



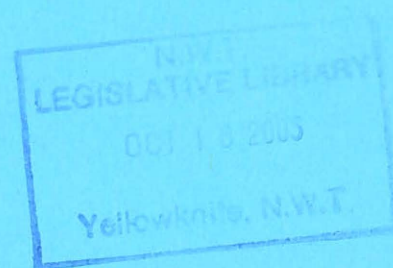
Northwest
Territories Legal Services Board

NORTHWEST TERRITORIES LEGAL AID

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(867) 873 7450 (telephone)
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2004 – 2005

ANNUAL REPORT



HISTORY OF LEGAL AID

The provision of Legal Aid first became a territorial responsibility in 1971 when the Federal Government transferred the responsibility for the administration of justice to the Northwest Territories. In 1971, the *Legal Services Ordinance* (now Act) established the Legal Services Board. The Board is responsible for legal aid, court worker and public legal education and information services throughout the Northwest Territories. The Board operates three legal aid clinics, one in each of Yellowknife and Inuvik providing both family and criminal law services and a clinic devoted to family law services in Yellowknife.

LEGAL SERVICES BOARD

Established as a Corporation

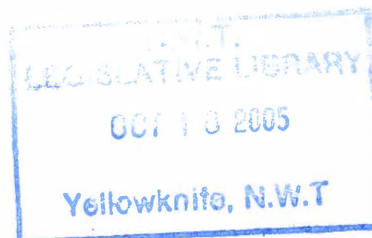
The *Legal Services Act*, R.S.N.W.T. 1988, c.L-4 establishes a corporation called the Legal Services Board of the Northwest Territories. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act*, RSNWT 1988 c. F-4.

Funding for the Legal Services Board

The cost of administering the *Legal Services Act* and providing legal services and other programs under the Act is paid out of moneys appropriated for these purposes by the Legislative Assembly. The GNWT receives funding for the legal aid program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Federal Government. The most recent funding agreement was effective April 1, 2003, and provides for base funding of \$1,569,595 for these three areas and additional monies through an Investment Fund in the amount of \$402,732. The Investment Fund is special funding provided over a three year period starting April 1, 2003, to meet unmet needs in Legal Aid services through innovation. The base funding was reduced from previous levels. Any deficit incurred by the Legal Services Board in the past has been absorbed by the Department of Justice. If that is not possible in future it would have to be covered by monies appropriated by the Legislative Assembly.

Address of the Board

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



LEGISLATIVE OBJECTIVES

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

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

THE BOARD OF DIRECTORS

Board Members

The members of the Board of Directors are appointed by the Minister of Justice of the Government of the Northwest Territories in accordance with section 3 of the *Legal Services Act*. The Act provides for representation on both a regional and interest basis. In accordance with that section, the 2004/05 Board was composed of the following:

Danny Beaulieu	Chairperson, Representing the South Slave Region
Margaret Mackenzie	Representing the North Slave/Treaty 11 Region
Reg Tolton	Representing the Public Service
Eric Menicoche	Representing the Deh Cho Region
Sheila MacPherson	Representing the Law Society of the NWT
Karen Hoeft	Representing Yellowknife
Shirley Kisoun	Representing the Beaufort Delta Region
Gilbert Thrasher	Representing the Beaufort Delta Region
Judy Tutcho	Representing the Sahtu Region

At its meeting in September 2004 the Board resolved to seek the Minister's approval to appoint an additional representative for the Deh Cho Region given the large number of communities in that region. The Minister accepted the recommendation.

Board Meetings

The Legal Services Board of the N.W.T. met on three occasions:

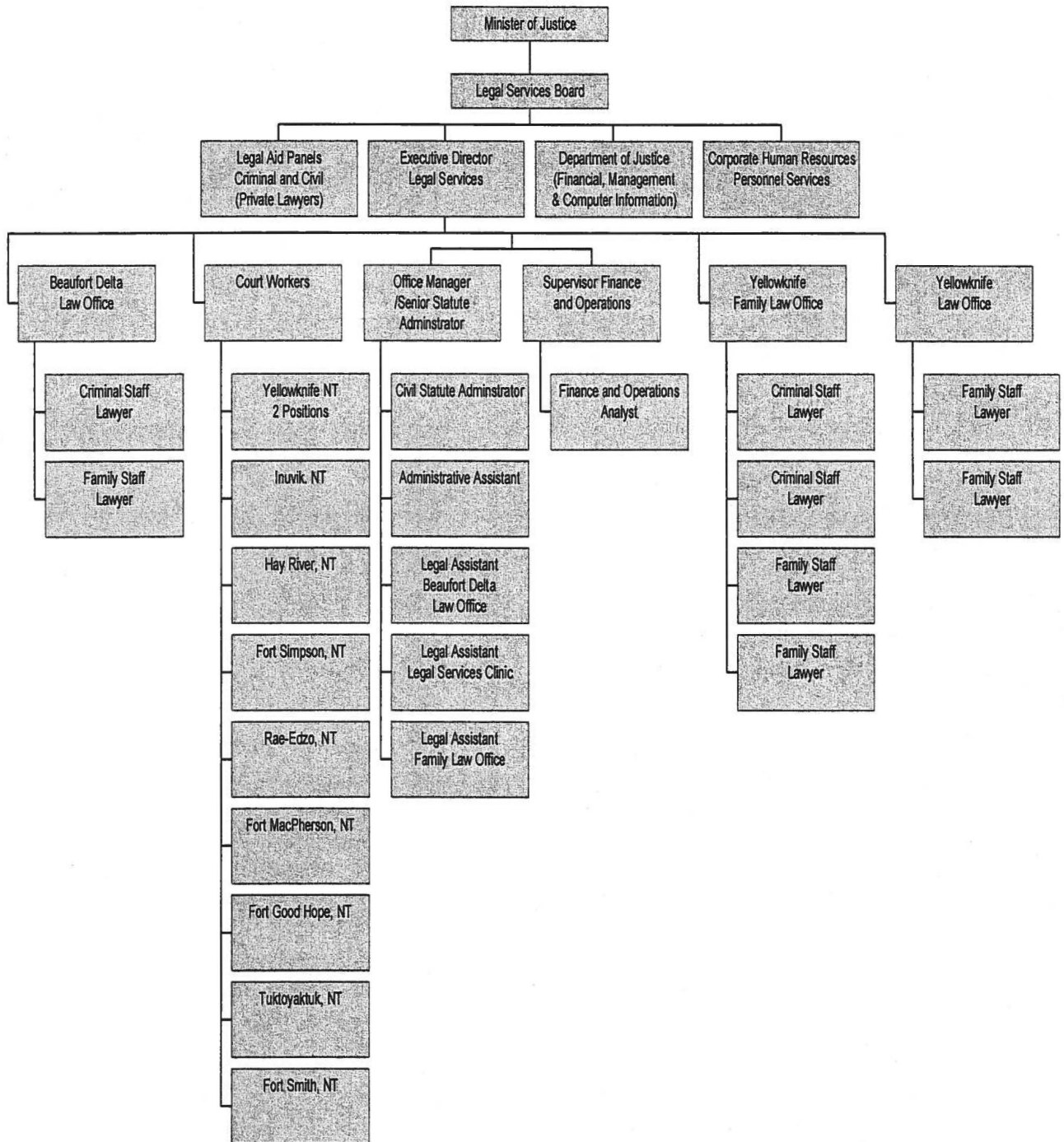
June 11 and 12, 2004, in Yellowknife
September 18, 2004, in Deline
January 21 and 22, 2005, in Yellowknife

The Board attempts to hold one meeting per year in a community other than Yellowknife.

Mandate of the Board of Directors

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

Legal Services Board of the NWT Organizational Chart March 31, 2005



FINANCIAL ELIGIBILITY

Legal Aid Applications

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

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

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

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

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act*, is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretionary rules and policies when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s) then the Board will extend coverage.

The Legal Services Board has an arrangement with the Director of Child and Family Services, Department of Health and Social Services, to recover the costs of

appointing legal counsel for children when the court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*.

LEGAL AID COVERAGE

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

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

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

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

Adult Matters – Criminal Code

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

Presumed Eligibility

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

Civil Matters

The Act authorizes the provision of legal aid services on a discretionary basis for all civil matters except certain cases that the Act and Regulations specify are not covered. The Executive Director may refuse to authorize legal aid if the aid

requested is of a civil nature in which a lawyer would ordinarily act on a contingency basis.

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

Family Law Matters

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

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

Approved matters are assigned according to the date of application except when the matter is already set for a court date, involves family violence or child protection matters. The program faces a continuing problem in finding enough family law lawyers to take on files.

Residency and Reciprocity

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

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

APPEALS

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

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required and the Executive Director is required to bring

the matter to the Board for an appeal hearing. There is no right of appeal from the Board's decision.

LEGAL AID ASSIGNMENTS

Panels

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

Choice of Counsel

The choice of counsel exception is for those charged with offences for which the maximum penalty, if convicted, is life imprisonment. There is no choice of counsel where the applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An applicant who has choice of counsel can choose any lawyer resident in the Northwest Territories who is willing and able to take the case.

Circuit Counsel

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

LEGAL SERVICES CLINICS

Yellowknife Legal Aid Law Office

The Yellowknife Legal Aid Law Office provides two family law lawyers, two criminal law lawyers and one support staff member. The criminal law lawyers provided legal aid services in the Yellowknife area, Rae-Edzo, Whati, Gameti, Wekweeti and Luksel'ke and on occasion in other communities as needed. The family law lawyers provide services to clients across the Territory.

Beaufort Delta Legal Services Clinic

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

Family Law Clinic

The Family Law Clinic opened in October 2004 in Yellowknife with two lawyers and one support staff member. It provides services exclusively in the family law area to clients throughout the NWT.

COURT WORKER PROGRAM

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

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

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

The Federal Government provides a major financial contribution for the Court Worker Program within the Access to Justice Agreement.

PUBLIC LEGAL EDUCATION & INFORMATION

Effective April 1, 1996, the Legal Services Board assumed responsibility for Public Legal Education and Information in the Northwest Territories. Since that time, public legal information has been disseminated in a number of manners, both formally and informally.

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

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

FINANCE AND ADMINISTRATION

Personnel

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

Financial Services

Financial services are provided by the Department of Justice. Because the Board does not hold separate funds, it is not audited separately from the Department of Justice. However an annual audit is completed for compliance with the Territorial/Canada legal services agreements.

OVERVIEW OF THE LEGAL SERVICES BOARD - 2004-2005

Federal Funding Initiatives

In addition to its base funding the Board, through the Department of Justice, obtained funding under the Investment Fund to assist with meeting unmet needs for

the period 2003 to 2006. Unmet needs were identified in seven initial areas for the first year with the flexibility to shift to new areas over the life of the agreements.

The seven areas are:

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

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

Beaufort Delta Legal Services Clinic

The Legal Services Board ceased contributing to the operations of the Beaufort Delta Legal Services Society as of March 31, 2003, and all employees were moved into the public service under the direction of the Executive Director of the Legal Services Board. The Beaufort Delta Legal Services Society continued in existence but had no mandate with respect to the legal aid clinic. The Board voted, in September 2004, to cease operations once its final audit had been completed.

Family Law Clinic

The Family Law Clinic was opened in Yellowknife in October 2004 and fully staffed with two lawyers in February 2005 and has been of assistance reducing the waiting time for legal aid clients.

LEGAL AID TARIFF

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

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

STATISTICAL REPORTS FOR 2004/05

Number of Applications Received

Origin of Application	2002/03	2003/04	2004/05
Provinces & Territories	8	15	9
Beaufort Delta Region	272	312	242
Ft. Good Hope (Sahtu Region)	24	39	82
Ft. Smith (South Slave Region)	117	110	102
Hay River (South Slave Region)	175	179	226
Rae-Edzo (N. Slave/Treaty 11 Region)	93	74	133
Fort Simpson (Deh Cho Region)	60	89	9*
Yellowknife	625	704	630
Total	1374	1522	1433

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

Number of Applications Received By Case Type

Adult Criminal	626	766	696
Youth Criminal	86	62	75
Family	609	633	636
Civil	53	61	26

Number of Approved and Denied Applications By Case Type 2004/05

	<u>Approved</u>	<u>Denied</u>
Adult Criminal	618	78
Youth Criminal	71	4
Family	421	215
Civil	10	16

Number of People Assisted Under Presumed Eligibility 2004/05

Counsel	Adult	Youth	Total
Beaufort Delta – Staff Lawyers	257	107	364
Yellowknife – Staff Lawyers	290	94	384
Legal Aid Panel Lawyers	1451	403	1854
Total	1998	604	2602

COURT WORKER STATISTICS 2004/05

Legal Aid Applications Taken

	<u>Aboriginal</u>	<u>Non-Aboriginal</u>
Adult Criminal Matters:		
CDSA (drug offences)	24	3
Criminal Code	422	80
Territorial Offences	32	7
s. 810 (peace bonds)	5	0
Appeal Sentence/Conviction	5	0
Other	25	4
Total	513	94
Youth Criminal Matters:		
CDSA (drug offences)	25	15
Criminal Code	57	16
Territorial Offences	4	1
Appeal Sentence/Conviction	0	1
Other	11	0
Total	97	33
Family/Civil Matters:		
Divorce/Custody/Support	411	84
Child Welfare	22	5
Landlord/Tenant	6	0
Employment	3	0
S. 810/Restraining Orders	5	0
Other	8	1
Total	455	90
Grand Total of Applications Taken	1065	217

Court worker appearances with/for Clients

	<u>Aboriginal</u>	<u>Non-Aboriginal</u>
Adult Criminal Matters:		
Territorial Court	132	0
JP Court Territorial Offices	396	51
Criminal Code	237	24
Total	765	75
Youth Criminal Matters:		
Territorial Youth Court	57	1
JP Court	2	0
RCMP	6	0
Total	65	1
Family/Civil Matters:		
Territorial Court	4	0
Supreme Court	0	0
Board/Tribunal	0	0
Total	4	0
Grand Total of Appearances	834	76

In 2004/05 Court Workers provided **legal information and/or referrals to 8,729 aboriginal clients and 1,704 non-aboriginal clients.** These numbers include both in person and telephone inquiries.

2004/05 Financial Report

ITEM	Actual Expense	Revised Budget	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	760,209	602,000	(158,209)
Administration Travel	3,949	4,500	551
Operations & Maintenance Expenses	62,137	65,000	2,863
Total Administration	<u>826,296</u>	<u>671,500</u>	<u>(154,796)</u>
Courtworkers			
Staff Wages and Benefits	707,005	851,000	143,995
Courtworker Travel	56,543	38,000	(18,543)
Operations & Maintenance Expenses	69,858	40,000	(29,858)
Total Courtworkers	<u>833,406</u>	<u>929,000</u>	<u>95,594</u>
Board Costs			
Honoraria	30,104	30,000	(104)
Travel, Accomodation, Meals	37,933	30,000	(7,933)
Other	12,446	-	(12,446)
Total Board Costs	<u>80,483</u>	<u>60,000</u>	<u>(20,483)</u>
Public Legal Education			
Lawline	4,772	8,000	3,228
Projects	1,747	-	(1,747)
Other	650	-	(650)
Total Public Legal Education	<u>7,169</u>	<u>8,000</u>	<u>831</u>
Legal Aid Staff Lawyers			
Staff Wages & Benefits	640,604	639,000	(1,604)
Legal Aid Staff Lawyer Travel	22,247	25,000	2,753
Operations & Maintenance Expenses	69,830	75,500	5,670
Total Legal Aid Staff Lawyers	<u>732,680</u>	<u>739,500</u>	<u>6,820</u>
Legal Aid Fees & Disbursements	1,645,339	1,925,000	279,661
SUB - TOTAL	<u>4,125,373</u>	<u>4,333,000</u>	<u>207,627</u>
TOTAL	<u>4,125,373</u>	<u>4,333,000</u>	<u>207,627</u>

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT

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

Legal Aid Staff Law Office

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

Beaufort Delta Law Office

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

Yellowknife Family Law

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

Hay River Court Worker

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

Rae Court Worker

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

Fort Smith Court Worker

P.O. Box 170
Fort Smith NT X0E 0P0
Tel: (867) 872-2759
Fax: (867) 872-3602

Yellowknife Court Worker

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

Fort Simpson Court Worker

P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
Fax: (867) 695-7355

Tuktoyaktuk Court Worker

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

Fort McPherson Court Worker

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

Holman Island Court Worker

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

Inuvik Court Worker

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

Fort Good Hope Court Worker

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