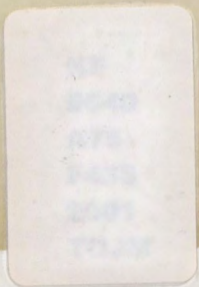


Executive Summary



FEDERAL
PROSECUTION
SERVICE
REVIEW



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May 30, 2001

Mr. Morris Rosenberg
Deputy Minister of Justice and
Deputy Attorney General of Canada
Department of Justice
284 Wellington Street, Room 4121
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Dear Deputy Minister:

In June 1999, the Justice and Legal Affairs Committee of Deputy Ministers approved the Terms of Reference for a review of the Federal Prosecution Service. The purpose of the review was to examine how the demand for the services of the FPS could be managed as well as to consider whether there were ways in which those services could be delivered more effectively and efficiently.

The report of the review is now completed and we wish to submit our findings and recommendations to you. Many committed and talented individuals both within the FPS and, more broadly, within the Department and across government have participated in this review and we want to acknowledge their important contributions.

While the challenges facing the FPS are daunting, we are convinced that the FPS is up to the task. We hope that this review will be of some assistance.

Sincerely,

Thea Herman

David Gates

Canada



This Review examines the mandate and operations of the Federal Prosecution Service (FPS) of the Department of Justice Canada. It considers steps that could be taken to manage a growing demand for FPS services and how these services might be delivered more efficiently and effectively in the future. It also examines how the FPS can strengthen its contribution to the mission of the Department and the overall administration of justice, while responding to the priorities of government and the emerging legal challenges of a new century.

General Conclusions

Before summarizing our major findings, we wish to emphasize three general conclusions:

- during the course of our Review, we encountered abundant evidence that the members of the FPS are highly regarded by others as hard-working and dedicated professionals, and that the work they do is critical to the administration of justice in Canada;
- the difficulties faced by the FPS in terms of its ability to respond to the demands placed upon it have reached a state of urgency, and the status quo is not an option;
- success in meeting the challenges of the future is dependent on an openness to change on the part of FPS members themselves.

Organization and Thematic Directions of this Review

The terms of reference for this Review were approved by the Justice and Legal Affairs Committee, a committee of Deputy Ministers. A steering committee consisting of representatives from the Department of the Solicitor General, the Royal Canadian Mounted Police (RCMP), Health Canada, the Treasury Board Secretariat and Privy Council Office, as well as senior officials from the Department of Justice, was selected to oversee the Review.

The research and consultations for the Review were organized around 15 subject areas. A number of major themes emerged during the Review that have led to the principal recommendations of this report. They are listed at the end of this Executive Summary.

Current Role and Organization of the FPS

The FPS is the unit of government responsible for federal prosecutions. Its members prosecute offences under some 50 federal statutes on behalf of Canada's Attorney General, except for *Criminal Code* violations which are prosecuted provincially. These cases, which are often lengthy and complex, fall principally into two categories: criminal drug prosecutions which constitute the largest proportion of cases; and regulatory prosecutions which are conducted for a range of federal departments and agencies. There is some variation in the work of the FPS across the country. Although it does not prosecute *Criminal Code* offences in the provinces, it does so in all three territories. In Québec, it prosecutes only criminal cases where the RCMP has laid charges.

In addition to its prosecutorial activities, the FPS also handles extradition cases and foreign requests for legal assistance, administers Canada's drug prosecution fund, and serves as a centre of expertise in matters of criminal law, national security and federal law enforcement. In providing these services, the FPS is vital to the maintenance of public confidence in the system of justice and the safety and stability of Canadian society.

The FPS consists of a head office, the Criminal Law Branch, located in the Department of Justice in Ottawa, as well as prosecutors in 13 offices in various locations across the country. At the time of this Review, the FPS employed 316 in-house counsel, 29 paralegals and 116 administrative staff. In addition, the Minister of Justice and Attorney General also appoints members of the private bar to act as agents in assisting the

Department in its role as federal prosecutor. At the time of this Review, there were 233 legal firms and approximately 763 counsel appointed as standing agents of the FPS. These agents are employed mostly in areas where there is no regional office.

All counsel, whether in-house or agents, work under the direction of group heads and regional directors. They are in turn responsible to the Assistant Deputy Attorney General (Criminal Law) who is located in the Department of Justice in Ottawa.

Emerging Challenges for the FPS

The FPS is facing a number of serious and inter-related challenges. Prime among these is a relentless increase in the demand for its services, a trend that will only intensify in the years ahead. More significant than the increase in the quantity of cases is the increase in their complexity. This is due to a rapidly changing and increasingly complex criminal law environment characterized by the globalization of crime, increasingly sophisticated criminal organizations, emerging technologies, and onerous disclosure obligations. *The Charter of Rights and Freedoms* in particular has made the criminal litigation environment much more complex, and in many situations unpredictable. As a result, the gap between demand and available resources will continue to grow unless new strategies and measures are adopted.

Much of the demand for services is essentially beyond the control of the FPS. Cases are initiated externally by the police or regulatory enforcement agencies and their officials. This Review was initiated to examine the emerging demands on the FPS and its ability to meet the requirements of its stakeholders both inside and outside the Department of Justice. The status quo is not sustainable and the Department of Justice must find new ways to respond to the demand for the services of the FPS.

Our starting point was that any new resources within the FPS must be targeted to address specific pressure points which are clear departmental and government priorities. Moreover,

additional resources must be only one element of a comprehensive resource management strategy that encompasses a rigorous, on-going priority-setting exercise, an examination of alternatives to prosecution, and a commitment to innovative ways of delivering service.

Our findings are grouped under three major themes:

- Managing Demand for FPS Services;
- New Working Arrangements; and
- Better Management Practices and Systems.

I. Managing Demand for FPS Services

While the demand for prosecution services is largely beyond the control of the FPS, there are measures that can be adopted and choices made to manage that demand. We explored three major areas in this regard:

Role and mandate – What should be the business of the FPS, and what kinds of cases should it handle?

Alternatives to prosecution – Are there certain types of cases currently being prosecuted that would be better suited to alternative approaches?

Responding to International Issues - How can the FPS respond to the escalation in the volume and complexity of international cases?

i. Role and Mandate

A review of options for managing the demand for prosecution services begins with the definition of a vision for the future role and mandate of the FPS. In charting a new course, we were cognizant of the need to ensure that the vision for the FPS was consistent with the overall mandate and strategic directions of both the Department of Justice and the Government of Canada in general. We considered a variety of options in this regard, including: maintaining the status quo; devolving prosecutions, in whole or in part, to the provinces and territories; a greater utilization of agents; and restricting the work of the FPS to matters principally of national concern.



As a national institution, it is important that the Department of Justice ensure that the national interest is being served and that Canadians are being served by a justice system that is effective, accessible and fair. Defining the national interest and determining how best to ensure that it is being served is not without its difficulties. While it is generally understood that international concerns and issues affecting national security are matters of national interest, the line delineating matters of national from local concern is not always an easy one to draw. The responsibility for prosecutions in Canada is divided among federal, provincial and territorial governments and, therefore, any significant change to the allocation of responsibility would require their active involvement. Further, it should not be assumed that the FPS is the only prosecution service capable of carrying out activities in the national interest. What is critical is that the legitimate interests of the federal government are served and that prosecutions are carried out effectively and fairly across the country.

In considering how best to serve the national interest, two principal options were considered: realigning responsibilities between federal and provincial prosecution services so that the FPS would focus primarily on matters of national interest and provincial services would focus on matters of a more local nature; or a collaborative approach with other prosecution services, so that all the prosecution services in Canada would be considered a national resource and those services would work together to optimize the use of available resources to better serve Canadians. We have recommended that the second approach – a collaborative approach to prosecutions – be pursued.

ii. Alternatives to Prosecution

An important strategy for managing the increased demand for FPS services would be the use of alternatives to prosecution when and where appropriate. Within the broader spectrum

of policy options, prosecution is a rather blunt and expensive instrument that should be reserved for those situations where it is clearly the most effective measure.

The utilization of alternatives is consistent with the existing Criminal Litigation Policy established by the FPS, which has been implemented with varying success across the country.

We wish to strongly emphasize the importance of this philosophy. The greatest potential for alleviating the workload of the FPS can be found in alternatives to prosecution. Strong participation of both in-house prosecutors and agents across the country in the utilization of alternatives to prosecution will be necessary to manage the increasing workload of the FPS in the future.

With regard to drug offences, there are many problems that are arguably more matters of health than criminal law. Prosecutions of minor drug offences make up a large proportion of FPS cases in the courts. The decriminalization of the possession of cannabis in small amounts or the pursuit of alternatives to prosecution in many of these cases, would result in a reduction in the demand for FPS services.

Alternatives to prosecution should be part of a comprehensive and integrated drug strategy. There are a number of alternatives that could be used more effectively such as diversion into addiction treatment programs, the use of community service orders, and remedies utilized by drug treatment courts. With the use of a full range of effective social responses, prosecution would be reserved for the most serious offences and where it would be the most appropriate and effective remedy.

Such an approach would require partnerships with all orders of government, prosecutors, enforcement agencies, health and social service agencies as well as local community organizations.

It would also require sufficient funding to carry out its ambitious objectives. As a first step, the Department of Justice should work with Health Canada to initiate the development of a comprehensive strategy.

In the other major area of FPS cases – regulatory prosecutions – the ultimate goal should be compliance with the policy objectives of federal legislation. An emphasis on positive strategies to achieve compliance is, in many situations, a more effective means than prosecution. This represents a significant change in thinking and operating approach and will require substantial co-operation between all responsible parties. The Department of Justice should work with its client departments to review their respective legislation, practices and policies, to provide for an increased use of other instruments, such as education, alternative dispute resolution, civil remedies and other instruments of choice, reserving prosecution for the most serious violations.

iii. Responding to International Issues

The international activities function is a critical part of the FPS's mandate and an area under significant pressure. With increasing concerns about the growing globalization of crime, the demands for these services will only increase. Cases and issues relate to the government's international obligations and are often high-profile in nature. Despite these pressures and the importance of the work, the area has generally not received the attention or the resources it needs to do the job.

It is critical that the importance of this work be recognized and that the FPS be in a position to respond to the demands of international issues. Further, it is essential that both strategic and operational planning exercises are carried out, that the mandate and respective roles and responsibilities are clarified, and priorities are set.

II. New Working Arrangements

The FPS does not function in a vacuum. It is a vital unit of a major government department that

includes other important divisions as well. In addition, it has many external associations and partners in carrying out its functions. Improved working arrangements and greater integration are required by the FPS with a number of areas. The FPS must strengthen its relationships with other sectors and branches of the Department of Justice, particularly in the area of policy development, aboriginal justice and crime prevention. It must clarify its relationships with client departments and Departmental Legal Service Units (DLSUs). Stronger partnerships are also required in the FPS's relations with external partners. Finally, there is a need for greater integration within the FPS itself, particularly in the way human resources are utilized and managed.

i. Integration of Policy and Prosecutions

The FPS is not sufficiently integrated within the Department of Justice or the Government of Canada more generally. There is insufficient understanding both within and outside the Department of the role of the FPS and the role of prosecutors. Broad policy objectives and the role of the FPS in the context of national policy initiatives are not widely understood throughout the organization. Strong and effective linkages between members of the FPS and other areas of government have not evolved to the extent that they could. This is of particular concern in the area of regulatory prosecutions which are conducted by the FPS on behalf of other federal departments and agencies.

To succeed as a national prosecution service, FPS activities must be more fully integrated with the policy and program objectives of the Department of Justice and with the broader agenda of the Government of Canada. While the principle of prosecutorial independence is essential to prevent political interference in the conduct of prosecutions, it should not be used as a justification for a lack of integration with the Department or the government at large.

A more concerted communications effort to inform other participants within Canada's justice system and the public at large about the FPS and the role of its prosecutors is also required.



ii. Relationships with Client Departments and Departmental Legal Service Units (DLSUs)

There is a need to clarify the respective roles of Departmental Legal Service Unit counsel, officials of client departments, and FPS members, specifically in relation to regulatory prosecutions. In the regulatory context, the concept of prosecutorial independence is not inconsistent with a strong client orientation. In fact, collaboration is important, especially since the department responsible for the regulatory program is ultimately responsible to Parliament through its own Minister.

The Justice A-base was allocated on a client department and portfolio basis in 1995-96. Anomalies that existed at that time in terms of the relative share of client departments from this limited funding source have been perpetuated in the process. Moreover, shifts in regulatory activity that have taken place since 1995-96 have tended to exacerbate the situation. As a result, some departments receive only a very small portion of their funding for regulatory prosecutions from the Justice A-base and are called upon to fund the balance themselves via Client-Driven Service agreements. The resolution of this inequitable treatment of some departments is clearly beyond the scope of this Review. However, it does require immediate attention. It should be noted that the enactment of new or revised regulatory schemes often carries resource implications for the FPS. The FPS and DLSUs need to devote additional attention to planning for the resource implications for the FPS of new legislation or regulations.

iii. External Partnerships

In addition to the FPS, there are other important groups and organizations that play significant roles in federal prosecutions. Collaborative working partnerships with these organizations provide opportunities for better management and coordination of workload. Stronger partnerships need to be forged by the FPS with external

organizations such as provincial and municipal police forces, territorial and provincial justice officials. Of particular importance in this regard is the RCMP which plays a crucial national role in the field of federal prosecutions.

Working partnerships require deliberate effort and an investment of time, energy, and resources at all levels within the participating organizations.

iv. Use of Other Service Delivery Methods

The FPS needs to draw on the strengths of all of its members to become an organization that encourages multidisciplinary approaches. We note that at present paralegals are especially underutilized in the FPS. The regular use of multi-disciplinary teams could make a substantial difference in handling the demands of an increased workload, particularly in the management of complex cases.

Better utilization of the expertise of counsel as well as financial savings could be achieved through a greater use of paralegals, law students and other professionals on staff. In allocating work assignments, the principle of "leverage" should be utilized to a greater degree. Under this principle, work assignments would be performed by the most cost-effective service provider at the lowest professional level required, without compromising the quality of service.

v. Use of Agents

In 1999, 40,000 prosecution files were assigned to agents, members of the private bar appointed by the Minister of Justice. The majority of their work takes place in areas where there are no regional offices. There is a continuing increase in the number of drug-related prosecutions handled by agents, particularly possession, and 72% of the costs of agents in the period 1996-1999 were attributable to drug prosecutions. The fees for drug prosecutions are paid for out of Justice's Drug Prosecution Fund (DPF).

Aside from the cost, many issues have arisen with respect to agents including the quality of work, rates of pay, costs of supervision, lack of reliable financial management and information systems, procedures for their selection, appointment, and training, and concerns by organizations such as the RCMP about the ability of agents to handle complex cases, particularly drug cases.

Two options for reducing reliance on agents were considered: devolution of agents' work to the provinces and repatriation of agents' work to existing counsel in regional offices or setting up new offices where the volume warrants it. Repatriation pilots have already been undertaken in Toronto, Vancouver, and Calgary.

III. Better Management Practices and Systems

One obvious response to the increased demand for FPS services would be to optimize efficiencies by developing better management practices and systems for establishing priorities, allocating human and financial resources on the basis of those decisions, and tracking the workload. Above all, the FPS must be able to account fully and transparently for its use of public resources.

At present, the FPS lacks the rudimentary elements of an efficiently managed operation. There is an absence of reliable data on workload and related costs, spotty reporting, a lack of coordinated planning to ensure that resources are utilized strategically and efficiently, and limited accountability for the resources actually spent. The FPS urgently needs greater rigour and transparency in its ability to quantify its workload, establish priorities, allocate resources, and keep track of performance and results.

i. Strategic Planning, Budgeting and Management Information

The FPS does not have adequate management information on the profile of its total workload or the number of cases underway or on the horizon. As a result, it is unable to realize efficiencies that could be gained through a strategic grouping of

cases, the use of effective tools such as a complexity matrix, or the introduction of performance standards.

With the increase in the complexity of prosecutions and increased disclosure requirements, the need for effective management information and budgeting systems becomes even more critical and pressing. Management information and budgeting systems that can produce timely, relevant and reliable data are essential for the FPS to be accountable for its resources, to forecast future workload, and to allocate its financial and human resources effectively.

ii. National Coordination/Specialty Teams

There is insufficient national coordination with the FPS, both in terms of the management of legal issues, as well as in the overall management of national service. The development of strategies and plans is largely left to the regional offices. Specialty issues or practice areas also often default to the regions.

In some areas, such as Tax Law Services, national practice groups have been established with regional representation. The collective expertise of the FPS could be made available across the country by the creation of a group of specialists who could provide advice and guidance or even conduct cases in particular areas.

iii. Increased Use of Technology

Technology offers significant opportunities to enhance information sharing and increase the overall efficiency within the FPS. There is an urgent need for a national, coordinated and accessible data bank of case summaries and issue-based information. There is also a requirement to create systems that are compatible with those of other partners in the justice system to share common information.

iv. Workload Profile

The FPS does not have adequate management information on the profile of its total workload. As a result, it cannot realize the potential efficiencies of the strategic grouping of cases or the application of performance standards.



There is a perception in the FPS that cases are becoming increasingly more complex. To deal with increased volume and complexity, the FPS must make greater use of the existing complexity matrix which will allow work to be sorted, categorized, and grouped. To be effective all FPS cases must be included and FPS counsel must support and where necessary refine the system.

v. Timekeeping Information

The FPS has been fully capturing time spent by counsel since 1998. However, current data does not capture the precise nature of the work being performed by type of charge or key activity. Timekeeping is not currently being used efficiently as a management tool. In the future, there must be greater refinement in the use of timekeeping as a tool for self-analysis, for establishing performance standards, and for identifying training and other needs for both staff counsel and for enforcement agencies.

vi. Updated Desk Book

The departmental policies of general application, as well as specific FPS policies are not consolidated in a single policy manual. There is also no mechanism to ensure that policies are regularly reviewed and updated. While a new Desk Book incorporating the Crown Counsel Policy Manual is being developed, it is not a compendium of all policies applicable to the FPS. Such an index of all current policies is required with a review of all prosecution-related policies, guidelines, and practice directives to be carried out at least every two years.

vii. Human Resources Management

The strength of the FPS is its people. It is therefore critical to the future success of the FPS that human resources issues be addressed in a strategic, planned and systematic way.

An analysis of a demographic profile of the FPS taken in March, 2000 indicates the following concerns:

- the hiring of paralegals has not kept pace with that of lawyers and secretaries;
- there has been limited access to senior counsel categories;
- there is an under-representation of women in the senior complement;
- there is an excessive use of term employment;
- visible minorities and persons with disabilities are under-represented in the FPS and are proportionately over-represented in the term population;
- there are parts of the FPS where potential retirements must be taken into account for succession planning purposes.

At the personal level, the pressures on FPS staff are significant and manifest themselves in many ways:

- high levels of unpaid overtime;
- long-term sick leave attributable to stress and burn out;
- difficulties in attracting and retaining experienced counsel.

Stress is particularly evident in "mega cases" where threats to the safety and security of individual prosecutors and their families are sometimes an issue. The FPS and the Department need to be in a position to support their employees and to respond effectively to any threats.

Other concerns expressed by staff include:

- inability to maintain a reasonable balance between work and life outside the workplace;
- lack of rewards and recognition;
- lack of promotional and other career opportunities;

- lack of career path for those lawyers who do not wish to become part of management;
- the stress of inadequate and uncertain budgets;
- compensation;
- inadequate performance management and performance pay systems.

The FPS, with the assistance of Human Resources, needs to become a "workplace of choice" so that it can recruit and retain a complement of excellent people.

viii. Training

The provision of training to all FPS employees is critical. An overall FPS training plan is required as well as individual training plans. This will require a significant investment at both the national and regional level, including for northern staff.

Training plans must be an integral component of on-going management planning, as well as performance management where strengths and weaknesses are addressed with clear, measurable action plans. FPS managers require assistance and training in effective performance management and the creation of viable training plans. The Legal Education Section should be approached to develop appropriate training modules, which should be available at the regional level, for agents, and new counsel, as well as for existing employees.

To assist FPS managers with training plans, a dedicated Training Coordinator should be established.

IV. The North

The prosecution of all federal offences as well as all offences under the Criminal Code is a federal responsibility in Yukon, the Northwest Territories and Nunavut.

The North constitutes an important policy setting for the Department of Justice. It is the only place where the FPS is directly involved in

the prosecution of Criminal Code offences. It also brings departmental employees into direct contact with victims of crime. In addition, lessons learned about prosecutions in the primarily Aboriginal setting of the North can be applied when considering Aboriginal justice policy and program issues elsewhere. In short, prosecutors in the North are a valuable departmental resource in terms of the development of criminal law policy and legislation.

Prosecutions in the North are quite different than in the rest of Canada, with unique problems requiring special attention. The actual operation of the criminal justice system in the North is shared between the territorial and federal governments. The federal government is responsible for the development of legislation and policy, while the territorial government is responsible for its administration. However, the federal government continues to carry out all prosecution services. This creates an important dynamic. While the territories have significant responsibility for the administration of criminal justice including the courts, the RCMP, and the correctional system, federal prosecution policies and practices have an impact on these systems and programs. The territories cannot however, except through dialogue, affect federal prosecution policy, practice, budgets or priorities with respect to what is in the public interest.

Of particular urgency is the need for additional resources in the North. At the present, Crown prosecutors are working the equivalent of 70 and 80 hour weeks. Because of the nature of the work in the North, FPS resources are captive for blocks of time as they support every court wherever it may be sitting and are not available to take on other cases in other courts. Compounding this difference are the demands created by frequent travel, irregular work hours, and poor living and working conditions in many locales.

The management of the Department's entire relationship with the territorial governments needs to be more integrated, and the specific problems that arise with respect to prosecutions in the North given greater attention within the FPS.



V. Implementation

The recommendations made in this report represent a substantial program of change. Implementing them will require leadership and dedicated effort in an operational environment that is already characterized by demanding workloads and a shortage of resources. Executing these recommendations without a carefully devised plan could result in frustrated efforts and reduced staff morale.

Consequently, a comprehensive and fully costed implementation plan should be the first order of business. This plan should include the subordinate steps needed to fully implement the recommendations; timetables; the dedicated resources required; and the organizations and/or officials responsible for implementation. There should be regular reporting, perhaps on a quarterly basis, to the senior management of the Department concerning progress being made.

VI. Embracing Change

All of our findings suggests that hidebound practices, rigid territorial approaches to jurisdiction and static management procedures are antithetical to the FPS's ability to respond to 21st century challenges. Success in meeting these challenges will depend on imaginative strategies devised with openness and willingness to change.

Fundamental to this change will be a need to rethink the use of prosecutions within the context of a broader range of public policy alternatives. This, in turn, will require a re-examination of the role of the prosecutor, not only as a specialist within the courtroom, but also as a participant within the wider context, in policy development, choice of instruments, and interactions with departments, communities, and other partners in the criminal justice system.

The recommendations of this report propose significant alterations in the collective management of prosecutions and in the utilization of alternatives. They propose improvements in the way the FPS integrates with the Department of Justice and other elements of government, while working in stronger partnership with a range of criminal justice organizations. They also propose substantial changes in the way the FPS utilizes and is accountable for its financial and human resources.

But critical to all of these changes are the people within the FPS. Their intellectual capacity, skills, experience, and innovation are the keys to the future success of the organization. Consequently, they must themselves acknowledge and embrace the changing directions of the organization. This may require revising and re-aligning organizational and personal expectations. It will also require taking the recommendations in this Review as a starting point, rather than as a final fixed state. Finally, the members of the FPS must represent the face of change inside and outside Justice and champion the new role for prosecutions and prosecutors in the Canadian justice system of the future.

VII. Principal Recommendations

We make the following principal recommendations. The order of the recommendations is as they appear in the body of the Report itself and should not be construed to add more or less importance by their placement.

New Role and Mandate

Recommendation #1 - The FPS should meet with the provinces and territories, both multilaterally and bilaterally, to examine how the prosecution function and prosecution resources in the country could be collectively managed and rationalized, consistent with the goals of achieving a justice system that is fair, equitable and accessible, and which would provide high quality

services more efficiently and effectively. These discussions should include the consideration of a variety of approaches including: joint management of prosecutions; joint prosecution of cases; maximizing efficiencies through increased collaboration; and devolution of responsibility for certain types of cases and/or bodies of work.

Criminal Litigation Strategy

Recommendation #2 - The FPS should utilize the Criminal Litigation Strategy as a key mechanism for managing demand by:

- assigning very senior and experienced prosecutors to its development and on-going management;
- considering the creation of senior practitioner positions across the FPS to underscore its importance;
- extending the Strategy to Nunavut; and
- developing performance measures to identify and track the impacts and results of the Strategy.

Alternatives to Drug Prosecutions

Recommendation #3 - The Department of Justice should work with Health Canada to develop a range of measures to deal with prohibited drugs in addition to prosecution as part of a comprehensive and integrated health strategy.

Alternatives to Regulatory Prosecutions

Recommendation #4 - The FPS should work in collaboration with client departments and departmental legal service units to develop a range of measures to achieve regulatory compliance, with prosecution as only one of many strategies.

Review of the International Assistance Function

Recommendation #5 - The FPS should review the international assistance function within the context of the Department's international functions and the role of the FPS in international assistance. In particular, the review should consider: the role and responsibilities of the International Assistance Group; the role and responsibilities of the regions; how this work

should be organized and performed; resource allocation; opportunities for efficiencies; and the involvement of the provinces. Following this review, strategic and operational planning should be undertaken on a regular basis. This planning should include the identification of priorities and resources.

Integration of Policy and Prosecution Functions

Recommendation #6 - The FPS and the Department of Justice must take steps to achieve greater integration within the Department of Justice while still respecting the principle of prosecutorial independence, so that policy and prosecution initiatives inform each other in an on-going and substantive way. In particular, the expertise of prosecutors should be used in criminal procedure reform and the expertise of Northern prosecutors should be used in the development of criminal law and Aboriginal justice policy.

Independence of Prosecutors

Recommendation #7 - The FPS should undertake a dialogue involving all staff in all regions concerning the evolving role of prosecutors and in particular the concept of prosecutorial independence.

Departmental Role in Regulatory Prosecutions

Recommendation #8 - The FPS should establish a working group in collaboration with departmental officials to examine the respective roles of FPS and departmental counsel and agents in the conduct of regulatory prosecutions.

Regulatory Prosecutions Group

Recommendation #9 - A Regulatory Prosecutions Group should be established to:

- develop a system for workload projections and forecasting;
- examine best practices in communications between the FPS and DLSUs;
- work with the Training Coordinator to develop and deliver a training program for prosecutors on regulator prosecutions and for client investigators and inspectors on basic legal principles and practices;



- develop a “lessons learned” protocol for significant regulatory prosecutions;
- reinstitute the Prosecution Guides for regulatory prosecutions

Review of Shared Responsibility/ Client-Driven Service Process

Recommendation #10 - Corporate Management in the Department, in conjunction with the FPS and client Departments, should examine improvements to the system of shared financial responsibility for regulatory prosecutions as well as review the administrative procedures associated with the Client-Driven Services (CDS) process in order to streamline the procedures.

New Working Partnerships

Recommendation #11 - Stronger working partnerships should be developed and nurtured by the FPS with external prosecution agencies, client departments and other participants in the justice system.

Regional Memoranda of Understanding

Recommendation #12 - The national umbrella memorandum of understanding between FPS and the RCMP should be concluded and regional memoranda of understanding should be developed with the RCMP and other policing and investigative agencies to clarify responsibilities, to develop complementary strategic plans, and to promote collaborative approaches and operations.

Extraordinary Costs of Complex Cases

Recommendation #13 - The FPS must address the issues of resourcing the extraordinary costs of large cases including:

- a resource allocation system within the FPS flexible enough to respond to extraordinary demands as they arise;
- a policy on how to respond to provincial requests for assistance in extraordinary cases; and

- a response to the impact of complex cases generated by both the FPS and provincial prosecution services on Legal Aid needs.

Federal-Provincial Co-operation on Complex Cases

Recommendation #14 - The FPS should initiate the establishment of a federal-provincial network of prosecutors with expertise in complex cases for the purposes of knowledge sharing, advice and support.

Case Management Strategies

Recommendation #15 - FPS Group Heads across the country should continue or institute mechanisms to engage the courts in the provinces and territories in a dialogue concerning case management strategies to optimize the use of judicial resources.

Disclosure

Recommendation #16 - The FPS should establish a Disclosure Task Force to:

- examine the issues surrounding disclosure by electronic means;
- establish mechanisms to track disclosure costs;
- establish the steps necessary for the adoption of a national disclosure management system;
- examine law reform options; and
- with the FPS Training Coordinator develop training programs for counsel, agents, and police.

The Task Force should work with the RCMP and other police agencies.

Use of Multidisciplinary Teams

Recommendation #17 - The FPS should make regular use of multidisciplinary teams of prosecutors, paralegals and other support professionals, particularly in dealing with complex cases. Human resources policies and

procedures should be revised so that staff can be quickly deployed to these teams.

Leverage Principle

Recommendation #18 - There should be greater utilization of the "leverage" principle in the assignment of tasks, with work assignments being performed by the most cost-effective service provider without compromising quality. In particular, greater use should be made of paralegals, support staff and students. The roles of managers and senior practitioners also need to be delineated.

Repatriation/Quality Control of Agents' Work

Recommendation #19 - The FPS should assess options for the repatriation of agents' work and measures to improve the quality of agents' work. This includes:

- institution of an application process where it is not currently in place;
- incorporation of a formal evaluation process into the selection/appointment process;
- an increase of agent supervision resources to address serious issues in the supervision ratio;
- adoption of a more comprehensive and systematic approach to agent training;
- measures to ensure that agents carry out FPS policies, particularly with regard to alternatives to prosecution;
- exploration of opportunities for the repatriation of agents' work; and
- where there are concerns about agents' ability to undertake complex cases, examination of other options such as: increased involvement of the FPS agent supervisor; collaborative arrangements with the provinces and territories; or repatriation of the work to the FPS.

Strategic Planning and Coordination

Recommendation #20 - The FPS must strengthen its strategic planning and coordination capability through greater utilization of tools such as

environmental scanning, a complexity matrix, timekeeping, increased electronic integration, and the development of a national tracking and document management system.

Management Information and Budgetting

Recommendation #21 - As the highest priority, the FPS must develop effective management information and budgeting systems for its current and projected workload.

National/Regional Resource Allocation

Recommendation #22 - The FPS should establish a group consisting of representatives of the regional directors, group heads, and headquarters staff, to advise the Assistant Deputy Attorney General on the most effective resource allocation within the FPS, and between Ottawa and the regions, based on current and projected workload.

Fine Collection Costs

Recommendation #23 - The FPS should initiate discussions with the Treasury Board to achieve full reimbursement for the costs of implementing an FPS-wide fine collection program. Other options that would provide the FPS with additional flexibility in managing this program should also be identified.

National Practice Groups

Recommendation #24 - The FPS should establish national practice groups with representation from regional offices to disseminate best practices and to provide national perspectives on prosecution issues.

Specialty Teams

Recommendation #25 - The FPS should create a group of specialists drawn from throughout the FPS, to be used as national resources in support of FPS offices facing particularly complex legal issues beyond their capacity. The Northern Flying Squad model could serve as a useful guide for the creation of this group.

Dedicated IT Managers

Recommendation #26 - The FPS should ensure the appointment of a senior information



technology manager to develop a strategic plan that provides for the best means of connecting the FPS electronically with other organizations in the field of prosecutions.

Comprehensive Human Resources Plan

Recommendation #27 - The FPS, with the assistance of the Human Resources Branch, should develop a comprehensive human resources plan in order to become a workplace of choice. This plan should include a recruitment strategy and an employment equity plan to be reviewed and revised on a regular basis as part of coordinated planning within the FPS.

Management Skills

Recommendation #28 - The FPS should place greater emphasis on management skills in the recruitment and promotion of staff in management positions.

Composition of the LA Senior Complement

Recommendation #29 - A review of the Senior Complement of the LA Group within the FPS should be undertaken to assess whether its current composition and size is appropriate and to address the under-representation of women.

Positive Working Environment

Recommendation #30 - The FPS, with the assistance of the Human Resources Branch, should develop, implement and monitor policies and practices to improve the working environment. This should include:

- practices to facilitate and encourage a balance of work and life outside of work;
- an enhancement of assignment, developmental and other opportunities for staff;
- rewards and recognition; and
- the provision of appropriate and timely support for staff working on complex cases and in other stressful situations. Safety and security issues must be addressed as a top priority.

Continuous Learning/Knowledge Sharing

Recommendation #31 - The FPS should develop and implement a plan to promote continuous learning, knowledge sharing and training, including the development of a nationally coordinated and accessible data bank of case summaries and issue-based information and the establishment of national practice groups.

Training Coordinator

Recommendation #32 - A national Training Coordinator should be appointed to work with regional directors, FPS Group Heads and others within the FPS to:

- develop annual training plans for individuals and groups;
- implement the Legal Excellence program across the country;
- establish Excellence Programs for paralegals and support staff;
- implement mentoring and coaching programs where they do not currently exist;
- develop a training program for agents;
- develop a training program for the RCMP and other investigative agencies; and
- ensure equal access to training opportunities so that employees in the North or smaller locations are not disadvantaged.

Communications Campaign

Recommendation #33 - A proactive campaign should be undertaken within the Department, the Government of Canada and with the public at large to promote a broad understanding of the FPS and the role of prosecutors.

Communications Specialist

Recommendation #34 - The Director General, Communications should assign a communications specialist to the FPS to provide media relations

training and ongoing communications support and assistance.

Devolution of the Prosecution Function

Recommendation #35 - The Department of Justice should formally communicate to the three territories its willingness to work with them in developing a plan for the devolution of the prosecution function in each territory within the next 10 years.

Additional Resources for Northern Offices

Recommendation #36 - Additional resources should be provided to each of the northern regional offices. At the same time the Northern Flying Squad should be discontinued.

Relationships with Northern Governments

Recommendation #37 - The Department of Justice should take steps to formalize the relationship between the northern regional offices and the territorial governments in Northwest Territories, the Yukon and Nunavut. Regional Directors should be tasked to meet with territorial Deputy Ministers of Justice and other territorial officials on a regular basis to formally consult on prosecution policies and priorities.

Integration of Northern Operational Experience

Recommendation #38 - The FPS and the Department of Justice should develop a process that facilitates the full integration of operational experience in the North with policy expertise.

Increased Presence in the North

Recommendation #39 - Northern Regional Directors should be tasked with the development of action plans to increase the presence of the FPS and the Department of Justice in northern communities and to address the need for on-going cross-cultural awareness training for all staff.

Implementation Plan

Recommendation #40 - A comprehensive and fully budgeted implementation plan must be developed and approved, with the following priorities for implementing the recommendations of this Review:

- a collaborative approach to prosecutions with provinces and territories;
- development of alternatives to prosecution and instrument of choice;
- strengthening working relationships;
- responding to the needs of the North;
- management of complex cases; and
- Management priorities: information management, planning and coordination capacity, human resources planning, training.