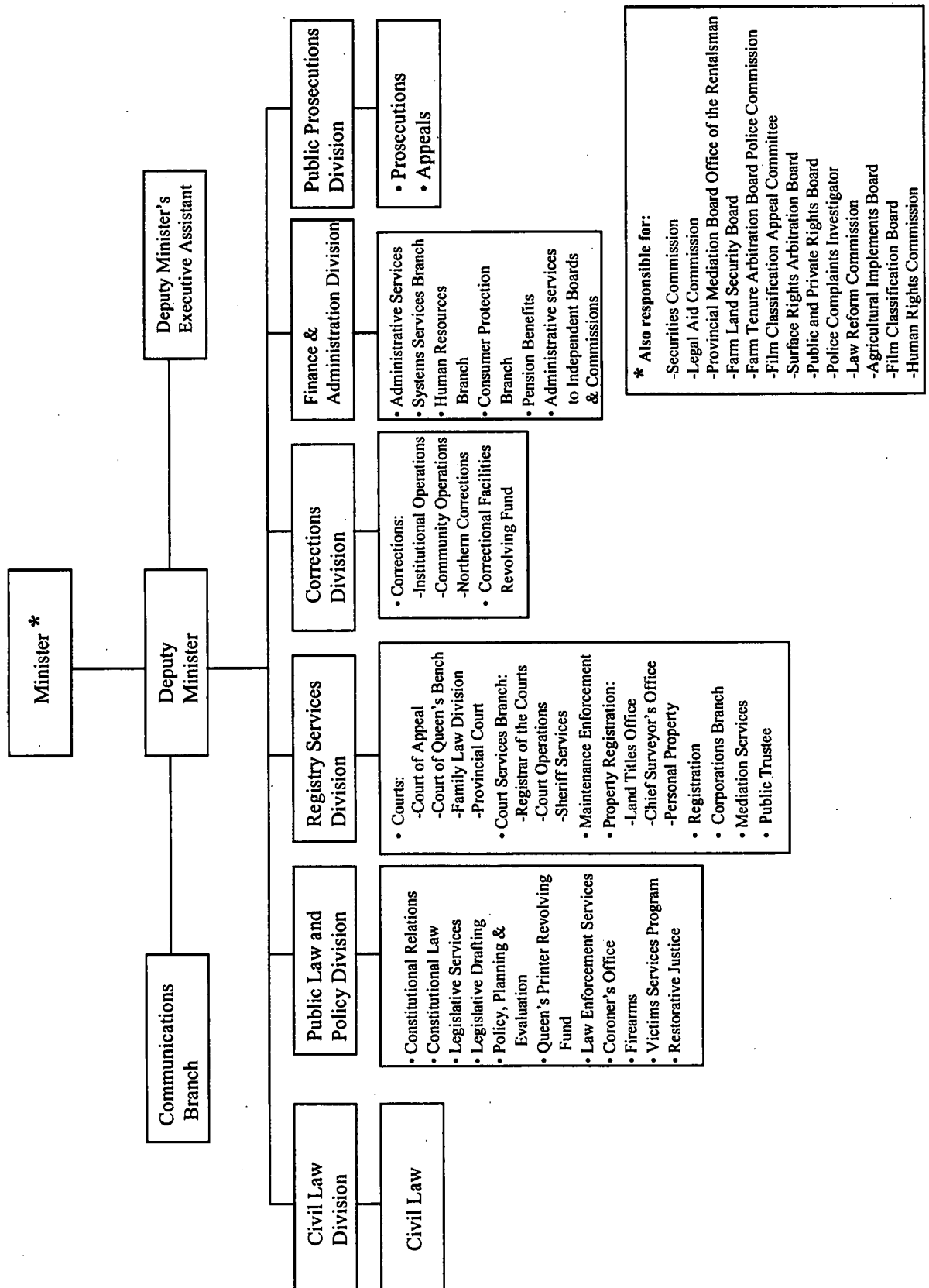
- staffing procedures such as advertising, reviews, and interviews;
- monitoring changes and problems associated with classification and salary administration;

- staff training and development (programs and policies);
- payroll;
- administering and reviewing staff programs; and
- administering employee records and position control.

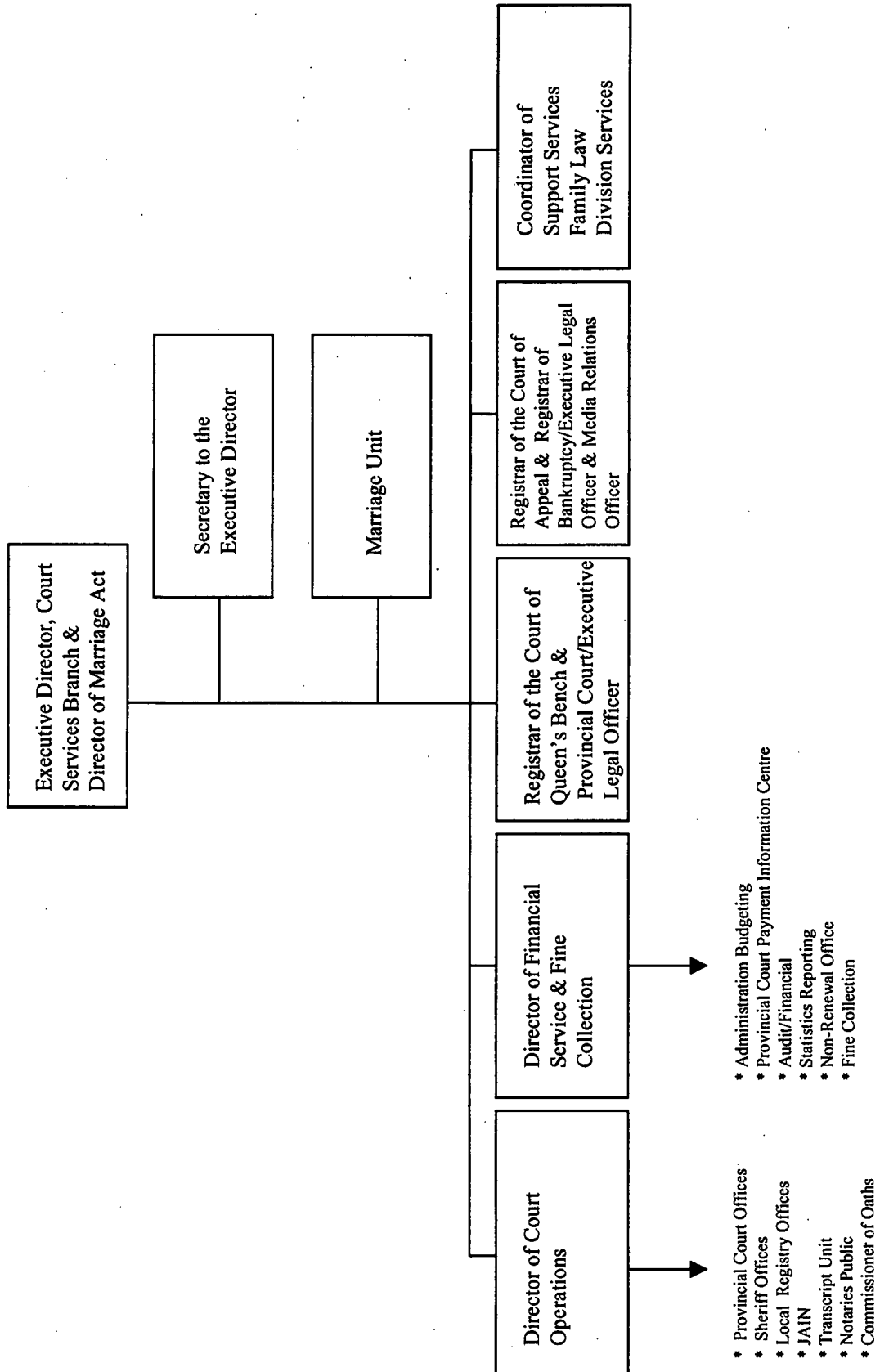
The Systems Services Branch employs analytical and technical expertise concerning the development and operation of systems within the branches of the Department of Justice. It also coordinates system activities with outside agencies and develops and controls the departmental system budget.

The activities of the Policy, Planning and Evaluation Branch, Public Law and Policy Division, include central policy development, monitoring and evaluation of the existing programs, and conducting research into questions of significance. This Branch also provides support services related to the analysis of data, provision of information and library services to the Department and acts as a liaison with federal agencies.

DEPARTMENT OF JUSTICE, SASKATCHEWAN



COURT SERVICES DIVISION, DEPARTMENT OF JUSTICE, SASKATCHEWAN



Saskatchewan

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COURTS IN ALBERTA

I. COURT OF APPEAL

A. Composition of the Court

This Court is established by the Court of Appeal Act, R.S.A. 1980. The Court of Appeal consists of the Chief Justice of Alberta and 12 other justices who are appointed federally by the Governor in Council. Additionally, there are 5 supernumerary judges.

The Court generally sits with a quorum of three justices and may sit with one or more divisions of three justices. On the request of a justice of the Court of Appeal, a judge of the Court of Queen's Bench may sit or act in place of a judge who is absent, or as an additional judge.

B. Geographic Distribution

The Court of Appeal sits on a regular basis in Edmonton and Calgary. All justices of the Court reside in or close to Edmonton or Calgary.

C. Jurisdiction of Justices

The Court of Appeal of Alberta has appellate jurisdiction in most civil and criminal matters, and has jurisdiction to hear and determine motions and appeals respecting certain judgments, orders, and decisions of the courts.

D. Jurisdiction and Duties of the Registrar

The Registrar and other court officers are appointed in accordance with the Public Service Act. They have power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses as the Court may direct.

II. COURT OF QUEEN'S BENCH

A. Composition of the Court

This Court is established by the Court of Queen's Bench Act, R.S.A. 1980. The Court of Queen's Bench of Alberta consists of the Chief Justice, the Associate Chief Justice and 61 other justices who are appointed federally by the Governor in Council. Additionally, there are 20 supernumerary judges.

B. Geographic Distribution

The Court of Queen's Bench sits on a regular basis in 10 locations and on circuit in 3 locations.

C. Jurisdiction of Justices

The Court of Queen's Bench of Alberta is a superior court of civil and criminal jurisdiction. It has original jurisdiction in all matters unless otherwise indicated by statute.

D. Jurisdiction and Duties of Masters in Chambers and Clerks of the Court

Masters in chambers are appointed by the Lieutenant Governor in Council. There are seven masters in chambers and they have the same power and may exercise the same jurisdiction as a judge sitting in chambers with the following exceptions:

- appeals, applications in the nature of appeals, applications concerning the hearing of appeals and applications to vary or rescind an order made by a judge;
- stays of proceedings after verdict or on judgment after trial or hearing before a judge, unless all parties consent to the exercise of that jurisdiction by the master;
- hearing, determining and disposing of all applications and other matters, unless all parties consent to the exercise of that jurisdiction by the master;
- the trials of actions;
- the determination of disputed or contentious questions of fact unless the parties agree to the disposition of the questions summarily in chambers on affidavit evidence and without the trial of an issue or the hearing of oral evidence;
- any matters relating to criminal proceedings or the liberty of the subject;
- applications relating to civil contempt or for an injunction or a judgment or order in the nature of certiorari, prohibition, mandamus or quo warrants; or
- anything which by law is required to be done by a judge.

Clerks and other officers of the Court of Queen's Bench are appointed in accordance with the Public Service Act, and have the power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct.

III. SURROGATE COURT

A. Composition of the Court

This Court is established by the Surrogate Court Act, R.S.A. 1980. The Chief Justice and other judges of the Court of Queen's Bench are the Chief Judge and judges respectively of the Surrogate Court of Alberta.

B. Geographic Distribution

The Surrogate Court sits in the same locations as the Court of Queen's Bench of Alberta.

C. Jurisdiction of Justices

Section 9 of the Surrogate Court Act gives the Surrogate Court jurisdiction and authority in relation to testamentary matters and causes, the issuing or revoking of grants of probate, and administration and all matters arising out of or connected with the issue or revocation of grants of probate and administration.

With respect to all matters within its jurisdiction, the Court and the judges and officers thereof respectively have and may exercise all the powers of the Court of Queen's Bench and of the judges and officers thereof.

Section 10 of the Surrogate Court Act gives the Surrogate Court jurisdiction in all matters or applications touching or relating to the appointment, control or removal of guardians, the security to be given, the custody, control of or right of access to a minor.

Nothing in the Surrogate Court Act affects the jurisdiction of the Court of Queen's Bench in matters within the jurisdiction stated above.

D. Jurisdiction and Duties of the Clerks

In each judicial district, the Clerk of the Court of Queen's Bench is the Clerk of the Surrogate Court, and performs all the duties with respect to the Surrogate Court that the Clerk of the Court of Queen's Bench is required to perform.

The Clerk of the Court is required to:

- file and preserve all original wills of which probate or administration with the will annexed are granted, and all other papers used in matters in the Court in his/her judicial district, subject to the Rules; and
- on payment of the fee prescribed by the Rules, issue official copies of the whole or any part of a will of which probate or administration with the will annexed is granted, or grants of probate or administration.

The office of the Clerk of the Court of Queen's Bench is a depository for the wills of living persons given for safekeeping and the Clerk must receive, keep and return them in accordance with and subject to the Rules.

IV. PROVINCIAL COURT

A. Composition of the Court

This Court is established by the Provincial Court Act, R.S.A. 1980. There are four divisions of the Court: Criminal, Family, Civil and Youth.

Judges of the Provincial Court are appointed provincially by the Lieutenant Governor in Council. In addition to the Chief Judge and eight Assistant Chief Judges, there are 95 permanent judges of the Provincial Court, and 12 supernumerary judges.

B. Geographic Distribution

The Court may sit at any place in the province for the orderly dispatch of the business of the Court. There are 23 permanent and 51 circuit locations where the Provincial Court (Criminal Division) sits, and 23 permanent and 48 circuit locations where the Provincial Court (Family and Youth Divisions) sits. The Civil Division sits at most of the same locations as the Criminal Division.

C. Jurisdiction of Judges

The Provincial Court is a court of record, and the Court and every judge have jurisdiction throughout the province to exercise all the power and perform all duties conferred or imposed on a judge of the Provincial Court, a magistrate, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.

1. Civil Jurisdiction

The Provincial Court Civil Division has jurisdiction to try and adjudicate any claim (including a counterclaim):

- for debt (whether payable in money or otherwise) if the amount claimed or counterclaimed does not exceed \$4000 exclusive of interest payable under an Act or by agreement on the amount claimed; and
- for damages (including damages for breach of contract) if the amount claimed or counterclaimed does not exceed \$4000 exclusive of interest payable under an Act or by agreement on the amount claimed.

If it appears that the claim of a plaintiff or the counterclaim of a defendant is in excess of the amount prescribed above, the plaintiff or

the defendant may abandon the part of the claim in excess of the jurisdiction of the Court by filing a notice to that effect with the Court. In that event, the person forfeits the excess and is not entitled to recover it in any other action in the Provincial Court or any other court.

The Court does not have jurisdiction to hear or adjudicate on a claim or counter claim:

- in which the title to land is brought into question;
- in which the validity of any device, bequest or limitation is disputed;
- for malicious prosecution, false imprisonment, defamation, criminal conversation, or breach of promise of marriage;
- in replevin;
- against a judge, justice of the peace or peace officer for any thing done while executing the duties of office; or
- by a local authority or school board for the recovery of taxes, other than taxes imposed in respect of the occupancy of or an interest in land that is itself exempt from taxation.

The Court has jurisdiction in all civil claims where the amount claimed does not exceed \$4,000, except for those cases listed above.

2. Youth Jurisdiction

The Court is a Youth Court within the meaning of and for the purposes of the Young Offenders Act (Alberta) and the Young Offenders Act (Canada), and has all the powers vested in a Youth Court under those acts.

3. Family Matters

The Provincial Court may enforce Queen's Bench orders filed with it relating to alimony or maintenance; and may order interim maintenance or alimony payments when a person ordered to pay applies for a hearing adjournment.

The Court may make a consent order without holding a hearing if parties to an application agree respecting the matters in question and the terms of the order.

The Court may make a custody order regarding the custody of a child and the right of access to the child where there is a dispute as to custody or access and where the parents are living apart. The Court may also review, confirm, vary, or discharge such orders.

4. Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information with:

- (a)
 - theft, other than theft of cattle;
 - obtaining money or property by false pretences;
 - possession of stolen property;
 - having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$5,000; and
 - mischief under s.430 (4) where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$5,000;
- (b) an attempt to commit any offence referred to in para. (a); or
- (c) gaming and betting;
- (d) betting, pool-selling or book-making;
- (e) placing bets for consideration;
- (f) lotteries and games of chance;
- (g) cheating at play;
- (h) operating a bawdy house;
- (i) driving while disqualified; and
- (j) fraudulently obtaining transportation.

For more serious criminal offences, the accused person may elect to submit to the jurisdiction of the Provincial Court rather than take the case to the Queen's Bench for trial. Those cases include all indictable offences with the exception of those listed in s. 469 of the Criminal Code (for which the Queen's Bench has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under s. 553.

If the accused does not elect trial in the Provincial Court, the Provincial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Court of Queen's Bench. In hybrid offences, a case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

D. Duties of the Clerks

Clerks are appointed in accordance with the Public Service Act and have the power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct. In addition to performing the duties prescribed under the Provincial Court Act or any other act, court clerks also perform those duties assigned to them by the Attorney General.

ORGANIZATION OF COURT SERVICES

Two divisions of the Alberta Department of Justice provide services to the courts.

The Court Services Division provides staff who performs all local administrative, case processing, and court reporting services necessary to operate all of Alberta's courts. In addition, the Court Services Division monitors Civil Enforcement services in the province.

The Administration Division provides central financial, systems, auditing, communications, planning/research, and administrative services to all branches of the Department including the Court Services Division.

In addition, the Administration Division is responsible for the Maintenance Enforcement Branch, and provides for the enforcement of maintenance orders.

Personnel services are provided to the Department by the Human Resource Services Division.

The organization charts at the end of this chapter indicate where services are located within the overall structure of the Alberta Department of Justice.

I. COURT SERVICES DIVISION

The Court Services Division provides administrative support including court reporters, civil enforcement, law libraries to all courts in the province. The Division is divided into three major components: Strategic Planning and Operational Coordination, Corporate Services, and Regional Operations.

A. Strategic Planning and Operational Coordination

1. Court Operations

Located in Edmonton, Strategic Planning and Operational Coordination is responsible for strategic planning and reviewing various policy issues

on the behalf of the Alberta Department of Justice.

2. Civil Enforcement

The Office of the Sheriff performs a number of services related to Civil Enforcement, including:

- regulating the activities of agencies and bailiffs in Alberta in accordance with the Civil Enforcement Act and Civil Enforcement Regulations, and investigating complaints filed thereunder;
- developing practices and procedures for civil enforcement agencies and bailiffs;
- reviewing and determining applications for appointment as civil enforcement bailiffs; and
- identifying the need for and developing changes required to computer systems of Alberta Justice or Alberta Municipal Affairs.

B. Corporate Services

This unit is responsible for procedural development, management information and analysis, budget coordination and preparation, development and maintenance of information technology systems, and law libraries.

1. Financial Planning Unit

This unit is responsible for budget coordination and preparation, expenditure control, and Judges and Justices of the Peace administrative functions.

2. Court Business Services Unit

This unit is responsible for identifying system requirements for the courts, developing new systems, and monitoring ongoing systems operations and central forms design.

Court Automation Project (CAP) is a case control and tracking system that produces operational, financial, and caseload information for criminal cases.

In addition, an automated system (CASES - Civil and Sheriff Entry System) is in operation throughout the province and facilitates case tracking for all civil cases and sheriffs' operations.

3. Law Libraries

This unit provides legal information services to counsel for the Alberta Department of Justice, members of the Bench and Bar, and the public through acquisitions and organization of legal materials. There are 59 libraries consisting of 14 Court of Queen's Bench libraries, 44 Provincial Court libraries, and a department library.

C. Regional Operations

The Regional Operations component of the Court Services Division is responsible for the administration of local court operations. It consists of two functional areas: Court Administration and Court Reporting and Recording Services.

1. Court Administration

In Alberta, there are four regional directors who oversee all court operations within their respective regions (North Rural, South Rural, Edmonton, and Calgary). The directors are assisted by one district manager who is assigned to the South Rural Region.

The four regional directors participate, prepare and manage budgets, and provide all the services in the court registries as well as providing clerks of the court. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses, warrants for arrest;
- storing and retrieving court documents;
- trial scheduling and coordinating trial participants including witness management;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing and maintaining court exhibits;
- preparing interim and final court orders;
- providing justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence

submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;

- completing forms and compiling data for statistical analysis and updating records on the Court Automation Project (CAP) and the Civil and Sheriff Entry System (CASES);
- jury management
 - summon, pay, provide comforts for juries;
 - prepare attendance lists; and
 - sequester and guard juries.

In Alberta, court security is provided by police agencies in criminal matters. Court security officers in Edmonton and Calgary provide building security through the Alberta Department of Justice.

2. Court Reporting and Recording Service

The principal methods of capturing the spoken word are manual shorthand, mechanical shorthand, and sound recording machines. Reporters report proceedings that are best suited to their method of operation, and recorders record those proceedings where the use of sound recording machines is most practical under the circumstances. The methods are not in competition, but are complementary alternatives in making an official record of proceedings.

Court reporters and recorders are employees of the Court Services Division. In addition to their salaries, court reporters receive fees from individuals who order transcripts.

The responsibilities of the reporters and recorders include:

- setting up reporting/recording systems in the courtrooms and monitoring the recording onto tape during proceedings;
- maintaining a written log of participants and events during proceedings, which facilitates readbacks/playbacks;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription; and
- preparing invoices.

On request, transcripts are provided for oral judgements given by the Court. Transcripts are automatically prepared for all preliminary inquiries and reciprocal maintenance enforcement hearings.

Transcripts for Appeal Books must be available within six weeks for criminal appeals to the Court of Appeal, thirty days for summary conviction appeals to the Court of Queen's Bench, and eight weeks for civil appeals.

II. CORPORATE SERVICES DIVISION

Located in Edmonton, the Corporate Services Division of the Alberta Department of Justice provides central administrative support to the Department including the Court Services Division. The Corporate Services Division is composed of seven branches which include Financial Services, Resource Management Services, Corporate Support Services, Business Services (IT), Communications and Maintenance Enforcement.

A. Financial Services

This Branch provides a financial support and advisory service to the Department. Financial Services includes Financial Planning, Financial Operations, Revenue and Trust, and Internal Audit.

1. Financial Planning

This area is responsible for providing continuous financial analysis of departmental operations and for preparation and presentation of the annual budgets.

2. Financial Operations

The Financial Operations section verifies and processes all departmental accounts payable and payroll transactions.

3. Revenue and Trust

The Revenue and Trust section processes and provides central control over the receipt and banking of revenues and trust monies received by the Department.

4. Internal Audit

This Section is concerned with the management control process and provides internal audit coverage of the Department. Management is advised of program effectiveness and efficiency through an independent, systematic appraisal of departmental activities.

B. Resource Management Services

This area provides a variety of administrative services including Special Services, Materials and Facilities, Records Management Services, and Official Documents and Appointments.

1. Special Services

Special Services is responsible for methods and procedural studies, the analysis and design of departmental forms and reports, maintenance of the forms management program and operation of a reprographic unit.

2. Materials and Facilities

This area provides a central purchasing and supply service, administration of all facility and accommodation projects for the Department, and coordination of departmental word processing systems.

3. Records Management Services.

This area provides comprehensive records management services including internal consulting, retention scheduling and disposition and the operation of a central records operation for Head Office.

4. Official Documents and Appointments

This area serves two primary functions: processing appointments and maintaining current files on the province's 26,976 commissioners of oaths and 484 notaries public, and administering the Provincial Secretary's Office.

C. Corporate Support Services

This Branch which also includes the Corporate Reference Centre provides the Department and its managers with support in the analysis and management of information. This Branch is responsible for the development, implementation and administration of management support systems and the maintenance of and access to research reports, studies and surveys. The director of the Branch currently fills the role on behalf of the Department as Liaison Officer to the Canadian Centre for Justice Statistics.

D. Business Services (IT)

This Unit is responsible for the planning and development of electronic data and word processing systems throughout the Department.

E. Communications

This Branch provides public relations consultation and communications services, including issues identification, media relations, coordination of displays and advertising, and production of printed material.

F. Maintenance Enforcement Program

Under the Executive Director of Administration, this Branch is responsible for the enforcement of maintenance orders or agreements registered with the program.

III. HUMAN RESOURCE SERVICES DIVISION

Human Resource Services provide a full range of services to the Department in the area of recruitment and selection, position classification, staff development, organizational analysis and restructuring, human resource planning, staff relations, benefit administration, Aboriginal employment initiatives and staff reduction/redeployment assistance.

A. Position and Classification

The Position and Classification section provides consulting services to managers in the areas of selection, classification, organization structure and position control.

B. Staff Relations

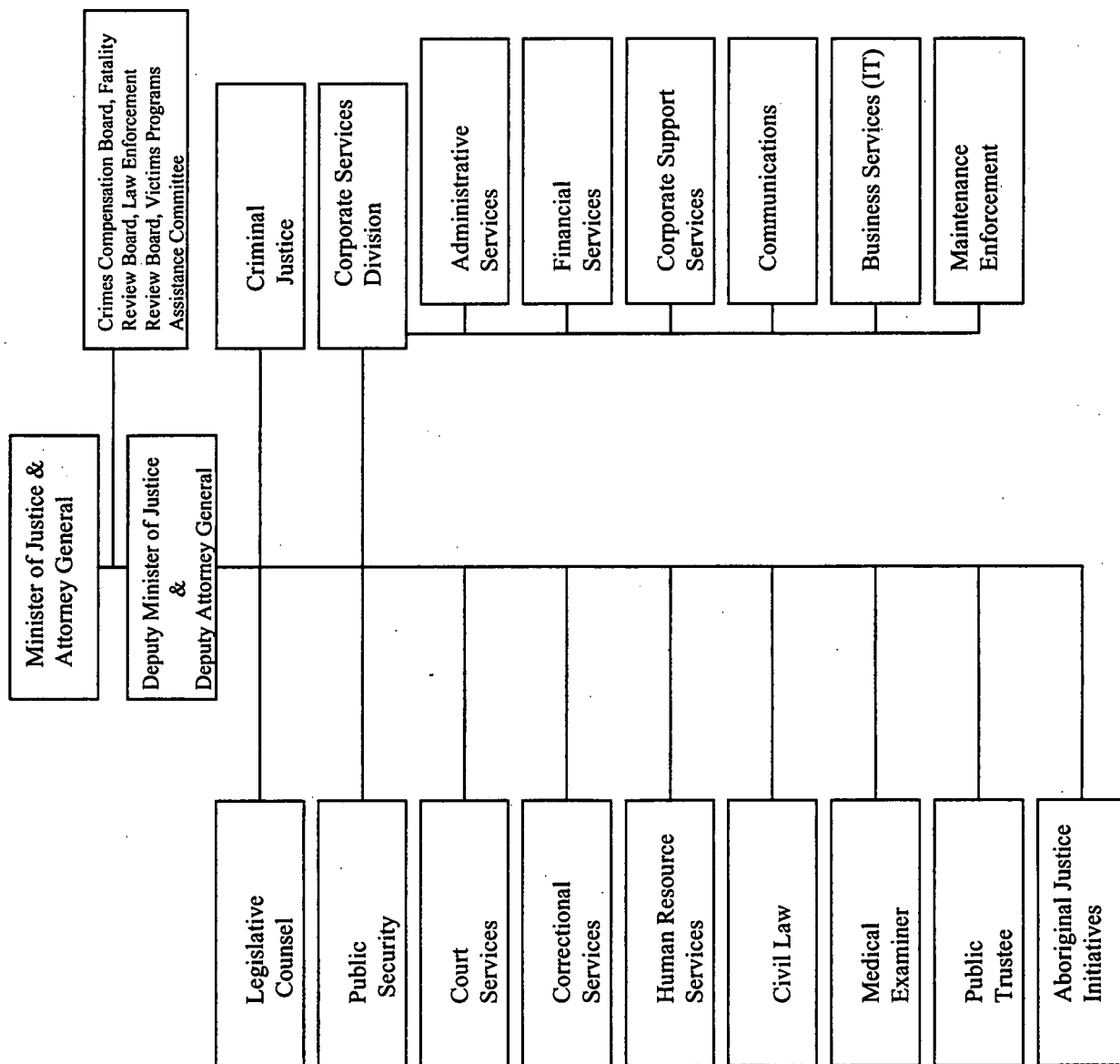
Routine contract interpretation and provision of advice on disciplinary action is the major function of this area.

C. Staff Development

This area provides departmental courses in a variety of programs. These courses include Managing Human Resources, Counter Skills, Supervision, Telephone Techniques, Job Description Preparation, Interpersonal Communications, Preparation for Promotional Interviews, and Employee Relations. Specialized programming in the paralegal area continues to be delivered to employees of Court Services.

This area is also involved in the provision of organizational consulting services to various branches of the Department.

DEPARTMENT OF JUSTICE, ALBERTA



COURT SERVICES DIVISION, DEPARTMENT OF JUSTICE, ALBERTA

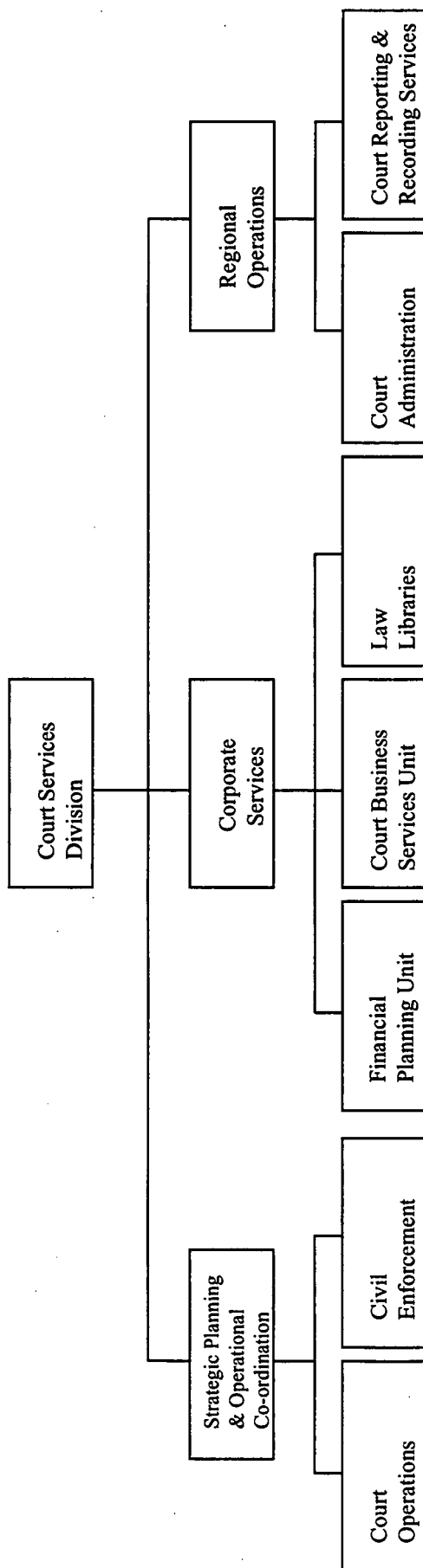


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COURTS IN BRITISH COLUMBIA

I. COURT OF APPEAL

A. Composition of the Court

This Court is established by the Court of Appeal Act, R.S.B.C. 1996, c.77. The Court of Appeal consists of the Chief Justice of British Columbia and 12 other justices who are appointed federally by the Governor in Council. In addition, there are 10 supernumerary justices.

The Court generally sits with a quorum of three justices and on occasion with five. It may sit with one or more divisions of three justices. One justice may hear interlocutory matters or leave to appeal applications in Chambers.

B. Geographic Distribution

All the justices reside in Vancouver. The Court sits regularly in Vancouver, for about ten weeks of the year in Victoria (with chambers held in Victoria about once a month); two weeks each year in the interior and one week each year in the Yukon Territory.

C. Jurisdiction of Justices

The Court of Appeal Act, s. 6, sets out the jurisdiction of the Court. The Court may hear appeals from:

- an order of the Supreme Court or an order of a judge of that court; or
- any matter where jurisdiction is given by another statute of the Province or Canada such as from the Provincial Court in sentence appeals or under the Young Offenders (British Columbia) Act, R.S.B.C. 1996, c.494.

Other jurisdiction is given for appeals to the Court of Appeal:

- directly from a review board such as under the Legal Profession Act, R.S.B.C. 1996, c.255 or the Labour Code;
- from the Supreme Court under the Judicial Review Procedures Act, R.S.B.C. 1996, c.241;
- relief in the nature of mandamus, prohibition, or certiorari;
- a declaration or injunction or both, in relation to the exercise, refusal to exercise, or purported exercise of a statutory power; and
- references under the Constitutional Questions Act, R.S.B.C. 1996, c.68 referred by the Lieutenant Governor in Council.

D. Jurisdiction and Duties of the Registrar

The Registrar of the Court of Appeal is an officer of the Court appointed under the Public Service Act, R.S.B.C. 1996, c.385. The extent of the Registrar's duties is set out in the Court of Appeal Rules of Court and includes quasi-judicial matters such as hearings.

II. SUPREME COURT

A. Composition of the Court

On July 1, 1990 the County Courts of British Columbia were merged with the Supreme Court of British Columbia. The Supreme Court Act, R.S.B.C. 1996, c.443 came into force and the County Court Act, R.S.B.C. 1979, c.72 and the Supreme Court Act, R.S.B.C. 1979, c.397 were repealed.

The Supreme Court is established by the Supreme Court Act. The Supreme Court of British Columbia consists of the Chief Justice of the Supreme Court, an Assistant Chief Justice and a total of 104 judges (86 full time) who are appointed federally.

B. Geographic Distribution

The Supreme Court may sit and act at any time and any place for the transaction of any part of its business or the discharge of any duty. The court sits in each place where there is a registry of the court as often as necessary for the reasonable dispatch of civil trials and other business.

There are eight judicial districts and 32 court registries. While the judges are required to reside in the judicial district assigned to them they may sit or act at any time in any judicial district.

Statutes which prior to the merger of the Supreme and County Courts required actions to be commenced or documents to be filed in a particular County Court have been amended to require the same procedures in a particular judicial district of the Supreme Court.

C. Jurisdiction of the Supreme Court

The Court is a court of inherent jurisdiction and has jurisdiction in all cases, civil and criminal, arising in the Province.

The Supreme Court has jurisdiction to hear certain statutory appeals and to review the exercise of statutory powers under the Judicial Review Procedure Act, R.S.B.C. 1996, c.241.

1. Civil Jurisdiction

Civil jurisdiction is unlimited as to the monetary amount involved. The Supreme Court hears appeals from the Provincial Court (Small Claims) by way of new trial.

The Supreme Court has jurisdiction in all family matters under the Family Relations Act, R.S.B.C. 1996, c.128 and has exclusive jurisdiction over divorce, family property matters and occupancy of the family home. The Supreme Court hears appeals from the Provincial Court (Family).

2. Criminal Jurisdiction

The Supreme Court is a superior court of criminal jurisdiction as provided for in s. 468 of the Criminal Code. The court has jurisdiction to try any indictable offence and exclusive jurisdiction to try offences under s. 469 of the Criminal Code. The Court also hears summary conviction appeals.

3. Chambers

Pursuant to rule 52 of the Supreme Court Rules, the court hears all originating applications and all interlocutory applications in chambers including:

- appeals from and applications to confirm, vary, or set aside orders, reports, certificates, or recommendations of a master, registrar, special referee or other officer of the court;
- actions or issues in actions that have been ordered to be proceeded with by affidavit or on documents before the court, and special cases and hearings on a point of law;
- applications for judgment;
- applications to vary or set aside a judgement; and
- matters which being otherwise proceeded with by action, are ordered to be disposed of in chambers.

4. Jurisdiction of Registrars

Registrars of the Supreme Court are appointed under the Public Service Act as authorized by Section 13(1) of the Supreme Court Act. Section 13(2) of the Supreme Court Act confers on the registrars the power to carry out all duties assigned to that office by the Supreme Court Rules and any other enactment.

With respect to civil litigation, the duties of the registrars include:

- issuing, receiving and safekeeping civil process;
- issuing default judgments;
- administering the schedule of trials and chamber hearings;
- receiving and paying money into and out of Court;
- drawing, entering and settling orders;
- conducting inquiries, accountings and examinations of judgment debtors;
- assessing bills of cost (both party and party, and solicitor client costs);
- settling appeal books;
- reviewing solicitors' accounts to their clients under the Legal Profession Act; and
- acting as examiner under Rule 42 of the Supreme Court Rules.

5. Jurisdiction of Masters

Masters are appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General after consultation with the Chief Justice.

There are masters sitting in Vancouver, Victoria, Nanaimo, Kamloops, Kelowna, New Westminster and Prince George.

Section 11 of the Supreme Court Act provides that a master has the same jurisdiction as a Supreme Court judge sitting in chambers subject to constitutional limitations or direction of the Chief Justice. The Chief Justice has directed that a master shall not exercise jurisdiction:

- to grant relief where the power to do so is conferred expressly on a judge;
- to dispose of an appeal, or an application in the nature of an appeal, on the merits;
- to pronounce judgment by consent where any party to the proceeding is under a legal disability;
- to grant court approval of a settlement or a sale of assets on behalf of a person who is under legal disability;

- in any matter relating to criminal proceedings or the liberty of the subject;
- in a matter relating to contempt;
- to grant injunctive relief, other than certain relief provided for in the Family Relations Act;
- to make an order under the Judicial Review Procedure Act or for a prerogative writ;
- to set aside, vary or amend an order of a judge other than
 - to abridge or extend a time prescribed by an order, provided that the original order, if made by a judge, was one that a master would have had the jurisdiction to make; and
 - certain interim orders in family matters.
- to grant a stay of proceedings where there is an arbitration;
- to make a declaration under the Survivorship and Presumption of Death Act, R.S.B.C 1996, c.444; and
- to remove a suspension from the practice of a profession.

III. PROVINCIAL COURT

A. Composition of the Court

This Court is established by the Provincial Court Act, R.S.B.C. 1996, c.379. Judges of the Provincial Court are appointed provincially by the Lieutenant Governor in Council based on the recommendations of a Judicial Council established under section 6 of the Act. There are approximately 137 judges (commissions).

The Chief Judge has the power and duty to supervise the judges and may designate the particular case or matter, class of case or matters (criminal, small claim, family and youth), or court facility, in which a particular judge shall act, or may assign a particular judge to duties considered advisable.

B. Geographic Distribution

The Court may sit at any place in the province for the orderly dispatch of the business of the Court. There are 95 Provincial Court locations of which 71 are permanently staffed. One of the above handles criminal matters only (Vancouver), one location handles small claims matters only (Vancouver), two locations handle family and youth matters only (Vancouver, Victoria).

C. Jurisdiction of Judges

Section 2(2) of the Provincial Court Act generally sets out the jurisdiction of the Court. The Court is a court of record, and the Court and every judge have jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a judge of the Provincial Court, a magistrate, justice or two or more justices sitting together, by or under an enactment of the Province or of Canada.

1. Civil Jurisdiction (Small Claims)

A claim in the Provincial Court (small claims) is filed in the registry nearest to where the claim arose or where the defendant lives or carries on business. A judge may direct that a trial set for one place be held at another place, but generally a trial will be held where the mandatory settlement conference is held and that will be at the nearest court locations to where the claim was filed.

The Court has jurisdiction in a claim for debt or other types of cases such as: recovery of personal property, specific performance of an agreement relating to personal property or services, or relief from opposing claims to personal property where the amount claimed does not exceed \$10,000. It is specifically provided that the Court has no jurisdiction in a claim for malicious prosecution, libel or slander.

Appeals are to the Supreme Court by way of a trial de novo.

2. Civil Jurisdiction (Family)

The jurisdiction of the Provincial Court (Family) is set out according to two specific categories of statutes.

The first category deals with the obligations of spouses toward each other and parents towards their children. The Court has jurisdiction over matters arising under the Child Family and Community Service Act, R.S.B.C. 1996, c.46 regarding the protection of children, the Family Relations Act which deals with all aspects of family breakdown within provincial jurisdiction, including family support, custody, access and guardianship of children and the Family Maintenance Enforcement Act which deals with the enforcement of maintenance orders.

Appeals on these matters are to the Supreme Court.

The second category deals with the conduct of the child. The Provincial Court is specially designated as a Youth Court under the Young Offenders Act (Canada), R.S.C. 1985, c.4-1.

Appeals on indictable offences involving young persons are to the Court of Appeal. Appeals on summary matters are to the Supreme Court.

3. Adult Criminal Jurisdiction

Every judge of the Provincial Court exercises the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada, R.S.C. 1985, Chapter C-46.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle;
- obtaining money or property by false pretences;
- possession of stolen property;
- having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, or mischief under s.430(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$5,000; or

(b) gaming and betting;

(c) betting, pool-selling or book-making;

(d) placing bets for consideration;

(e) lotteries;

(f) cheating at play;

(g) operating a bawdy house;

(h) driving while disqualified;

(i) fraudulently obtaining transportation; and

(j) an attempt to commit any offences referred to above.

For more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Provincial Court rather than take the case to the Supreme Court for trial. These include indictable offences with the exception of those listed in s. 469 of the Criminal Code (for which the Supreme Court has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under s. 553 (as listed above).

If the accused does not elect trial in the Provincial Court, the Provincial Court judge must hold a preliminary inquiry in order to ascertain whether there is enough evidence to commit the accused for trial in the Supreme Court.

Appeals in summary matters are to the Supreme Court and to the Court of Appeal for indictable matters.

D. Jurisdiction and Duties of Justices of the Peace

The justices of the peace in British Columbia are appointed by the Lieutenant Governor in Council pursuant to the Provincial Court Act, R.S.B.C. 1996, c.379. The Chief Judge may designate the case or matter or class of cases or matters in which a justice of the peace may act.

There are approximately 11 sitting justices of the peace and 2 ad hoc sitting justices of the peace designated to hear traffic matters. There are also on-call stipendiary justices of the peace in most of the smaller communities of the province (approximately 90).

The remaining justices of the peace appointments are granted to Court Services employees and trial coordinators. The duties of these individuals and the stipendiary justices may include receiving informations, issuing process, issuing search warrants and warrants for arrest, hearing bail matters and conducting weekend remand hearings.

The jurisdiction of justices of the peace pursuant to s. 31(2) of the Provincial Court Act includes all matters preliminary to a hearing and the granting of adjournments under the Young Offenders Act (Canada), Young Offenders Act (British Columbia), Child, Family & Community Services Act, Family Relations Act, Small Claims Act and Family Maintenance Enforcement Act.

E. Jurisdiction and Duties of Registrars

In the Provincial Court (small claim), registrars have the following jurisdiction and duties:

- informing the legal profession and general public of procedural requirements;
- signing documents including some orders and default judgements;
- releasing garnishing orders;
- issuing summonses to payment hearing and default hearing;
- certifying, examining and authenticating office copies of proceedings;
- changing the solicitor on the record; and

- hearing some applications.

COURT SERVICES

I. THE PROVISION OF COURT SERVICES

Court Services Branch is primarily responsible for providing court services, including reporting/recording and sheriff services as well as those services related to court administration, to all of the courts in the province. It is responsible for providing and enhancing an efficient and effective forum for just and equitable dispute resolution by the courts of British Columbia. This responsibility is captured by the Branch's mission statement, which is "to provide administration for the courts and people of British Colombia, enabling justice to be done".

The Branch is also responsible to the Chief Justices and the Chief Judge of the province for providing administrative services to the judiciary, quite independent of government, pursuant to the Court of Appeal Act, the Supreme Court Act, the amended Provincial Court Act and the Sheriff Act, R.S.B.C 1996, c.425. The Branch is also responsible for carrying out the orders of the court. The Assistant Deputy Minister, Court Services has a statutory reporting relationship to both the judiciary of the province and to the Attorney General.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Ministry of the Attorney General and the Court Services Branch.

II. COURT SERVICES BRANCH

The Court Services Branch is under the direction of the Assistant Deputy Attorney General, Court Services, and governed by a corporate board consisting of the Assistant Deputy Attorney General, the Executive Director of Court Management Services, and five Regional Directors, and four Headquarters Directors. The Branch is composed of Headquarters and Regional Operations.

III. HEADQUARTERS

Headquarters is led by the Executive Director of Court Management Services.

IV. COURT MANAGEMENT SERVICES

Court Management Services is divided into the following sections: Corporate Planning and Program Services, Financial Management and Information Technology; Business Opportunities Development; and Management Information Services.

A. Financial Management and Information Technology

This section:

- provides leadership in the implementation of a tactical plan designed to

introduce Branch-wide automated information systems;

- identifies and ensures the integration of the information needs of the broader justice community, including the judiciary, Crown counsel, the Bar, and other agencies concerned with the administration of justice, into automated information systems;
- provides a consultative service to Branch executive, regional directors, and program managers;
- works closely with the Ministry Information Technology Services Division to identify short-term application requirements by participating in the detailed planning of systems design and delivery;
- develops a long-term plan for the evaluation of automated systems and directs this evaluation process;
- co-ordinates Court Services Headquarters budget submissions;
- provides advice to the Director regarding fiscal and resource management issues and strategies;
- manages special projects for the Branch and develops the annual Headquarters Training Plan; and
- provides administrative and support services to Headquarters.

B. Corporate Planning and Program Services

This section:

- provides diverse, professional advice and services to the Court Services Branch which relate to the overall formulation of a corporate strategy, to program planning and evaluation and to the development of operational policy;
- supports the Assistant Deputy Minister on Branch, Ministry and inter-Ministry planning activities;
- co-ordinates the setting and communication of Branch future directions and priorities;
- drafts Branch operational policies, provides executive support in issue resolution and also assists in conducting research and statistical, economic and program evaluations;
- works to improve Branch programs and services, with a specific focus on communications and increasing public access to the justice system; and

- produces and maintains all Court Services knowledge bases including Branch policy and procedure manuals.

C. Business Opportunities Development

This section:

- identifies change opportunities to improve efficiency and effectiveness, and ensure there is sponsorship, commitment, accountability, synergy (working together), and follow-up in the change process;
- plans and directs the re-engineering of Branch programs and processes in order to significantly reduce cost, improve customer service, maintain or design "value-added" activities, and reduce or eliminate "non-value added" activities; and
- provides a program of centralized, province-wide information resource management including re-engineering work, system designs, business system analysis, and records and forms management.

D. Management Information Services

This section:

- provides key management information about the court system to decision-makers;
- collects data on court activity and produces information for managing workloads and resources, monitoring justice system performance, and for supporting policy analysis, program evaluation and judicial administration; and
- acts as a client-oriented service by providing management information to the judiciary, the Ministry, other agencies, and the public.

V. REGIONAL OPERATIONS

Through five regional offices, Court Services Branch provides British Columbia's 95 court locations with a broad range of services which are described below under the headings Court Administration Services, Sheriff Services, and Court Reporting and Recording Services. Each regional director is responsible to:

- develop and administer regional policy and program priorities and regional budgets and related financial programs;
- liaise and consult with members of the Judiciary;

- contribute to the formation of Branch goals, objectives, policies, and programs and ensure regional compliance with them in order to achieve the high quality of service which the public demands and deserves.

A. Court Administration Services

Within each region and at larger locations, the following registry and courtroom services are provided:

- receive and administer fines, fees, and trust monies;
- prepare and maintain court files;
- manage court facilities;
- provide general administration inside the courtroom, including court clerks to set trial dates and to record pleas and dispositions; and
- monitor the enforcement of certain court orders on request.

Subject to judicial direction, the regions also provide judicial administration services to:

- schedule trials and coordinate trial participation at all but the largest court locations;
- provide justices of the peace who issue process and hear police swear information;
- issue service, notices, summon and warrants; and
- supply Supreme and Small Claims Court registrars to carry out limited judicial functions under the direction of the court.

The Clerk in Small Claims registries has a more responsible role than in other Provincial Court registries because the majority of litigants are not represented by lawyers. Therefore, the Clerk assists the unrepresented litigants through the court process. Although legal advice is not given, procedures are explained and litigants are assisted in completing documents. If a litigant requires complex documents, he/she is advised to seek legal advice and is informed of where such resources are available.

B. Sheriff Services

The authority for the appointment of the sheriffs and sheriff officers lies in the Public Service Act and the Sheriff Act, R.S.B.C. 1996, c.245. Pursuant to s. 2 of the Criminal Code, the sheriff is a peace officer and, in British Columbia, has province-wide jurisdiction. Pursuant to the Federal Court Act, R.S.C. 1985, c.F-7, Rules and Regulations, the sheriff is a marshall or deputy marshall of the Federal Court in admiralty cases.

Sheriffs provide the following services:

- administer contracts for the execution of writs (seizing and disposing of the property of a debtor under the authority of a court order);
- serve all documents in Family Court matters;
- escort accused and convicted persons to and from the courts and between correctional facilities;
- provide prisoner, witness and courtroom security;
- arrest on order of the judge (contempt);
- summons citizens for jury duty; and
- pay, and provide comfort for juries.

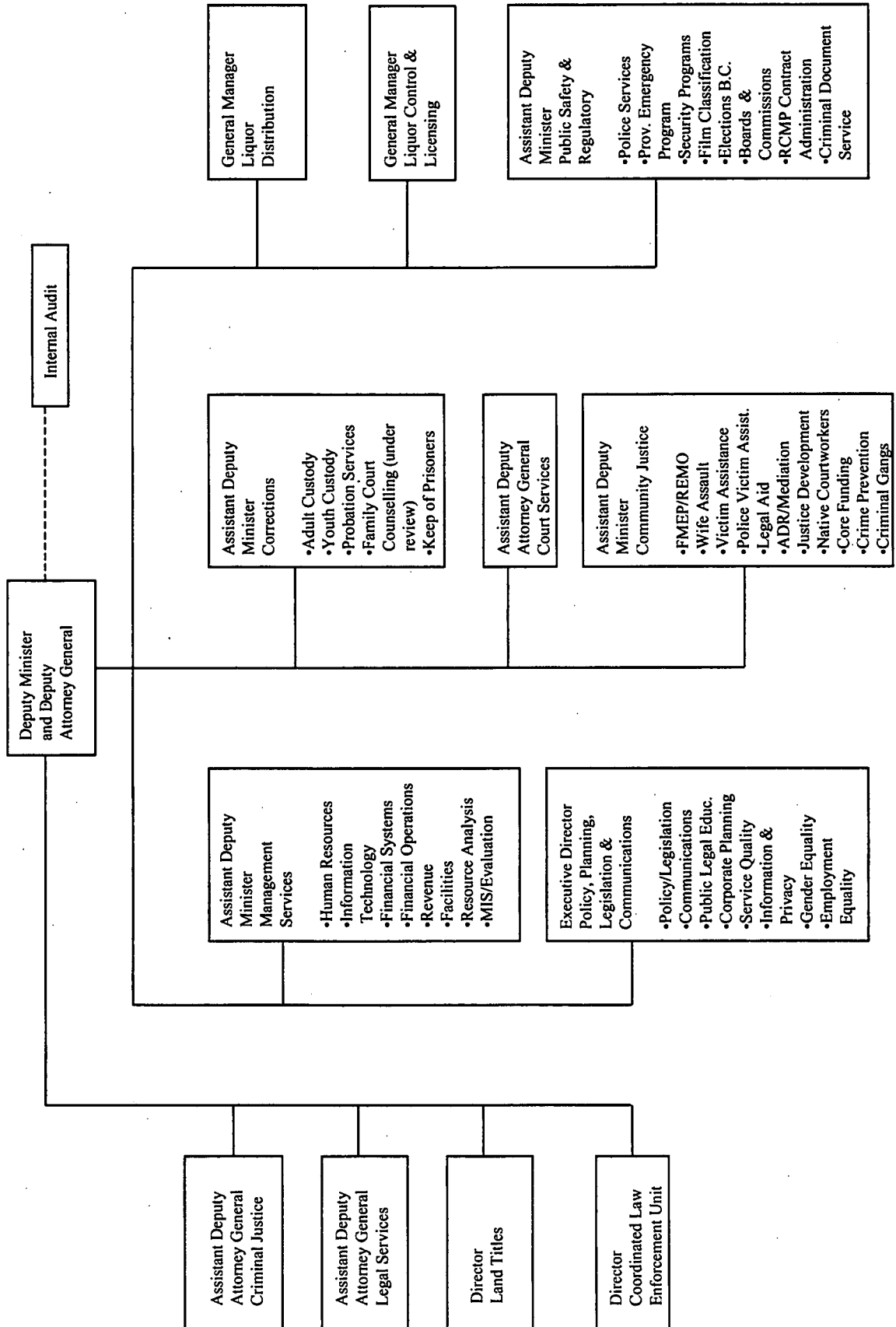
C. Court Reporting and Recording Services

In the Court of Appeal and in the Provincial Court, the court clerk performs the dual role of clerk and recorder, using audio recording machines to record the proceedings. In the Court of Appeal, the program encompasses both Civil and Criminal proceedings. In the Provincial Court, proceedings recorded include Family, Criminal and Youth, and Small Claims upon request or in special circumstances. Transcripts are produced under contract by transcription companies for Provincial Court matters.

In the Supreme Court, the current system of court reporters making and transcribing the court record was replaced July 7, 1997 with a system similar to that of the Provincial Court where audio recording machines are used to make the record. Parties wishing to hire court reporters may do so at their cost.

Prior to December 31, 1997, transcript orders may be placed with existing contract transcription firms or displaced court reporters. As of January 1, 1998 the Ministry will have in place a system whereby certified transcribers, which will include court reporters, will be authorized to produce transcripts.

MINISTRY OF ATTORNEY GENERAL, BRITISH COLUMBIA



COURT SERVICES BRANCH, MINISTRY OF ATTORNEY GENERAL, BRITISH COLUMBIA

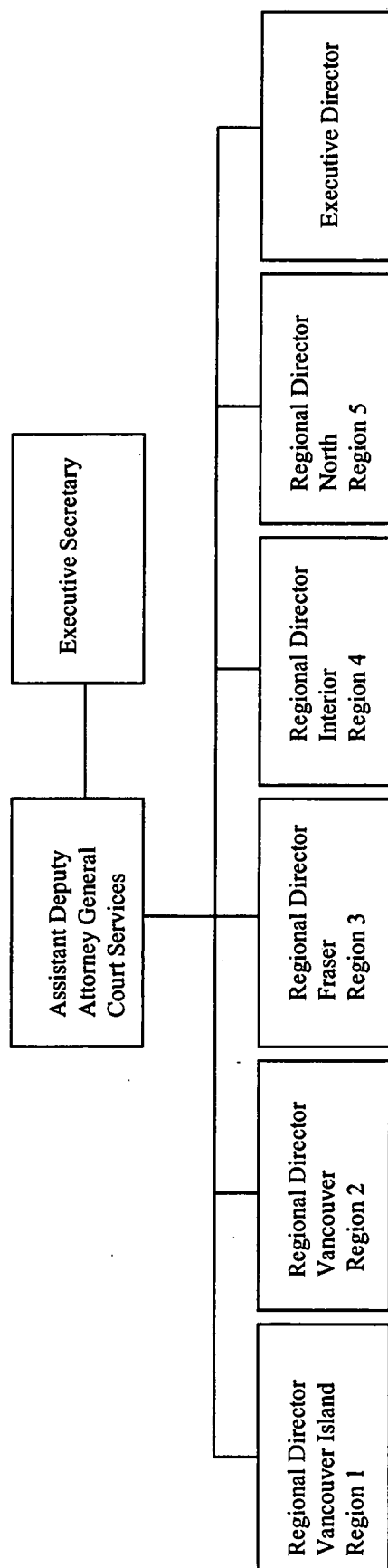


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COURTS IN THE YUKON TERRITORY

I. COURT OF APPEAL

A. Composition of the Court

This court is established by the Court of Appeal Act, R.S.Y.T. 1986. The Court of Appeal consists of the judges of the Supreme Court of the Yukon, the judges of the Supreme Court of the Northwest Territories, and the judges of the Court of Appeal of British Columbia, all of whom are appointed federally by the Governor in Council.

Three judges of the Court of Appeal constitute a quorum and may lawfully hold court.

B. Geographic Distribution

The Court of Appeal sits in Whitehorse once a year for one week but most of the cases are heard when the Court sits in Vancouver. There are registries in both Whitehorse and Vancouver.

C. Jurisdiction of Justices

The Court of Appeal of the Yukon Territory has jurisdiction in all civil and criminal matters on appeal from the Territorial Court and the Supreme Court. Appeals from the Court of Appeal are to the Supreme Court of Canada.

The rules of practice for the Court of Appeal are "The Court of Appeal Rules, Yukon Territory, 1974" for civil appeals, and the "Yukon Territory Court of Appeal Criminal Appeal Rules 1993" for criminal appeals.

D. Jurisdiction and Duties of the Registrar

The functions of the Registrar of the Court of Appeal are similar to those performed by the Clerk of the Supreme Court except that the Registrar also settles Appeal Books.

II. SUPREME COURT

A. Composition of the Court

This Court is established by the Supreme Court Act, R.S.Y.T. 1986, c.165. The complement of the Court, by statute, is two resident judges and three or four resident judges of the Northwest Territories, together with such deputy judges as are appointed and, as well, supernumerary judges. All resident and supernumerary judges are also judges of the Supreme Court of the Northwest Territories and members of the Court of Appeal for the Yukon and the Court of Appeal for the Northwest Territories. While no judge holds the title of Chief

Justice, it is provided that the judge whose appointment is the earliest is the "Senior Judge" and as such, performs most of the functions of a Chief Justice.

The judges of the Supreme Court are judges pursuant to s. 96 of the Constitution Act, 1867 and are judges under the Judges Act, R.S.C., c. J-1.

Presently, the Supreme Court consists of one resident judge ("the Senior Judge"), one supernumerary judge, three ex-officio judges from the Northwest Territories, eight deputy judges from British Columbia, twelve from Alberta, two from Saskatchewan, two from Manitoba, seven from Ontario and three from Quebec. All are appointed federally by the Governor General in Council.

B. Geographic Distribution

The Supreme Court sits on a regular basis in Whitehorse and sits in some smaller communities as required. There is one court registry situated in Whitehorse.

C. Jurisdiction of Justices

The Supreme Court is a superior court of record having full civil and criminal jurisdiction throughout the Yukon Territory.

The Rules of the Supreme Court are the Rules of the Supreme Court of British Columbia mutatis mutandis and such other rules as the judges of the Court promulgate pursuant to section 37 of the Judicature Act, R.S.Y.T. 1986, c. 96.

There are also Practice Directives issued from time to time which are available at the Registry.

The Senior Judge is ex-officio a member of the Judicial Council of Canada on a rotating basis with the Senior Judge of the Northwest Territories. The Senior Judge is also the ex-officio chairman of the Yukon Judicial Council and is empowered to appoint a temporary replacement.

D. Jurisdiction and Duties of the Clerk of the Supreme Court

The Clerk of the Supreme Court is appointed by the Commissioner of the Yukon Territory in accordance with s. 8 of the Supreme Court Act.

Reporting to the Director of Court Services, the Clerk of the Supreme Court is responsible for holding quasi-judicial hearings and providing technical expertise on the efficient operation of the Supreme Court registry. The functions of the Clerk include the following:

- signing documents including orders, default and interlocutory judgments, as well as judgments resulting from court decisions;
- registering bankruptcies;

- uncontested personal bankruptcies;
- assessing bills of costs;
- executing conveyances, transfers or mortgages ordered by the Court;
- issuing subpoenas to debtors;
- signing all orders, decrees and judgments;
- administering oaths;
- taking affidavits and statutory declarations; and
- receiving affirmations.

The Clerk of the Supreme Court also acts as Registrar of the Court of Appeal and Registrar of Bankruptcy.

III. TERRITORIAL COURT

A. Composition of the Court

This Court is established by the Territorial Court Act, R.S.Y.T. 1986. The Territorial Court consists of the Chief Judge, two other judges and several deputy judges on call.

Judges of the Territorial Court are appointed by the Commissioner of the Yukon Territory based on the recommendations of a Judicial Council established under s. 7(1) of the Territorial Court Act.

B. Geographic Distribution

The Territorial Court sits permanently in Whitehorse and goes on circuit to thirteen locations as required. There are three permanent registries maintained in Whitehorse, Dawson City and Watson Lake. When on circuit, the Court travels with a judge, clerk, court reporter, Crown prosecutor, defense counsel and a Victim Services officer.

C. Jurisdiction of Judges

Section 4 of the Territorial Court Act generally sets out the jurisdiction of the Court. The Court is a court of record. The Court and every judge have jurisdiction throughout the Territory to exercise all the powers, duties and functions conferred or imposed on a judge of the Territorial Court, a justice or two or more justices of the peace sitting together, by or under the Yukon Act or any other law, ordinance or act.

1. Family and Youth Jurisdiction

The Territorial Court has jurisdiction to hear all youth matters as outlined in the Young Offenders Act, and all family matters with the exception of divorce, custody and adoption but including:

- support/maintenance;
- child welfare; and
- guardianship.

Appeals on family and youth matters are to the Supreme Court or to the Court of Appeal.

2. Adult Criminal Jurisdiction

Every judge of the Territorial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada.

A Territorial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle;
- obtaining money or property by false pretences;
- possession of stolen property;
- having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security;
- mischief under s. 430(4);

Where the subject matter of the above offences is not a testamentary instrument and the alleged value of the subject matter of the offence does not exceed \$5,000;

(b) counselling or an attempt to commit or being an accessory after the fact to the commission of any offence referred to in paragraph (a) in respect of the subject-matter and value thereof referred to in that paragraph; or with any of the offences referred to in paragraph (c);

(c)

- keeping a gaming and betting house;

- betting, pool-selling, book-making, etc.;
- placing bets;
- lotteries and games of chance;
- cheating at play;
- keeping a common bawdy house;
- driving while disqualified; or
- fraud in relation to fares.

For more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Territorial Court rather than take the case to the Supreme Court for trial.

If the accused does not elect trial in the Territorial Court, the Territorial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Supreme Court. In hybrid offences, a case is deemed to have properly proceeded in the Territorial Court when the Crown fails to make its election as to mode of procedure.

Appeals from summary matters are to the Supreme Court, and to the Court of Appeal for indictable matters.

D. Jurisdiction and Duties of Justices of the Peace

Justices of the Peace are appointed by the Commissioner in Executive Council based on the recommendations of the Judicial Council. Justices of the Peace perform several quasi-judicial and judicial functions for which they receive an hourly sitting fee. The authorization to perform each of the functions listed below varies among Justices of the Peace according to classification and the powers vested in them by the Chief Judge of the Territorial Court. There are three levels of the Justice of the Peace powers and of the hourly sitting fee. There is one full time Justice of the Peace who is paid an annual salary. Justices of the Peace are also invited to attend an annual training conference for which they are reimbursed a training fee per day. In addition, Justices of the Peace are trained throughout a given year and are paid an hourly sitting fee. The duties outlined below are:

- conduct weddings (there is no payment made by government for these functions);
- take oaths and sign documents as a Commissioner of Oaths but not as a Notary Public;
- receive information from the RCMP pursuant to all federal and territorial law;

- receive private informations pursuant to Section 810 of the Criminal Code of Canada;
- issue or cancel summons, warrants for arrest;
- issue or cancel subpoenas for persons residing within the Yukon Territory;
- receive private informations and issue process if appropriate;
- arraign accused persons;
- conduct judicial interim release hearings where detention is not asked for and the accused is to be released on an undertaking or a recognizance;
- take pleas;
- take elections with regard to indictable matters;
- adjourn court where a Territorial Court Judge or a Justice of the Peace (Level 3) is not available to sit;
- hear applications for extension of time to pay fines;
- conduct Identification Hearings for children under the Children's Act;
- conduct Peace Bond Hearings and issue Peace Bonds up to one year;
- record pleas on indictable matters and adjourn to Judge's Court for disposition or to fix a date;
- issue or cancel search warrants pursuant to all federal or territorial laws;
- conduct Judicial Interim Release (Show Cause) Hearings as per Section 515 of the Criminal Code of Canada;
- conduct Ex Parte Hearings on any SCOT ticket;
- sentence any Territorial Act or by-law offence;
- sentence on any summary Federal Act offence where the accused is not liable to a fine in excess of \$2,000 or a jail sentence in excess of six months (summary);
- hear any application pursuant to the Children's Act where the Department is seeking an order of six months or less and all other parties consent, or, in the absence of the consent of all parties, three months or less;

- upon an admission of guilt, sentence any young person where the Crown is not seeking to incarcerate the young person, under the Young Persons Offences Act (Territorial);
- conduct trials on any Territorial Act or by-law offence;
- act as Youth Court Judge for any or all youth matters;
- conduct circles where applicable within the authorized limits listed above; and
- conduct mediation or pre-trial conference of any small debt dispute.

IV. SMALL CLAIMS COURT

A. Composition of the Court

This Court is established by the Small Claims Court Act, R.S.Y.T. 1986. The Small Claims Court is presided over by a judge of the Territorial Court. Every judge of the Territorial Court is a judge of the Small Claims Court. The Commissioner in Executive Council may appoint a lawyer to act as a deputy judge of the Small Claims Court.

B. Geographic Distribution

The Small Claims Court sits in every location as the Territorial Court and accompanies the Territorial Court on circuit as required. The Small Claims Court shares the same three permanent registries as the Territorial Court.

C. Jurisdiction of Judges

Section 2 of the Small Claims Court Act sets out the jurisdiction of the Court. The Court has jurisdiction:

- in any action for the payment of money where the amount claimed does not exceed \$5,000 exclusive of interest and costs;
- in any action for the recovery of possession of personal property where the value of the property does not exceed \$5,000; and
- in any other act or function assigned to it by or under any other Act.

The Small Claims Court does not have jurisdiction in:

- any action for the recovery of land or in which an interest in land comes into question;
- any action against the personal representatives of a deceased person or in which the validity of a devise, bequest or limitation under a will or settlement is disputed; or

- any action for libel or slander.

Appeals from a final order of the Small Claims Court lie to the Supreme Court by way of a trial de novo.

D. Jurisdiction and Duties of the Clerk of the Small Claims Court

The Court Clerk performs the duties of the Clerk of the Small Claims Court. Similarly, other officials of the Territorial Court are officials of the Small Claims Court.

Reporting to the Manager, Court Operations, the Clerk is responsible for trial coordination of the Small Claims Court and pretrial conferences and coordinating mediation. The Clerk of the Small Claims Court exercises all of the jurisdiction and duties imposed on the Clerk of the Territorial Court.

SERVICES TO THE COURTS

I. ORGANIZATION OF SERVICES TO THE COURTS

Three branches of the Department of Justice provide services to the courts in the Yukon.

The Court Services Branch provides staff who performs all administrative, case processing, and sheriff services necessary to operate all of the Yukon Courts.

The Finance and Administration Branch provides central administrative, financial and personnel services.

The Policy and Planning Branch provides central coordination of operational and administrative policy and planning activities.

A. Court Services Branch

1. Court Administration

Under the Deputy Minister of Justice, the Director of Court Services coordinates the administrative activities of the courts and is assisted by the Manager, Court Operations (Clerk of the Supreme Court and Registrar); Manager, Judicial Support, Manager, Court Administration, Court Systems Consultant, and the Sheriff in Whitehorse. Through this Branch, all of the services in the court registries for all of the courts, as well as clerks of the court are provided. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses, warrants for arrest, writs, process and orders of the court;
- storing and retrieving court documents;
- trial scheduling and coordination;
- secretarial support to the judiciary;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing, maintenance and release of court exhibits;
- preparing interim and final court orders;
- monitoring the enforcement of court orders;
- providing clerks in court who travel to all circuit locations, call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;
- completing forms and compiling data for statistical analyses;
- providing information to the general public and to lawyers on procedural requirements;
- administering youth document records (access and destruction);
- making arrangements for circuit court sittings including managing transportation needs, arranging for court facilities, and arranging accommodation for court parties; and
- providing information necessary for other related services to operate such as the monitoring of restitution and maintenance.

2. Witness Coordinator

The functions of this unit are:

- providing assistance to witnesses who are subpoenaed to appear in Territorial or Supreme Court prior to and following a trial; and
- providing assistance in terms of
 - pre-trial contact to confirm trial dates;

- travel and accommodation arrangements;
- notification of adjournments, notifying witnesses who are not required;
- court preparation programs to inform victims and witnesses about court procedures, the role of a witness and the functions of the various court officials;
- referral to Social Services/Victim Services Agencies to deal with the effects of criminal victimization; and
- central contact for victims and witnesses to access case information.

3. Sheriff Services

The authority for the appointment of the Sheriff and sheriff officers lies in the Judicature Act. Pursuant to s. 2 of the Criminal Code, the Sheriff is a peace officer and has territory-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is a marshall or deputy marshall of the Federal Court in admiralty causes.

In the Yukon, Sheriff Services perform a number of functions related to both civil and criminal case processing and court operations. They include:

- executing writs of seizure and sale issued by the Supreme, Territorial, and Small Claims Court
 - determining whereabouts of debtors and assets,
 - investigating and interviewing debtors, solicitors, plaintiffs and general public to ascertain value and ownership of assets,
 - seizing and selling such assets, and
 - accounting for and disbursing monies received as a result of the sale;
- executing orders and warrants (chattel mortgages, Landlord Tenant Act, conditional sales)
 - determining the location of the chattel,
 - acting as a bailiff to seize such items as vehicles, buildings, heavy equipment and other assets considered not exempt under the Exemptions Act,
 - preparing an inventory of all items seized and ensuring their safe keeping,
 - hiring and supervising casual assistants as required, and
 - accounting for and disbursing monies realized from the sale of assets;
- effecting court orders
 - evicting tenants, physically if necessary, as ordered,
 - arresting and committing prisoners,
 - arranging for the conveyance of equipment to lawful owners, and

- transporting debtors to the Whitehorse Correctional Centre;
- providing court security and maintaining order in the Supreme Court
 - escorting and protecting judges while attending court;
 - protecting the public attending court;
 - arresting on order of the judge (for contempt); and
 - searching the public prior to entering courtrooms as directed;
- coordinating service of all civil documents in the Yukon
 - supervising and directing fee for service process servers in rural areas and directing the RCMP detachments in areas not served by civilian process servers;
 - maintaining records for all documents served;
 - invoicing law firms for services rendered;
 - preparing cheque requisitions for payment of sheriffs' fees; and
 - reconciling invoices issued against monies received;
- jury management
 - summon, pay, provide comforts for juries;
 - prepare attendance lists; and
 - seclude and guard juries.

Casual staff are hired to assist in sheriff functions and private process servers are used in rural areas on a fee-for-service basis.

The police are responsible for the service of criminal documents, escorting prisoners within the courthouse and the provision of court security in Territorial Court when requested by the liaison officer.

4. Court Reporting

All court reporters/recorders in the Yukon are employed by a contractor. They record all cases in Whitehorse and on circuit for the Supreme Court and the Territorial Court. Outside of Whitehorse, justices of the peace record their own proceedings.

The administrative responsibilities of court reporters/recorders include:

- monitoring examination proceedings;
- maintaining recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring recording onto tape during proceedings;
- maintaining a written log of participants and events during

proceedings;

- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription and playback; and
- preparing invoices and billings for all parties requesting transcripts.

B. Finance and Administration Branch

The Finance and Administration Branch of the Department of Justice is responsible for providing centralized administrative systems, financial and personnel services to the Department including the Court Services Branch.

This Branch ensures proper receipt and expenditure of funds and provides daily assistance to branch managers in all facets of the budgeting/control process.

C. Policy and Planning Branch

This Branch coordinates the operational and administrative policy and planning activities of the Department of Justice. It provides analytical review capability for existing or proposed programs; procedures on departmental legislation; evaluation of existing programs; long range planning and communications strategies; and coordinates the development of departmental projects and operational policies by providing centralized project management.

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COURTS IN THE NORTHWEST TERRITORIES

I. COURT OF APPEAL

A. Composition of the Court

Under the Judicature Act, R.S.N.W.T. 1988, C. J-1, as amended, the Court of Appeal consists of the justices (including deputy and ex-officio) of the Northwest Territories Supreme Court, and the justices and supernumerary Judges of the Court of Appeal of Alberta and Saskatchewan, all of whom are appointed federally by the Governor in Council. The Chief Justice of Alberta is the Chief Justice of the Court of Appeal of the Northwest Territories.

The Court sits with a quorum of three justices.

B. Geographic Distribution

The Court may sit in the Territories or in the Province of Alberta. Regular sittings are scheduled for Yellowknife.

C. Jurisdiction of Justices

The Court of Appeal has appellate jurisdiction in criminal and civil matters from the Supreme Court and Territorial Court.

D. Jurisdiction and Duties of the Registrar

In the Northwest Territories, the Clerk of the Supreme Court is ex-officio Deputy Registrar of the Court of Appeal. At the present time the Clerk is also the Registrar of the Court of Appeal and is responsible for:

- the coordination and staffing of Appeal Court sittings;
- the administration of all Court documents and filed materials;
- receiving and filing all notices of appeal, appeal books, factums and sentence material;
- corresponding with and complying with instructions received from the Chief Justice of the Court of Appeal;
- advising members of the general public as to the procedures involved in filing appeals; and
- the taxation of costs.

II. SUPREME COURT

A. Composition of the Court

This Court is established by the Judicature Act, R.S.N.W.T. 1988, c. J-1, as amended. The Supreme Court consists of the four Judges. At the present time there are 3 resident Judges. Ex-officio and Deputy Judges are appointed federally by the Governor in Council.

B. Geographic Distribution

The Supreme Court is based in Yellowknife and goes on circuit throughout the Territories as required. At the present time, there are no other Supreme Court registries outside of Yellowknife.

C. Jurisdiction of Justices

The Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the Northwest Territories except those matters or cases expressly excluded by statute. It also acts as both a civil appellate and criminal appellate court.

1. Civil Jurisdiction

The civil jurisdiction of the Court is unlimited as to the monetary amount involved, but cases generally deal with financial disputes over \$5,000.

2. Family Jurisdiction

The Supreme Court has jurisdiction over marriage, judicial separation, corollary relief, divorce, child welfare, paternity, nullity, matrimonial property, support/maintenance, custody/access, legitimacy, guardianship, adoption, change of name and intra-family Criminal Code offences.

3. Criminal Jurisdiction

The Court has jurisdiction over indictable offences under the Criminal Code and hears summary conviction appeals from decisions of the Territorial Court and the Justice of the Peace Court.

D. Jurisdiction and Duties of the Clerk

The Clerk of the Supreme Court is appointed by the Commissioner of the Northwest Territories in accordance with the Judicature Act. The Clerk performs the following duties:

- filing all documents required to be filed with the Supreme Court;

- filing and preserving all original wills submitted to the Court;
- maintaining an account of all fees, fines and money payable to the Supreme Court; and
- taxing solicitors' bills of costs.

In addition to the above duties, the Clerk of the Supreme Court provides for and oversees clerical support staff in the registry, and also holds appointments and performs duties as the Registrar of the Court of Appeal, Registrar in Bankruptcy and Administrator of the Federal Court of Canada in the Northwest Territories.

III. TERRITORIAL COURT

A. Composition of the Court

This Court is established by the Territorial Court Act, R.S.N.W.T. 1988, c. T-2, as amended. The Territorial Court currently consists of the Chief Judge and three other judges who are appointed by the Commissioner of the Northwest Territories. A fourth appointment is currently vacant.

B. Geographic Distribution

The Court sits permanently in Yellowknife, Hay River, Iqaluit and Inuvik, and travels on regularly scheduled circuits.

C. Jurisdiction of Judges

Section 15 of the Territorial Court Act sets out the general jurisdiction of the Court. It is a court of record, and the Court and every judge has jurisdiction throughout the Territories to exercise all the power and perform all the duties conferred or imposed by or under any Act of the Territory or of Canada.

1. Civil Jurisdiction

Section 16 of the Territorial Court Act provides that Territorial Court judges have civil jurisdiction in:

- actions arising out of contract, expressed or implied, and actions of debt, and tort where the debt, demand or damages claimed do not exceed \$5,000;
- all actions for the recovery of personal property, including actions of replevin and for detinue, where the value of the property claimed does not exceed \$5,000;
- interpleader proceedings where the person seeking relief is under liability for any debt, money or chattels to an amount or value not exceeding \$5,000 for and in respect of which adverse claims are made by two or more persons;

- interpleader proceedings where the applicant is a sheriff or some other officer charged with the execution of process and claim is made to any money or chattels taken or intended to be taken in the execution, or the proceeds of value thereof, by a person other than the person against whom the process is issued, where the money, proceeds or value of the chattels claimed does not exceed \$5,000;
- garnishment proceedings for the attachment of debt due, obligations and liabilities owing, payable or accruing due by a third person to a person against whom an action for a debt or liquidated demand not exceeding \$5,000 is or is about to be commenced or against whom a judgment has been given not exceeding \$5,000; and
- attachment proceedings for the recovery of a sum not exceeding \$5,000 for debt or damages arising upon a contract, expressed or implied, or upon a judgement upon the personal property of a person who:
 1. being a non-resident of the Territories, is so indebted or liable to a resident of the Territories; or
 2. with intent to defeat or defraud his/her creditors or those who have causes of action against him/her absconds or is about to abscond from the Territories leaving personal property, is about to remove his/her personal property out of the Territories, or did or is about to assign, transfer, dispose of or secrete such property or to conceal himself to avoid service of process.

A Territorial Court judge is not vested with civil jurisdiction in:

- actions in which the title to land or to an interest in land is brought in question;
- actions in which the validity of any devise, bequest or limitation is disputed;
- actions for malicious prosecution, false imprisonment, libel, slander, criminal conversation, seduction or breach of promise of marriage; and
- actions against a justice of the peace for anything done while in the execution of office.

2. Family Jurisdiction

The Territorial Court has jurisdiction over support/maintenance, child welfare, paternity, guardianship and intra-family Criminal Code offences.

3. Youth Jurisdiction

The Territorial Court is a Youth Court within the meaning of the Young Offenders Act (Canada) and has all the powers under that Act.

4. Adult Criminal Jurisdiction

Every judge of the Territorial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under s. 553 of the Criminal Code of Canada.

A Territorial Court judge has absolute jurisdiction where the accused is charged in an information with:

(a)

- theft, other than theft of cattle;
- obtaining money or property by false pretences;
- possession of stolen property;
- having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$1,000; and
- mischief under s.430(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$1,000;

(b) an attempt to commit any offence referred to in paragraph (a);
or

(c) gaming and betting;

(d) betting, pool-selling or book-making;

(e) placing bets for consideration;

(f) lotteries;

(g) cheating at play;

(h) operating a bawdy house;

- (i) driving while disqualified; and
- (k) fraudulently obtaining transportation.

For more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Territorial Court rather than take the case to the Supreme Court for trial. Those cases include all indictable offences with the exception of those listed in s. 469 of the Criminal Code (for which the Supreme Court has exclusive jurisdiction) and other than those where the Territorial Court judge has absolute jurisdiction under s. 553.

If the accused does not elect trial in the Territorial Court, the Territorial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Supreme Court. In hybrid offences, a case is deemed to have properly proceeded in the Territorial Court when the Crown fails to make its election as to mode of procedure.

D. Duties of the Clerks

The Administrator, Territorial Court (Yellowknife) performs statutory functions as Clerk of the Territorial Court, as well as providing technical and administrative direction to the satellite registries in Hay River, Iqaluit and Inuvik.

The Clerk in Hay River serves 10 communities south of Great Slave Lake. The Clerk in Iqaluit serves 14 communities in the Baffin region and the Clerk in Inuvik serves 12 communities in the Delta region. The remaining 20 circuit points are served from Yellowknife.

IV. JUSTICE OF THE PEACE COURT

A. Composition of the Court

Justices of the Peace are appointed pursuant to the Justices of the Peace Act, R.S.N.W.T. 1988, c. J-3, as amended. There is no courtroom support staff, the R.C.M.P. are responsible for recording proceedings and forwarding the tapes and any court documents to Yellowknife, Hay River, Iqaluit and Inuvik Court Registries. Justice of the Peace Court is held on a weekly basis in most communities and usually once every month in the smaller communities.

B. Geographical Distribution of the Justices of the Peace and Courts

There are approximately 180 justices of the peace in the Northwest Territories. There is usually a minimum of one in most communities throughout the NWT.

C. Jurisdiction of Justices of the Peace

The Court has the authority to deal with all summary conviction matters in the Criminal Code, territorial statutes and municipal by-laws. They also have authority to determine interim child custody and perform marriages.

D. Duties of Justices of the Peace

The powers and duties of a Justice of the Peace are assigned by the Chief Judge of the Territorial Court. At present, all the justices of the peace have the authority to:

- receive and swear Informations;
- confirm or cancel Appearance Notices, Promises to Appear and Recognizances; issue or cancel a summons, Warrant for Arrest or Subpoena;
- grant adjournments; and
- perform marriages.

There are three additional levels for presiding Justices of the Peace. Only Justices of the Peace who have attained the third level are authorized to conduct trials involving summary or territorial offences.

E. Appointments

Justices of the peace are appointed by the Commissioner of the Northwest Territories without term.

F. Accountability

Decisions of a Justice of the Peace may be appealed to the Supreme Court of the Northwest Territories. In addition, members of the public can lodge a complaint with the Justice of the Peace Review Council composed of:

1. the Chief Judge of the Territorial Court;
2. a regional Territorial Court judge, appointed by the Commissioner in Executive Council;
3. a justice of the peace, appointed by the Commissioner in Executive Council;
4. a representative of the Minister, appointed by the Minister; and
5. a representative of the public appointed by the Commissioner in Executive Council.

G. Training

Training is done on an ongoing basis to give justices of the peace the legal knowledge and skills to carry out their responsibilities.

COURT SERVICES

I. ORGANIZATION OF COURT SERVICES

The Court Services Division provides the necessary administrative, technical, and financial support to the courts of the Northwest Territories. Reporting to the Director, Court Services, and providing operational direction are the Project Officer, the Juridical Administrator of the Supreme Court (Yellowknife), the Administrator, Territorial Court (Yellowknife), the Sheriff, the Court Librarian, the Chief Court Reporter and the Maintenance Enforcement Administrator. The Fair Practices officer, Rental Officer and Coroners service also fall under this division.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department of Justice and the Court Services Division, although the Supreme and Territorial Courts administration, as well as the Sheriff's office are being consolidated.

A. Court Services Division

1. Court Administration

Administrative support to the courts is provided through the Supreme Court Registry (Yellowknife) and the Territorial Court Registries (Yellowknife, Iqaluit, Inuvik and Hay River). Primary support services include:

- receiving and processing legal documents;
- issuing service;
- the storage and retrieval of court documents;
- coordinating trial scheduling (under the direction of the judge);
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses and interpreters;
- receiving, storing and maintaining the integrity of court exhibits;
- preparing interim or final court orders;
- providing justices of the peace before whom the police swear

- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, administer oaths, take custody of documents and evidence submitted in court, record pertinent information about the proceedings, disposition of cases and decisions made by the judge, and travel to all circuit locations;
- completing forms and compiling data for statistical analyses;
- making arrangements for circuit court sittings;
- providing information to the general public and to lawyers on procedural requirements;
- administering youth document records (access and destruction); and
- providing information necessary for other related services to operate such as monitoring of restitution and maintenance.

2. Court Reporting and Recording

Court reporters who record proceedings via stenographic machine are full time staff in the Court Services Division. They record all cases except for matters in the Justice of the Peace Court. Justices of the peace outside of Yellowknife are responsible for recording their own proceedings and forwarding all court documents and recordings to the registry in Yellowknife, Iqaluit, Inuvik or Hay River. Reporters are paid a salary and also receive fees from both the Court Services Division and counsel in private practice for the preparation of transcripts.

The primary responsibilities of the reporters and recorders include:

- verbatim reporting of proceedings;
- the preparation of official transcripts of proceedings;
- keeping storage of notes; and
- monitoring transcript requests to ensure timely transcription services.

Transcripts are prepared upon request of the Crown or private counsel, a judge, or a private citizen.

3. Sheriff Services

Sheriff officers are appointed by the Commissioner of the Northwest Territories in accordance with the Judicature Act. Pursuant to s. 2 of the Criminal Code, the Sheriff is a peace officer and has territory-wide jurisdiction.

Deputy Sheriffs perform a number of functions related to civil case processing and court operations including:

- the service of civil documents
 - civil summonses and subpoenas, garnishee orders, petitions, notices and any other civil documents;
- court security (in the Supreme Court and Court of Appeal only)
 - escort and protect judges while attending court;
 - protect the public attending court;
 - separate and protect witnesses; and
 - arrest on order of the judge (contempt);
- jury management
 - summon juries;
 - prepare attendance lists;
 - payment to jurors; and
 - seclude and guard juries;
- executions
 - writs of seizure and sale and other writs of execution issued under the Supreme Court Rules and Territorial Court rules;
 - writs of fieri facias (Federal courts);
 - warrants to arrest ships;
 - sheriff sales (land); and
 - orders of replevin.

In the Northwest Territories, the RCMP or fee-for-service bailiffs serve criminal documents, and the RCMP provide court security in Territorial Court.

4. Maintenance Enforcement Program

A Maintenance Enforcement Program is in operation throughout the Northwest Territories to monitor and enforce court orders and written agreements containing a provision for financial support of the spouse and/or children of the marriage. The Program processes court orders, maintains files, explains terms of orders and enforcement options to relevant parties and prepares all necessary documentation in regard to enforcement proceedings in the event of default. In addition, the Maintenance Enforcement Program participates in the reciprocal enforcement of maintenance orders.

5. Court Library

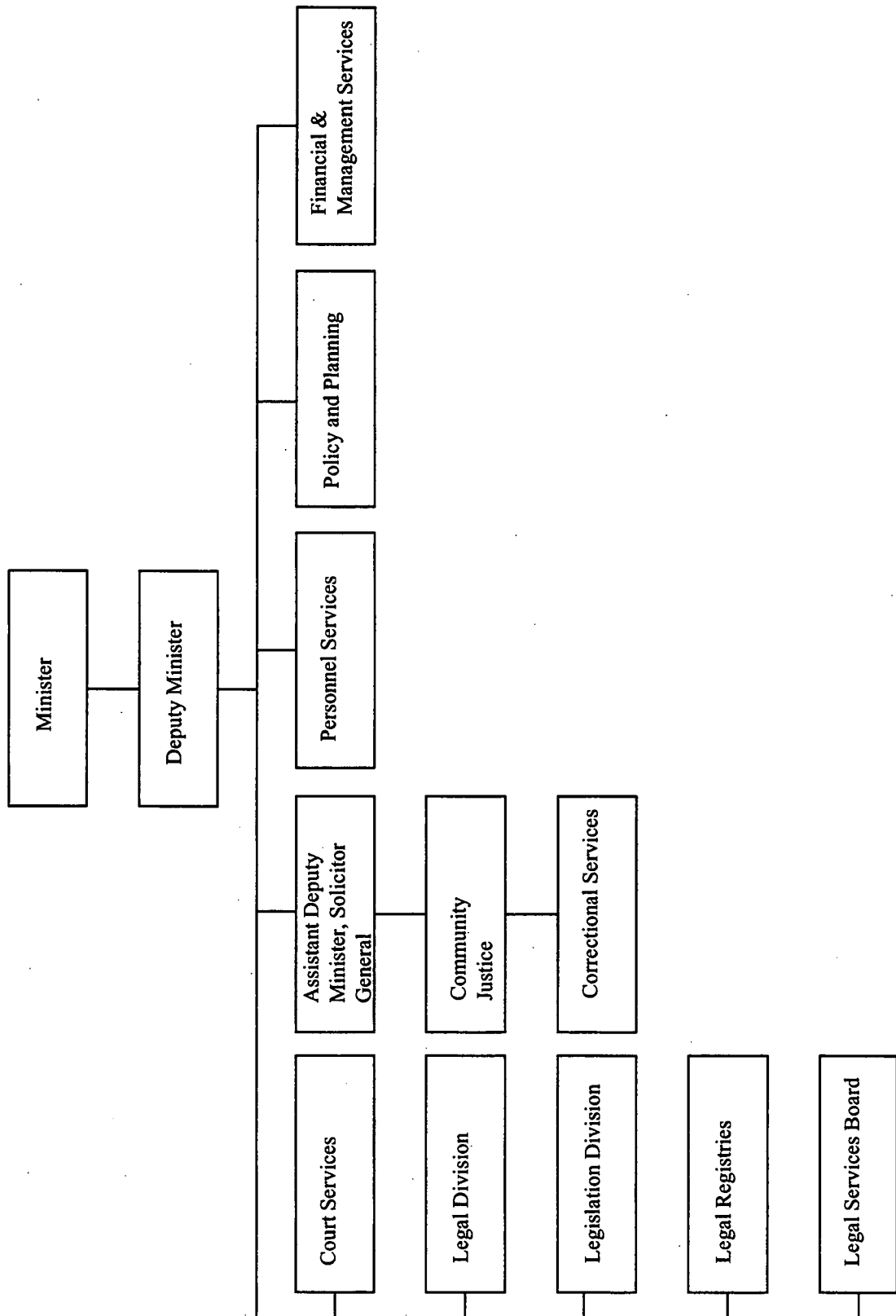
The NWT Library System is the only legal research facility in the Northwest Territories. The main collection is located in Yellowknife with branches in Hay River, Iqaluit and Inuvik. It provides manual and computerized legal research and reference to the NWT bar and judiciary.

B. Financial and Management Services

The Financial and Management Services Division of the Department of Justice provides central financial and management services to all divisions of the Department, including the Court Services Division. Specifically, it provides the following services to the Court Services Division:

- the processing and data entry of all expenditures and commitments from Court Services related to all purchases, contracts, travel, training, etc;
- the invoicing for circuit travel by air;
- the development of budgets with the Director, Court Services;
- the provision of monthly financial reports to the Department of Justice;
- processing Court Services expenditures and commitments into the financial information system;
- processing and the issuing of travel warrants, accommodation warrants, travel advances; etc;
- processing all court services staffing requests for both indeterminate and casual positions; and
- processing and recording all court services overtime and employee leave and attendance records.

DEPARTMENT OF JUSTICE, NORTHWEST TERRITORIES



COURT SERVICES, DEPARTMENT OF JUSTICE, NORTHWEST TERRITORIES

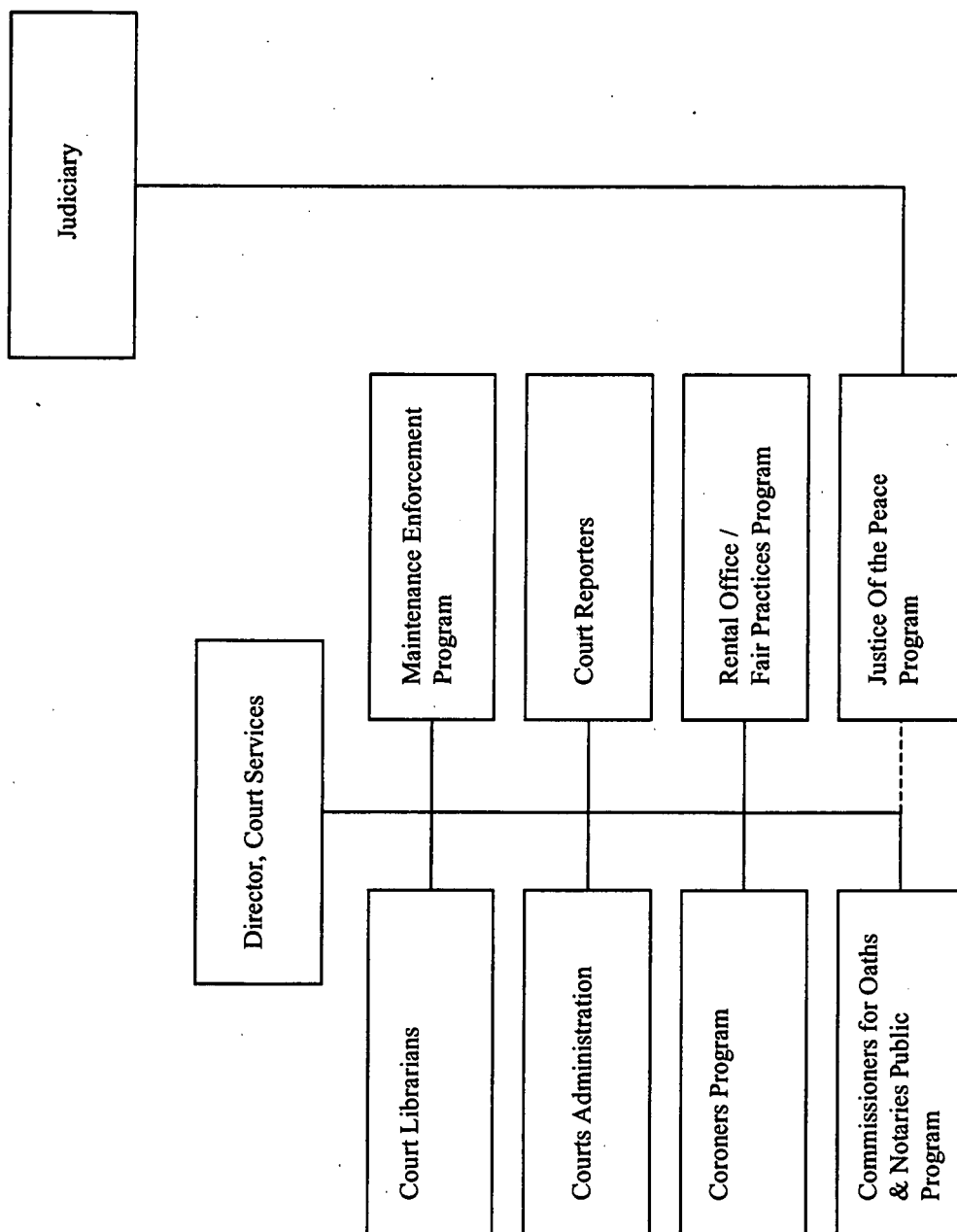


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I. SUPREME COURT OF CANADA

A. Composition of the Court

The Supreme Court of Canada was constituted in 1875 by an act of Parliament and is now governed by the Supreme Court Act, R.S.C. 1985, chapter S-26, as amended. It is comprised of a Chief Justice and eight puisne judges (puisne meaning ranked after), all appointed by the Governor in Council for terms of "good behaviour", and until the age of 75. They are chosen from among judges and lawyers of at least 10 years standing at a provincial or territorial bar, with a minimum of three judges appointed from Quebec. Supreme Court judges must live within forty kilometres of the National Capital Region.

B. Geographic Distribution

The Supreme Court sits only in Ottawa although it has made use of video technology in order to permit presentations to be made from other parts of the country. It holds three sessions during the year: the first begins the fourth Tuesday in January and ends just before Easter; the second begins the fourth Tuesday in April and continues to the end of June; and the third begins the first Tuesday in October and ends just before Christmas. The statutory opening dates may be varied if prescribed notice is given.

C. Jurisdiction of the Supreme Court

The Supreme Court is the final court of appeal from all other Canadian courts of law, in both civil cases and criminal cases.

In most cases, appeals are heard by the Court only if leave is first given. Such leave will be given by the Court when a case involves a question of public importance, or if it raises an important issue of law or of mixed law and fact, or if the matter is, for any other reason, of such a nature or significance as to warrant consideration of the Court. Leave to appeal to the Court may also be given by a federal or provincial appellate court.

There are cases where leave is not required. In criminal cases, s.691 et seq. of the Criminal Code gives a right of appeal, on a question of law where acquittal has been set aside in the provincial court of appeal or where, in the provincial court of appeal, one judge dissents on a point of law.

The Supreme Court does have a special kind of "reference" jurisdiction, original in character, given by s. 53 of the Supreme Court Act. The Governor in Council by the provision, may refer to the Court, for its opinion, important questions of law or fact concerning the interpretation of the Constitution Acts, the constitutionality or interpretation of any federal or provincial legislation, or the powers of Parliament or of the provincial legislatures or their respective governments or any other important question of law or fact concerning any matter. Where the government of any province has any special interest in any question put in reference, the attorney general of the province shall be notified in order that he may be heard. Canada is the only country with a common law

system that has this "reference" jurisdiction.

Constitutional questions may also be raised in regular appeals involving individual litigants or governments or governmental agencies. In such cases the federal and provincial governments are notified of the constitutional question and may intervene to argue it.

D. Jurisdiction and Duties of the Registrar

The Registrar is appointed by the Governor in Council and must be a barrister or advocate of at least five years standing. Subject to the direction of the Chief Justice, the Registrar is the Court's chief administrator and reports to Parliament through the Minister of Justice. The Registrar has the authority to exercise the jurisdiction of a judge sitting in chambers as may be conferred upon him/her under the Supreme Court Act, and by general rules or orders made thereunder and undertake other duties and responsibilities which may be assigned to him/her by the Chief Justice. The Registrar is assisted by a Deputy Registrar, appointed by the Governor in Council, who may exercise and perform all the powers and duties of the Registrar in the event that the Registrar is absent or unable to act. The Registrar is also responsible for the administration of the Judges Act as it applies to the judges of the Supreme Court of Canada.

II. ADMINISTRATION

A. Registrar

The Registrar is responsible for all administrative work in the Court, including the appointment of its staff under the Public Service Regulations and the management of the financial operations. The Registrar is assisted by the Deputy Registrar. Reporting to them are Legal Affairs, Reports, Library, Administrative Services, Informatics, Corporate Services and the Chief of Security.

B. Deputy Registrar

The Deputy Registrar is also appointed by the Governor in Council and must be a barrister or advocate of at least five years standing. The Deputy Registrar shall exercise and perform the powers and duties of the Registrar, as are assigned to the Deputy Registrar by the Registrar and may exercise and perform all of the duties of the Registrar in the event that the Registrar is absent or unable to act or the office of the Registrar is vacant.

C. Supreme Court Reports

The Reports Branch writes headnotes of the Court's judgments, has them translated, and undertakes a preliminary edit of each judgment prior to its release. The Branch then thoroughly edits and proofreads the judgments and headnotes that are published in the Supreme Court Reports and distributed electronically. The Branch also prepares and distributes the Bulletin of

Proceedings and press releases outlining the Court's agenda and listing the judgements rendered or to be rendered.

D. Legal Affairs

Under the direction of the Deputy Registrar, the Legal Affairs Branch is responsible for both the Process Registry and Legal Services Section. The Process Registry is the hub of all procedural and documentary activities at the Court. The Registry processes, records and directs the flow of all documents filed by the parties, and records all events which take place during the life of a case. The Registry also provides assistance in scheduling the Court's sittings, and finalizes the documentation of cases after judgements have been rendered.

The Legal Services Section provides the judges of the Court with summaries of all the appeals, applications for leave to appeal and other motions brought before the Court. These abstracts are available to Court staff, the legal community, members of the press and to the public at large, and include information on the nature of the case, the procedural history, the relevant legislative provisions, and a summary of the lower court decisions.

The Branch is responsible for the Court's tour program.

E. Supreme Court Library

The Supreme Court Library supports primarily the Court's research needs, and those of the legal profession. The Library collection comprises more than 200,000 English and French volumes, covering both the common law and civil law systems, as well as a large collection of approximately 500,000 microforms. It contains an extensive collection of primary source materials and treatises covering Canada, the United States, the United Kingdom, Australia, New Zealand and other representative Commonwealth countries, France and Belgium. There is a precious collection of books and folios of the 16th, 17th and 18th centuries pertaining to the common law of England and the civil law of France. The Library contains legal biographies and general reference books, and subscribes to approximately 4,700 serials, of which about 3,000 are current subscriptions.

At the same time, the Library is actively moving towards the concept of the "virtual library" or "library without walls", and in this context provides access to a wide array of legal materials in electronic format, from sources such as on-line databases, CD-ROM's, and the Internet. The Library's on-line catalogue is networked throughout the Court and is available across Canada through the national Library's AMICUS system.

In addition to obtaining and loaning books, and orienting and training its users, the Library supports the Court in other ways. It provides factual and bibliographic information, routes selection information from law journals, undertakes daily legislative tracking, and prepares indexes to unreported cases and provides assistance in automated legal research.

F. Support Directorates

Financial, administrative services and informatics support services are provided by two Branches. The Administrative Services Branch provides advice and support in budgeting, accounting and control systems. It also provides procurement services and records management services to the Court.

The Informatics Branch provides expertise and support in microcomputer technologies, local area network administration, and computer applications development. Informatics also manages the maintenance and disposition of EDP resources in the Court and coordinates EDP planning.

Corporate Services provides support services to the judges, Registrar and Deputy Registrar. It includes Personnel Services which provides advice and support in the following areas: classification, staffing, pay and benefits, official languages, staff relations and human resources.

SUPREME COURT OF CANADA

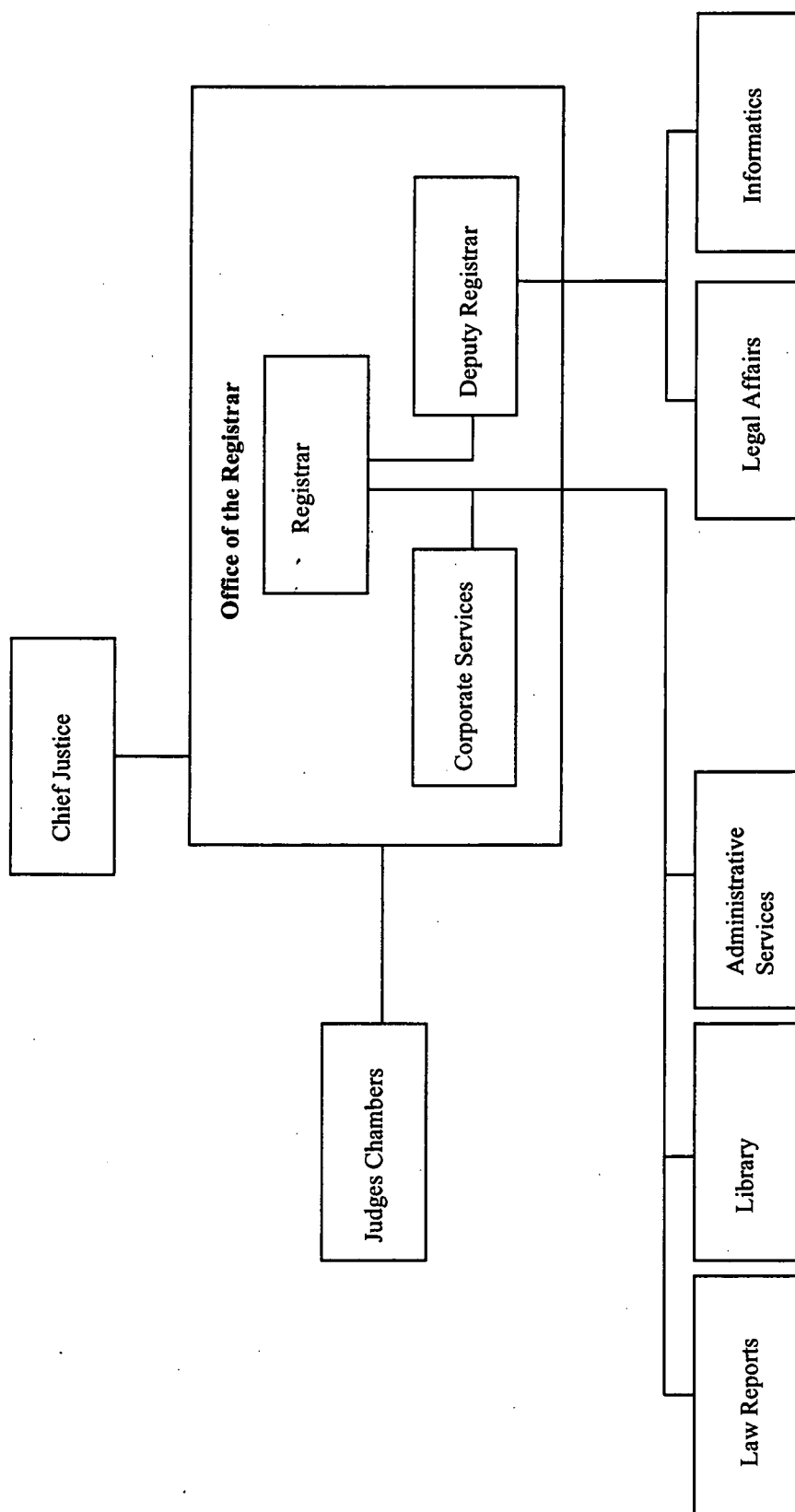


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I. FEDERAL COURT OF CANADA

A. Composition of the Court

The Federal Court of Canada is established under the authority of the Constitution Act, 1867, by the Federal Court Act, R.S.C. 1985, c. F-7. It is a court of law, equity and admiralty, and is a superior court of record having civil and criminal jurisdiction. The Court is organized into the Trial and Appeal Divisions and is composed of a Chief Justice, Associate Chief Justice and 29 judges, all of whom are appointed by the Governor in Council. In addition, the Chief Justice may, with the approval of the Governor in Council, request persons appropriately qualified in accordance with s.10 of the Federal Court Act to act as deputy judges. There is also provision in the Judges Act for judges to elect supernumerary status.

B. Geographic Distribution

The Federal Court of Canada has one registry for the entire country. The registry is composed of the principal office in Ottawa and 16 local offices. Nine of these are staffed by employees of the Federal Court of Canada. The remaining seven are administered by provincial and territorial court employees. There is no circuit for the Federal Court of Canada. Trials or hearings may be held anywhere in the country.

C. Jurisdiction of the Court

The Federal Court of Appeal has jurisdiction to hear appeals from the Trial Division, to review decisions of federal boards, commissions and tribunals under s. 28 of the Federal Court Act, to determine questions of law, jurisdiction or practice and procedure referred by federal boards, commissions and tribunals or constitutional questions referred by the Attorney General of Canada, and to hear appeals under various federal acts. Appeals from decisions of the Court may be taken to the Supreme Court of Canada upon leave being granted by the Federal Court of Appeal or the Supreme Court of Canada.

The Federal Court Trial Division has jurisdiction in cases in which relief is claimed against the Crown, and in cases in which relief is claimed by the Crown or the Attorney General of Canada. The Trial Division also has jurisdiction to hear proceedings to review decisions of federal boards, commissions and other tribunals; to determine questions of law, jurisdiction or practice and procedure referred by federal boards, commissions or tribunals, or constitutional questions referred by the Attorney General of Canada; inter-provincial and federal-provincial disputes; industrial property proceedings; admiralty proceedings; citizenship appeals; appeals under various federal statutes, and claims for relief if there is no other Canadian court that has such jurisdiction.

In addition, the judges of the Federal Court of Canada may act in special capacity under a variety of acts, including acting as umpires under the

Unemployment Insurance Act, and as assessors under the Health of Animals Act, the Pesticide Residue Compensation Act and the Plant Protection Act. The Chairman and other judicial members of the Competition Tribunal are members of the Trial Division.

D. Jurisdiction and Duties of the Administrator

The chief officer of the Registry of the Federal Court of Canada is the Administrator of the Court, who is the deputy head of that portion of the public service employed as staff of the Court. The Administrator is accountable to the Chief Justice for the operation of the registry and for all administrative matters necessary for the operation of the Court.

II. ADMINISTRATION

The Administrator of the Court is assisted by two deputy administrators, two directors, and by regional directors located in Montreal, Ottawa, Toronto and Vancouver.

A. Court Registry

Through its principal office in Ottawa, and through the district offices, the Registry provides assistance to litigants in order to facilitate the advancement of cases. This includes responding to litigants' enquiries and informing them of procedures necessary to have their cases heard by the Court. The Registry also makes all arrangements for court hearings and provides facilities and staff for court operations.

B. Local Offices

All registry services provided by the principal office in Ottawa are also provided by the local offices. These are situated in 16 locations across Canada and are organized into four regions: Atlantic, Quebec, Ontario and Western. Nine of these offices are operated by Federal Court staff and seven by provincial and territorial employees, under agreement with the Federal Court. In areas where the Registry does not have an office, access to the Court is available by means of written or telephone communications with any of the offices of the Registry.

C. Administrative Services

Administrative, informatics, library, personnel, security and financial services are provided to all offices of the Registry by units located in the principal office of the Registry.

In addition, the administration performs the function of maintaining trust accounts for money deposited with the Court. These accounts record the amounts paid into the Federal Court of Canada, which are held in trust pending payment in accordance with a judgement of the Court.

FEDERAL COURT OF CANADA

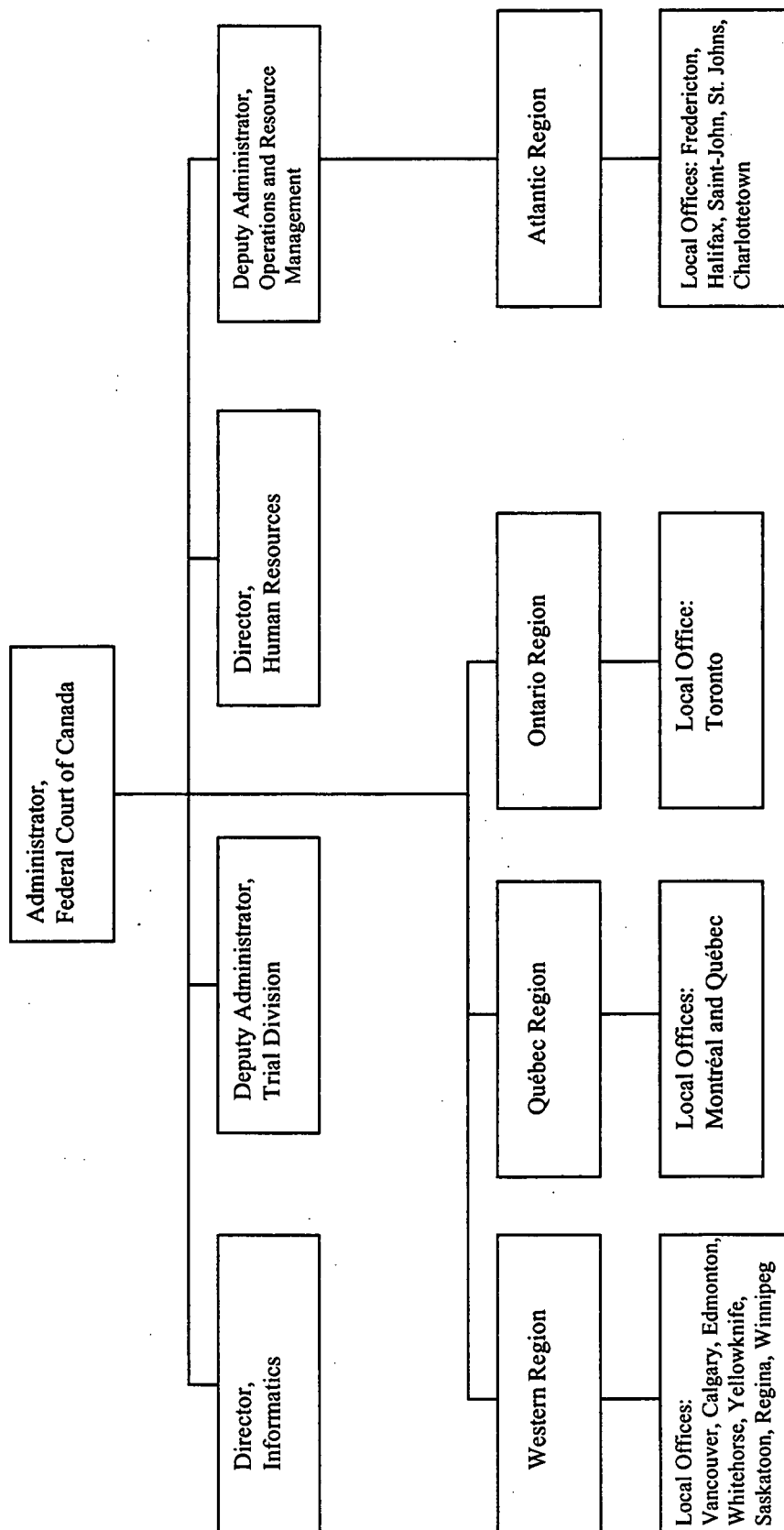


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II.	ADMINISTRATION	213
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I. TAX COURT OF CANADA

A. Composition of the Court

The Tax Court of Canada was established by the Tax Court of Canada Act, S.C. 1980-81-82-83, c. 158, which was proclaimed in force on July 18, 1983. It replaced the Tax Review Board, the members of which became judges.

The Court, with its headquarters in Ottawa, consists of the Chief Judge, the Associate Chief Judge and 20 other judges plus 3 supernumerary judges. To ensure the expeditious hearing of appeals, the Chief Judge may, with the approval of the Governor in Council, appoint deputy judges. There are currently 10 deputy judges.

B. Geographic Distribution

The Court, with its headquarters in Ottawa, also has its own accommodations in Vancouver, London, Toronto and Montreal. In addition, it shares accommodations with the Federal Court of Canada in Edmonton, Calgary, Winnipeg, Quebec City, Halifax and Fredericton. In other locations, the Court uses the facilities of the Federal or Provincial Court, where available, or leases commercial accommodation.

For income tax appeals the Court sits at roughly 28 locations throughout Canada. For unemployment insurance appeals, because of the provisions of the legislation, the Court may sit in over 80 locations.

C. Jurisdiction of the Court

The Tax Court of Canada has exclusive original jurisdiction to hear and determine references and appeals on matters arising under the Income Tax Act, the Canada Pension Plan, the Old Age Security Act, the Petroleum and Gas Revenue Tax Act, the Employment Insurance Act and Part IX of the Excise Tax Act for the Goods and Services Tax where references or appeals to the Court are provided for in those Acts. The Court also has exclusive original jurisdiction to hear and determine appeals on matters arising under the War Veterans Allowance Act and the Merchant Navy Veteran and Civilian War-Related Benefits Act from an adjudication of the Veterans Review Appeal Board regarding what constitutes income for the purpose of the legislation. The Court also has exclusive jurisdiction to hear and determine appeals on matters arising under the Petroleum and Gas Revenue Act, and the Cultural Property Export and Import Act.

Under the amending legislation, appeals from assessments or reassessments under the Income Tax Act follow two procedures: an informal and expeditious procedure where the amount in dispute is \$12,000 or less, and a general procedure in other cases. Under the informal procedure, paperwork is kept to a minimum and, generally speaking, the rules of evidence are not stringently applied. In cases involving larger amounts, the general procedure is analogous to that in the Federal Court of Canada - Trial Division and the rules of

evidence are applied in the ordinary way. The practice and procedures in appeals, other than those under the Income Tax Act, are governed by other rules, for example, the Tax court of Canada Rules of Procedure (Employment Insurance Act).

D. Responsibilities of the Registrar

The Registrar, as the Deputy to the Commissioner for Federal Judicial Affairs, through complete delegation of authority under s. 76 (2) of the Judges' Act, is the Deputy Head of the Registry of the Court. The Commissioner for Federal Judicial Affairs reports to the Minister of Justice.

II. ADMINISTRATION

A. Responsibilities of the Registrar

The Chief Judge is responsible for the apportionment of the work among the Judges and the assignment of individual judges to specific sittings of the Court.

The Registrar, as the principal officer of the Court, is responsible for the administration of the Court, including the appointment of support staff and the provision of all other services.

The Registry of the Tax Court and the Corporate Services Directorate provide administrative services to the judges and the deputy judges of the Court. These services include the following:

- hearings coordination;
- court reporters;
- court registrars
- secretarial services;
- mail and messenger services;
- appeals processing;
- recorded information management;
- library services;
- security services; and
- court facilities throughout Canada.

TAX COURT OF CANADA

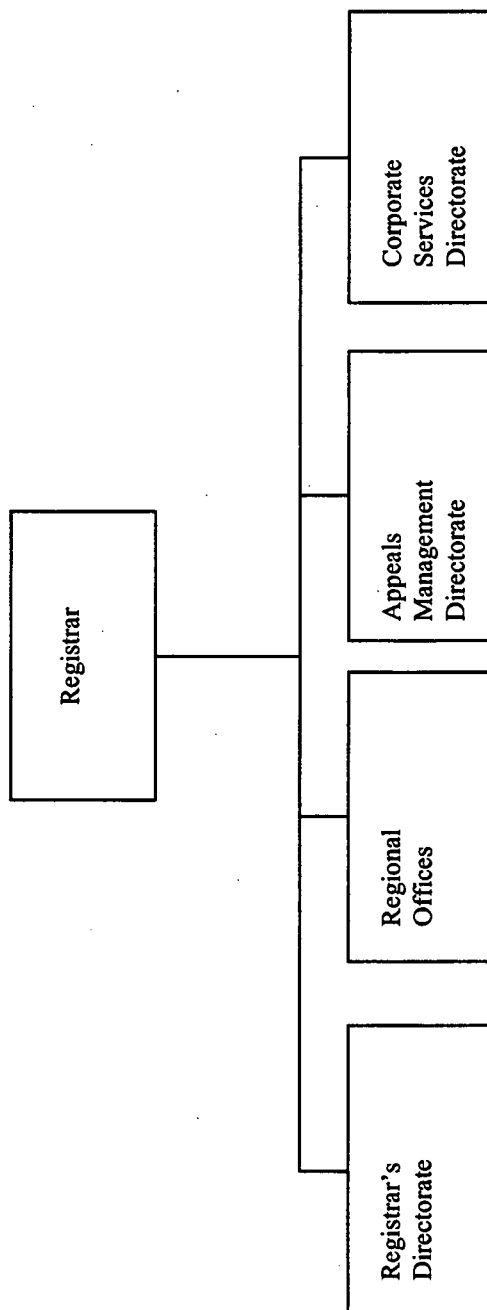


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I. OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

The Office of the Commissioner for Federal Judicial Affairs administers Part I of the Judges Act which provides for the payment of salaries, allowances and annuities to the judges of the Federal Court of Canada, the Tax Court of Canada and all other federally appointed judges of the superior courts of the provinces and territories. It also provides administrative services to the Canadian Judicial Council and is responsible for the preparation of budgetary submissions of the Federal Court of Canada, the Tax Court of Canada and the Canadian Judicial Council. Also included in the services provided by the Office are language training for federally appointed judges, the publication of the Federal Court Reports and the administration of the fifteen Advisory Committees on Judicial Appointments.

The Commissioner for Federal Judicial Affairs is assisted by a Deputy Commissioner who is responsible for financial, personnel and administrative matters and language training, and by an Executive Editor who is responsible for the publication of the Canada Federal Court Reports. Also under the direction of the Commissioner is the Administrator of the Federal Court of Canada and the Registrar of the Tax Court of Canada as well as the Executive Director of the Canadian Judicial Council which is an independent statutory body composed of Chief Justices and Chief Judges.

II. ADMINISTRATION

Administration has the following objectives:

- to administer Part I of the Judges Act, which provides for the payment of salaries, allowances and annuities to federally appointed judges, and, for the payment of annuities to spouses and children of deceased judges;
- to provide central administrative services to the Canadian Judicial Council Secretariat;
- to develop and provide a language training program to federally appointed judges;
- to edit and publish the Federal Court Reports;
- to keep under review the Judges Act and to recommend appropriate amendments; and
- to administer the Judicial Appointments Secretariat.

These objectives are accomplished through the work of four units.

A. Policy and Corporate Services

This Unit provides the Program with policy direction, as well as financial, personnel and administrative services, information technology and management information services. It is responsible for administering all

salaries, allowances and annuities to judges of the Federal Court of Canada, the Tax Court of Canada and all other federally appointed judges of the superior courts of the provinces and the territories as authorized by the Judges Act. This area also administers gratuities to spouses of such judges who die while in office and it also pays annuities to spouses and children of deceased judges. Salaries and allowances are provided for over 950 judges and annuities are paid to over 450 recipients.

B. Judges' Language Training

In keeping with the intent of the Official Languages Act and provisions of the Criminal Code relating to the right to trial in either official language, Judges' Language Training provides a program to judges in order to improve their ability to carry out their duties in both official languages. Particular emphasis is placed upon the use of legal terminology in all courses.

Different types of courses are provided: two-week immersion sessions in the second language for anglophone and francophone judges, specialized legal terminology courses for francophone judges of the Common Law provinces, private tutoring from three to five hours a week between immersion sessions, and month long intensive immersion sessions. (An information booklet is available at the Office of the Commissioner for Federal Judicial Affairs).

C. Canada Federal Court Reports

This area is responsible for the publication of reasons for judgement rendered by the Federal Court. All reasons for judgement are reviewed to determine those which should be published in full text as important precedents, published in digest format or not published. Those chosen are then the subject of extensive editing and review to ensure that their contents and legal references are accurate. This area is composed of the Executive Editor, a Senior Legal Editor, two Legal Editors, two Legal Research Editors, a Production and Publication Officer and two Editorial Assistants.

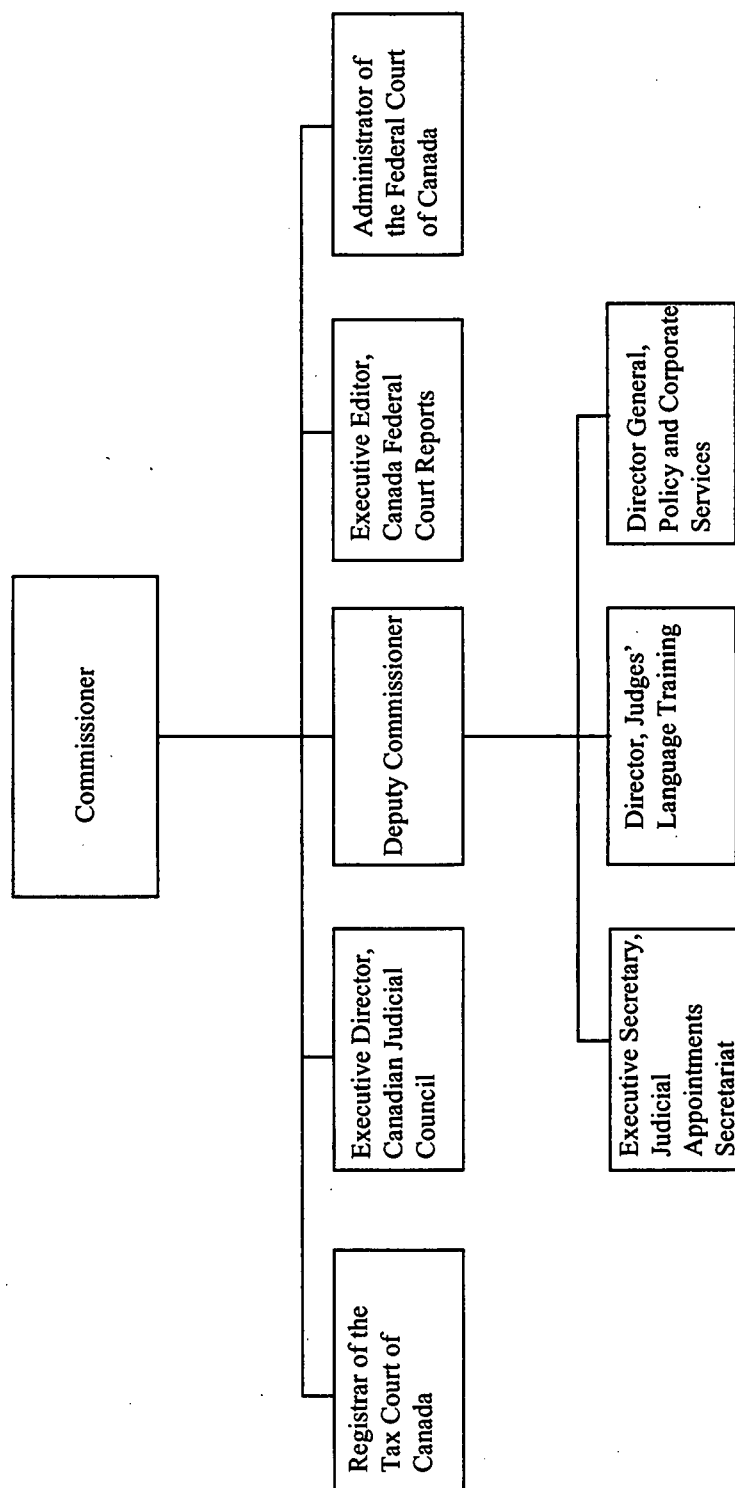
D. The Canadian Judicial Council

The Office of the Commissioner for Federal Judicial Affairs also provides administrative support to the Canadian Judicial Council, which is a statutory body composed of the Chief Justices and Associate Chief Justices whose aim is to promote efficiency and uniformity and to improve the quality of the judicial service in superior courts and the Tax Court of Canada. The Council's activities fall into four broad categories. It plays a role in judicial education; deals with complaints against federally appointed judges; provides a forum for developing consensus among its members on various matters concerning the administration of justice and, generally in conjunction with the Canadian Judges Conference, makes recommendations to the federal government with respect to judicial salaries and benefits.

E. The Judicial Appointments Secretariat

The secretariat is headed by the Judicial Appointments Secretary and is responsible for administering the 15 advisory committees on judicial appointments; these committees are appointed by the Minister of Justice to access candidates for the bench.

OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS



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