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DEPARTMENT OF JUSTICE RESPONSE TO

*THE JUSTICE HOUSE:  
REPORT OF THE SPECIAL ADVISOR  
ON GENDER EQUALITY*

**Background**

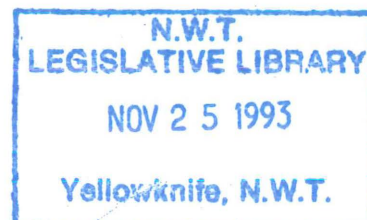
In December 1990, Katherine Peterson, Q.C. was appointed Special Advisor on Gender Equality and asked by the Minister of Justice, the Honourable Michael A. Ballantyne, to conduct the Gender Equality Review. She was given a fifteen-month mandate to undertake an independent inquiry into the administration of justice in the N.W.T. as it involves and affects women. *The Justice House: The Report of the Special Advisor on Gender Equality* was submitted to the Honourable Stephen Kakfwi, Minister of Justice, in May 1992, and tabled in the Legislative Assembly the following month.

The Special Advisor travelled widely in the course of this review. Community meetings and workshops were held in every region in the Northwest Territories. Extensive meetings were held with participants in the justice system.

Reflecting the fact that the majority of the population in the N.W.T. is aboriginal, the largest number of participants in community meetings and workshops were aboriginal women and men. The recommendations in the Report reflect the participation of community members in the meetings and workshops.

The Report contains ninety recommendations on how the justice system can be made more fair for women and more responsive to their concerns.

The title of the Report, *The Justice House*, refers to a metaphor used by the Special Advisor in her public meetings. If the justice system is conceived of as a house, it can be seen that, like any house, it is a product of its architects. In this case, the architects over the centuries were primarily white males. Women and aboriginal



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peoples were not included in the design of this house. As a result, the system often does not recognize their problems or serve their needs.

The recommendations contained in the Report are aimed at attempting to redress the imbalance caused by the exclusion of women from the development and operation of the justice system.

### **The Report: Fairness and Respect**

The underlying message of the Report is that women, however they are affected by the administration of justice, must be treated fairly and with respect.

Fairness in the context of this Report involves recognizing that men and women experience the world differently and are treated differently by the world around them. Fairness depends on understanding the differences between women and men and respecting those differences. In the same way, aboriginal and non-aboriginal peoples experience the world differently, and fairness requires that differences are recognized, understood and most importantly of all, respected. Failure to do so means inequality and unfairness in the treatment of people. Equality and fairness are fundamental values of our legal system.

Most women having contact with the justice system do so as victims of violence. Fairness towards women depends, among other things, on recognizing that women are disproportionately the victims of abuse in the home, at the hands of male family members, and that the violence is physical and sexual, as well as emotional. The reality of violence deeply affects the life of women.

### **The Response:**

This Government is committed to a justice system that is fair and equitable in its treatment of all members of the territorial population. The important role of the justice system in achieving equality is recognized, as is the reality that there have been significant shortcomings in the administration of justice in the N.W.T. Women and

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native people in particular, have not always been well-served by the justice system. Steps have been taken to address the problems; much remains to be done. This Government is committed to doing whatever it can and to working with its partners in the justice system, to redress the shortcomings and strive for the fairest possible justice system.

Our current system of administration of justice is undergoing significant changes in an attempt to achieve the goal of fairness. The changes that are being worked on as a result of recommendations in this Report, are an important part of this process of improving the justice system so that it meets the high expectations that we have of it.

This means that where the justice system is not fair or does not respond adequately to the needs of the women and men in the Northwest Territories, that steps will be taken wherever possible to correct that situation.

### **Distribution of Report**

The first step taken when the Report was received by this Government was to give it wide distribution. Copies were sent out to individuals in communities who participated in the workshops and meetings and who expressed an interest in receiving a copy. Copies were sent to interested organizations and community groups, public libraries, Arctic College campuses, participants in the justice system, women's organizations and groups working with victims.

Letters were sent to mayors and chiefs across the Northwest Territories, to shelters and to practising lawyers, indicating how the Report could be obtained. Numerous requests have been received from these groups and copies have been made available.

Numerous requests have also been received from interested individuals, organizations, government bodies and academic institutions outside the Territories.

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### **Action Plan**

The next task was to develop an action plan by grouping the recommendations according to the responsible agency, establishing a priority for their implementation, and developing a timetable.

The division of justice responsibilities between this Government, the Federal Government, the judiciary, law enforcement agencies, legal aid and so on, appears arbitrary and confusing to many people who are not involved in the justice system. For this reason, the Special Advisor did not limit herself to making recommendations about issues that fall within the strict mandate of the territorial Department of Justice, even though the review itself was established by the Minister responsible for that Department.

As a result, many of the recommendations of the Report concern areas that are not within the direct control or authority of the Minister of Justice of the N.W.T. All recommendations have been grouped according to the agency that has responsibility for the area that is the subject of the recommendation.

For example, twelve recommendations concern matters that are within the direct responsibility of the Department of Justice, Canada, either because they have responsibility for prosecutions, or because they are responsible for federally appointed judges.

Twenty-five recommendations are directed at, or directly affect, the Territorial Court or the Justice of the Peace Court. These recommendations must be dealt with in a manner that fully respects the independence of the judiciary, while at the same time ensuring that the courts are given the encouragement and the tools to reflect community values.

Other recommendations are addressed to the RCMP, the Legal Services Board, the Law Society or other agencies and organizations. A number of important recommendations involve responsibilities of other departments of the G.N.W.T. and

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will require a large degree of inter-departmental cooperation to respond.

Recommendations directed at agencies beyond the control the Department of Justice have been passed on to those agencies and the assistance and cooperation of the Department is offered to those agencies in the consideration of the recommendations.

The next step was to identify those recommendations that could be implemented in whole or in part, those that require further consideration or research and those few recommendations that would not be pursued at this point by the Department. Then the recommendations were organized according to whether they could be acted on in the short-term or required a medium or long-term engagement by the Department. Also identified were those recommendations that require consultation and cooperation with other departments and agencies.

Appendix A contains such a breakdown of the recommendations and an indication of which recommendations are addressed to which agency.

### **Recommendation by Recommendation Response**

Appendix B is a recommendation by recommendation response to *The Justice House*. It outlines new and ongoing initiatives in the area of the recommendation, explains of the intentions of the Department and gives an indication of a time-frame in which the Department intends to act. The ability of the Department to implement the recommendations of the Report must be weighed in the context of the fiscal realities that confront this Government.

For those recommendations that have been referred to other agencies and a response received, the substance of the response is indicated in the recommendation by recommendation response.

The Department intends to work with all of its partners in the justice system to ensure that all the elements of the system are working together to achieve the best system possible.

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### **Gender Equality across Canada**

The failings of the justice system with respect to women has attracted a great deal of interest across the country. Since the establishment of Gender Equality Review, a number of similar initiatives have been set up in other jurisdictions.

In addition, the Federal / Provincial / Territorial Working Group on Gender Equality in the Canadian Justice System, established in 1990, has submitted its report to the Ministers of Justice. The Report has been embraced in principle by the Ministers and they have agreed to work in their respective jurisdictions on the implementation of the 55 proposals for immediate action and the 72 longer term proposals. Though wider in scope than *The Justice House*, most of the proposals of the Working Group are consistent with the recommendations of *The Justice House*.

In July 1993, the *Final Report of the Canadian Panel on Violence Against Women* was released. The Panel was assisted in their work by a four-member Aboriginal Circle and the Report contains separate and lengthy chapters on the specific contexts of violence against Inuit women and Aboriginal women. The Report contains over 100 recommendations aimed at the legal sector. The concept of zero tolerance toward violence is central to the approach of the Panel.

In the summer of 1993, the Canadian Bar Association released the report of its Task Force on Gender Equality in the Legal Profession, chaired by former Supreme Court Justice Bertha Wilson. Their report paints a bleak portrait and make hundreds of recommendations on how to improve the situation.

In September 1993, the Department of Justice, Canada, released its response to the 215 recommendations arising out of the 1991 National Symposium on Women, Law and the Administration of Justice. The response, recognizing that "much work remains to be done to ensure that all women in Canada receive fair and equitable protection of and treatment by the justice system", includes the department's Action Plan on Gender Equality.

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In the same month, the Attorney General of British Columbia released the response of his department to the over three hundred recommendations of the Law Society of B.C. Gender Bias Committee. Law societies in Alberta, Ontario and Quebec have also set up committees on gender bias.

Although these various reports vary in scope and focus, the theme common to all of them is a recognition that women have not been well served by the justice system and that there are significant changes to be made to redress this situation. The context is very similar to that touching native peoples. There have been numerous reports done over the last few years in a number of provinces on how native peoples have been affected by the administration of justice. As with the studies on women, the reports vary in mandate and priorities, but the unanimous conclusion of all the studies is that native people have been poorly treated by the justice system. This Government is committed to assuming its full responsibilities in providing a fair system of justice that responds to the needs of all people and treats everyone with respect.

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APPENDIX A

BREAK DOWN OF *THE JUSTICE HOUSE* RECOMMENDATIONS

RECOMMENDATIONS BEING ACTED ON IN THE SHORT TERM

Recommendations - 24, 25, 28, 29, 30, 31, 37, 38, 39, 42, 65, 87, 88, 90  
59, 60, 61

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RECOMMENDATIONS BEING ACTED ON IN THE MEDIUM AND LONG-TERM

Recommendations - 6, 9, 14, 16, 27, 43, 46 - 52, 58

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RECOMMENDATIONS THAT REQUIRE CONSULTATION AND COOPERATION

Recommendations - 1, 2, 5, 6, 14, 19, 22, 51, 58, 65

- with the Department of Social Services: 41, 46 - 52, 53

- with the Department of Education: 3, 20, 21, 47, 48

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RECOMMENDATIONS THAT REQUIRE FURTHER CONSIDERATION OR RESEARCH:

Recommendations - 4, 23, 26, 32, 35, 40, 62, 63, 64

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APPENDIX A - continued

RECOMMENDATIONS PASSED ON TO OTHER ORGANIZATIONS

Justice Canada: 2, 5, 15, 33, 36, 43, 44, 54, 57, 69, 70, 72, 82, 83, 84

RCMP: 11 - 14, 34, 35, 36, 42, 51

Legal Services Board: 5, 17, 23, 24, 25

Law Society of the N.W.T.: 2, 4, 17, 18

Canadian Bar Association (N.W.T. Branch): 73

Judiciary (Territorial and Justice of the Peace Courts): 1, 2, 7 - 10, 26, 27, 56,  
65 - 68, 71, 74 - 81, 85 - 90

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RECOMMENDATIONS THAT WILL NOT BE PURSUED FOR NOW

Recommendation - 45

## APPENDIX B

### RECOMMENDATION BY RECOMMENDATION RESPONSE TO THE RECOMMENDATIONS OF THE REPORT OF GENDER EQUALITY REVIEW

#### KNOWLEDGE AND EDUCATION

**RECOMMENDATION #1:** That courts be conducted in the language appropriate to the venue of the sittings.

In order for the court to be conducted in an aboriginal language, judges, legal counsel and court personnel would have to be able to function in that language. Except at Justice of the Peace Court level, this is not a goal that can be realized by the Department in the near future. As more speakers of Aboriginal languages become involved in the administration of justice as court personnel, lawyers and eventually as judges, it will become possible to conduct the court in these languages.

At the Justice of the Peace Court level, 40% of justices of the peace are aboriginal. Many of these speak an Aboriginal language and some justices of the peace are unilingual in their Aboriginal language. In some cases court has been conducted in that language. Translation is provided for those who may not speak the language, such as the RCMP officer involved. The Administrator of the Justice of the Peace Program is actively recruiting Aboriginal community members to serve as Justices of the Peace. As the number of Aboriginal Justices of the Peace increases, the ability to conduct court in an Aboriginal language at the JP level will improve.

As communities assume a greater degree of responsibility for the administration of justice, for example through pre- or post-charge diversion in criminal matters or through Aboriginal Justice Councils as suggested in the *Family Law Review Report*, matters will increasingly be dealt with by community members in the language in which they are most comfortable.

Until such time as court at other levels than JP court can be conducted in Aboriginal languages, interpretation can be provided to enable community members to follow court proceedings.

In 1990, the *Official Languages Act* was amended to make provision for the courts to have simultaneous interpretation available for the general public. This interpretation may be provided at the discretion of the judge.

The Department is acquiring the additional equipment necessary for the courts to provide simultaneous interpretation. By the end of 1993-94, there will be sufficient

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equipment for each of the judges, at both levels of court, to use portable interpretation equipment in all sittings where it is needed, including on circuit. This equipment, called an Infoport, is made up of a transmitter and headphones, which allow an interpreter to provide simultaneous interpretation to listeners wearing the headphones. This equipment is currently being used in many court sittings so that the public may listen to the proceedings in their own language. Simultaneous interpretation is usually provided where a request is made from the community.

In 1986, the *Jury Act* was amended to allow unilingual aboriginal people to participate as jurors. These provisions are unique in Canada. In cases where there are jury members that require interpretation, this is done using consecutive translation as the interpreter must be able to control the flow of information. In these cases, the public can follow the testimony of witnesses in their own language.

Since January 1992, there has been a full-time interpreter, working out of the Iqaluit Court House, who travels with the court party in the Baffin and provides interpretation services.

Other than in the Baffin, when the court clerk is made aware that an interpreter will be needed in a particular community, the clerk contacts a trained interpreter from a list of the names of certified and non-certified interpreters situated in the community where court is being held. This list is prepared and regularly updated by the Manager of the Legal Interpreters Program. Interpreters are hired by the court on an hourly basis according to the demands of the court. One of the greatest difficulties in getting an interpreter for court is finding someone who is not related to and otherwise close to one of the parties in the matter before the court. This will presumably become less of a problem as a greater number of interpreters receive training and are available to work in each community.

Interpreters are provided with professional training through the Legal Interpreter Program in the Department of Justice which was established in 1988. Since that time the Program has offered an eight-week training program of four, two-week modules, where all relevant areas of the law and what happens in the courtroom are covered. Subjects covered include the origins of law, court procedure, criminal law, civil law, jury trials and interpreting methods. The Department pays the costs of transportation to and from the community where the course is offered, tuition, accommodation, meals and childcare costs. Courses are open to people who are able to speak two of the Official Languages of the N.W.T.

To date, 152 students have completed some portion of the eight-week training program, and 66 have completed all four modules. The Legal Interpreter Program has added a 30-hour, paid court practicum to the program, after which interpreters

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become certified. There are 37 certified graduates representing all of the Aboriginal languages except Cree and Gwich'in. An eight-week program was delivered this fall in Inuvik and two-week courses are planned for Arctic College Thebacha and Nunatta Campuses in the coming months.

As more certified interpreters become available to interpret court proceedings, the courts will be in a better position to provide interpretation whenever necessary to allow all community members to listen to the proceedings of the courtroom in their own language.

**RECOMMENDATION #2:** That the use of plain language in court proceedings be actively encouraged and be considered as required in the courtroom.

As more justices of the peace are recruited and receive training in sentencing and holding trial, a larger number of matters will be dealt with at this level of court. Justices of the peace, as members of the community in which they are presiding, will be able to deal with matters without the degree of formality that encumbers other levels of court.

Insofar as the other levels of court are concerned, implementation of this recommendation requires consultation with and the cooperation of all justice agencies: the judiciary, the Law Society, Crown prosecutors office, and so on. The recommendation has been passed on to these agencies. The Law Society has been asked for suggestions on how to encourage the use of plain language.

In the past, the Law Society has held a plain language seminar for members of the Society. In February 1992, the Executive Director of the Plain Language Institute of British Columbia conducted a one-day workshop on plain language writing in Yellowknife. The workshop was well attended, and materials from the workshop were circulated to lawyers outside of Yellowknife.

**RECOMMENDATION #3:** That the curriculum of elementary and high schools in the Northwest Territories be reviewed with a view to incorporating sections on the administration of justice. In particular, areas of curriculum development should include:

- an historical overview of the development of our present court structure;
- the structure of courts and the variety of jurisdiction exercised by different levels;
- the role of persons involved directly in the administration of justice, including the judiciary, crown counsel, defence counsel, counsel in civil disputes and

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**administrative positions such as clerks, court reporters;  
-a comparison of other means of dispute resolution and problem solving that are  
used in different cultures.**

The Department has entered into discussions with the Department of Education on this matter. We have indicated that we would be prepared to assist the Department of Education in the development of materials.

At present, students in grades 10 and 11 are taught about the structure and function of the Canadian government, the judicial function of the Supreme Court of Canada, individual and collective rights, and so on.

The Department of Education has indicated that they would eventually like to replace the existing Alberta Social Studies Curriculum currently being used at the secondary senior level with a N.W.T. curriculum. At that point, specifics about the administration of justice in the North could be added.

The new Elementary Social Studies Curriculum includes information about the structure of courts in the N.W.T., but support materials for teachers need to be developed. These materials are selected or developed at the board level in order to ensure that materials used in the classroom are culturally relevant and community based.

The Status of Women Council has suggested that the curriculum should also include the role of the police and of corrections services, and an overview of civil and criminal law.

**RECOMMENDATION #4: That Arctic PLEI receive increased funding from both levels of government as well as bodies such as the Law Society of the Northwest Territories so that it may provide appropriate and accessible public legal education.**

This recommendation has been passed on to the Federal government and to the Law Society. The Department recognizes the great need for appropriate and accessible public legal education in the N.W.T. The Department will have to look at the best use of scarce resources.

Recently, the Department provided funding to Arctic PLEI for the production of a bilingual Inuktitut-French comic book dealing with various justice issues. There are plans to produce the comic book in English and a Dene language.

The Department is interested in looking at alternative methods of delivery of public

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legal education which would be of benefit to communities. For example, the Justice of the Peace Program has aired a number of interactive distance education programs on TVNC. The programs are designed for the training of Justices of the Peace, but all interested community members were invited and encouraged to watch the programs, to participate in the phone-in segments of the show and to ask questions of resource people who were available on-air. Taped videos are available on loan from the Justice of the Peace Program.

The Justice of the Peace Administrator also holds community meetings at which justice issues are discussed and information exchanged.

Regional justice forums, such as the one held in the fall of 1992 in the Deh Cho and the one that took place in the Baffin region in March, 1993, are another innovative way of raising awareness about justice issues.

Public legal education is also disseminated by Community Justice Specialists working for the Department of Justice and located in regions across the N.W.T. The Specialists have a mandate to encourage communities to assume responsibilities with respect to the administration of justice. One of the jobs of the Specialists is to provide information about the current justice system to Community Justice Committee members and other interested persons in the community.

**RECOMMENDATION #5:** That funding arrangements which currently exist between the Government of the Northwest Territories and the Federal Government be reviewed such that shared funding for the operation of legal aid schemes permit regional clinics to undertake public legal education and that public legal education be a mandated activity of regional clinics.

The Department is interested in pursuing this recommendation with the Federal government and we have brought this to their attention. The regional clinics are uniquely well placed to be involved in public legal education. This recommendation will be looked at in the larger context of the legal aid delivery system.

**RECOMMENDATION #6:** That interagency communication and cooperation, both at the policy and community level be developed and encouraged by the Ministers responsible for the Departments of Social Services, Health and Justice.

The Department recognizes that there is a tendency for each Government department to act independently of the other agencies of Government, to solve problems according to its own priorities and in its own way. However, most problems do not

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follow the same dividing lines that are used to separate the responsibilities of one department from the responsibilities of another. The Department recognizes the need to encourage a cooperative approach among the various departments, and steps are being taken to develop such an approach.

At the policy level, for example, in response to a recommendation of the Standing Committee on Finance in their review of the 1992-93 Main Estimates, senior officials of each of these departments, as well as the Department of Education, the RCMP, Justice Canada and the Special Advisor to the Minister responsible for the Status of Women, have cooperated in the development of a document addressing violence in the N.W.T.

At a community level, employees of the Departments of Health and Social Services, as well as members of the RCMP have participated in interagency training workshops in communities across the N.W.T. The child sexual abuse workshops were organized by the Department of Social Services, and were considered by all participants to be a very successful method of training.

Interagency training initiatives in the area of family violence are discussed under recommendation #14.

Now that the Department of Justice has community justice positions in the regions (obtained through the Corrections Transfer), the Department is able to participate at the community level in interagency activities. The mandate of the Community Justice Specialists is to encourage the community to assume a greater degree of responsibility with respect to the administration of justice. Fulfilment of this mandate necessarily involves an interagency and cooperative approach.

**RECOMMENDATION #7: That gender fairness and awareness training be mandatory for all sitting members of the judiciary.**

This recommendation has been passed on to both levels of the judiciary.

The recently released report of the Canadian Bar Association Task Force on Gender Equality in the Legal Profession, chaired by Bertha Wilson, recommended that sensitivity courses on gender and racial bias be compulsory for new and sitting judges.

The organizations responsible for judicial education for the two levels of the judiciary in the N.W.T. have in the past provided courses and materials in gender awareness. The Special Advisor acknowledges that the Canadian judiciary has already taken significant steps forward in the area of training with respect to gender fairness and

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cultural sensitivity in the last few years.

The National Judicial Institute in Ottawa is responsible for the continuing education of judges appointed by the Federal Government. This includes judges on the Supreme Court of the N.W.T. Until recently, the Executive Director of the Institute was a judge of our Supreme Court. Since 1990, the Institute has offered an excellent gender equality program which has been attended by judges of our Supreme Court. The Institute has also prepared courses on race relations and family violence.

All new judges, whether federally appointed or otherwise, receive resource materials on gender equality provided by the National Judicial Institute.

The Department of Justice Canada indicates that consideration is being given to changes in the training provided for new judges, to enable judges to receive a period of intensive orientation before they assume their judicial responsibilities. A revised program could include programs on gender equality issues. The N.W.T. Judges Association has recommended that the New Judges Program be changed to include these areas.

Judicial education for judges of the Territorial Court is provided by the Western Judicial Education Centre. From 1988 to 1991, the WJEC offered a three-year series of annual seminar-workshops focused on the issues of gender and native culture to judges from across western and northern Canada. The last of these workshops took place in Yellowknife in June 1991. The workshop was attended by all of the judges of the Territorial Court.

An evaluation was done of the workshops by Dr. Norma Wikler, who is an expert in judicial education on gender issues with more than ten years experience in the field. She considers the "Gender Equality in Judicial Decision-Making" program offered in Yellowknife to be "the most in-depth and sophisticated treatment on this subject that I have observed in either the United States or Canada".

In the recently released report of the Law Society of B.C., chaired by the Honourable Ted Hughes and entitled *Gender Equality in the Justice System*, it is recommended that the program presented by the WJEC in Yellowknife be retained as the basic model for introducing judges to gender equality issues.



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**RECOMMENDATION #8:** That future education programs offered to the judiciary address the questions of gender fairness and cultural awareness together such that difficult questions of the impact of each area on the other are fully canvassed.

This recommendation has been passed on to the judiciary.

The concern behind this recommendation is that if gender awareness issues and native justice issues are dealt with separately in the context of judicial education, that members of the judiciary will not have an opportunity to explore the need to reconcile the desire for native justice with the need to protect the safety of women in contemporary society. The Status of Women Council has expressed strong support for this recommendation. The Department is aware of the need not to artificially separate these issues.

**RECOMMENDATION #9:** That training materials addressing issues of gender fairness be developed for justices of the peace, and that such materials be considered an integral part of training received by justices of the peace.

This recommendation has been passed on to the Chief Judge of the Territorial Court who is responsible for the Justices of the Peace Program. The Administrator of the Program has expressed an interest in working with the Department to develop appropriate materials.

One of the Definitive Objectives of the Department of Justice for 1993-94 is to develop guidelines for the training of justice personnel in the area of gender equality. The Department is going to develop a training course on gender questions for its employees. There will be a large degree of overlap with materials that would be appropriate for justices of the peace, and the development of this material will be of assistance to the Justice of the Peace Administrator.

**RECOMMENDATION #10:** That justices of the peace be encouraged to participate in any relevant interagency training offered in their community.

This recommendation has been passed on to the Chief Judge of the Territorial Court who is responsible for the Justices of the Peace Program.

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**RECOMMENDATION #11:** That the RCMP pursue affirmative action policies to encourage the recruitment of women.

This recommendation was relayed to the Commissioner of the RCMP, asking that the RCMP advise us of the position of the RCMP with respect to this recommendation, and pointing out that as a matter of general principle, it is appropriate that the RCMP be representative of the people that it serves.

The Commissioner of the RCMP has indicated that the RCMP fully supports this recommendation. Women are a designated target group for recruitment within the RCMP. The current target for the recruitment of women is 30%. Specific targets are set annually for each Division, which is then responsible for recruiting and for achieving targets set for under-represented groups. Recruitment materials aimed at women have been developed by the RCMP.

According to information provided by the Solicitor General of Canada, the RCMP has recently made significant changes to their recruiting procedures. Under the new procedures, applicants achieving a passing grade on a recruitment test have their names put on a group list according to how well they perform on the test. Candidates are then selected by merit by group (visible minorities, females, Aboriginal persons, caucasian males).

The recommendation of the Special Advisor, as well as the suggestion made by Mr. Ningark during the review of the Department's Main Estimates in September 1992, that there should be more women police officers in the communities, were also passed on to the Commanding Officer of "G" Division of the RCMP.

Chief Superintendent Wilson has indicated that the current hiring priorities of the RCMP are visible minorities and aboriginal persons of either sex and caucasian females. In "G" Division currently there are 15 women members out of approximately 210 occupied positions. Women are therefore slightly over 7% of the strength of the Division. This figure is close to the national figure.

**RECOMMENDATION #12:** That specialized training be offered at the time of recruitment respecting responses to and investigation of cases of spousal and sexual assault.

This recommendation has been relayed to the Commissioner of the RCMP. The Commissioner has indicated that the Basic Recruit Training program which is undergone by all new recruits, provides trainees with 37 hours of training dealing specifically with crisis intervention, including responding to and investigation of

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spousal and sexual assaults.

The Basic Recruit training program was completely reviewed in relation to the participation of the RCMP in the federal Family Violence Initiative (1991-92), and changes are planned to improve the training in this area. The changes will ensure that issues of ethics, professionalism, and cultural and gender sensitivity are all addressed in basic training.

Ongoing training is received by members throughout their careers.

The RCMP is an active participant of the working group for the National Police Prevention of Family Violence Training Sub-Committee which is conducting an 18-month study of training needs with respect to family violence against women, children, seniors and the disabled. Training agencies and front-line workers from all levels of government and non-government organizations are collaborating in this study.

**RECOMMENDATION #13: That the RCMP make greater efforts to inform the public of the existence of the RCMP Complaints Commission and how to go about making a complaint.**

This recommendation has been conveyed to the Commissioner of the RCMP and the Department will be having discussions with the RCMP on the complaint process.

**RECOMMENDATION #14: That interagency training in the area of gender fairness and the dynamics of family violence be offered at the community level to participants from various fields. RCMP officers, health workers, social workers, justice of the peace and other agencies should participate in the training. The costs of training should be shared between the two levels of government.**

This recommendation has been passed on to "G" Division of the RCMP, to the other departments of the Government and to the administration of the Justice of the Peace Program. The Department will be working with all involved agencies and with the Status of Women Council in the development of training programs. In particular, the Department of Social Services has developed expertise in the area of family violence training.

The Commissioner of the RCMP has indicated the full support of the RCMP for interagency training. Divisions are actively encouraged and supported in their promotion of regional interagency training in the area of family violence. Funding for

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this purpose from the federal Family Violence Initiative has been made available through the Solicitor General of Canada.

"G" Division of the RCMP has indicated their continued support for training offered on an interagency basis. In the past year the RCMP participated in an interagency pilot project on family violence in Yellowknife, a regional interagency workshop in Inuvik and a workshop in Iqaluit.

In March 1993, an interagency workshop was held in Rankin Inlet. It brought together representatives from agencies working in the family violence area from all the communities in the Keewatin. Funding provided to the RCMP by the Solicitor General was matched by departments of the G.N.W.T. and the planning and organization of the workshop was a cooperative effort of all the parties. By all accounts the workshop was very successful in its primary aim of facilitating the development of cooperation between agencies working in each community. A similar workshop focusing on interagency cooperation is planned for the Baffin region in the coming year.

The RCMP has also played an active role in the Interdisciplinary Project on Domestic Violence involving professional associations and organizations from across the country, including social workers, nurses, police, teachers and the Canadian Bar Association. The result of this cooperation, which is a resource kit called "The Mountain and Beyond", is now available as a tool to assist community organizations and agencies in working together.

**RECOMMENDATION #15: That Crown attorneys have access to training on gender issues including the dynamics of family violence and sexual assaults.**

This recommendation has been transmitted to the Regional office of the Crown prosecutors and to the Federal Minister of Justice who is responsible for prosecutions in the N.W.T., pointing out to the Minister that wife abuse and sexual assaults make up a significant portion of both the Territorial and Supreme Court dockets and that Crown prosecutors have a particular responsibility to equip themselves with a thorough understanding of issues surrounding gender fairness in order to deal appropriately with these cases. The previous Federal Minister of Justice indicated his support for the designation of special resource prosecutors in Northern offices to advise and assist on the conduct and handling of these cases.

The need to be sensitive to victims' needs is emphasized in the Spousal Assault Prosecution Policy and will also be emphasized in the policy concerning victims that Justice Canada is currently developing. These policies apply to all Federal

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prosecutors.

Prosecutors from the Yellowknife office participated last winter in an on-the-land cross-cultural course when they lived for a week in the bush with Dene families outside a Dogrib community. The course included the topic of gender bias and Dene women sensitized prosecutors to the situation of women in the community. Justice Canada hopes to conduct similar training in the future, hopefully in the Eastern Arctic.

**RECOMMENDATION #16:** That all individuals who are employed in connection with the administration of justice, as legal counsel, legislative drafters, legal aid administrators, courtworkers and interpreters be required to take programs respecting the issue of gender bias and that such programs be offered on a regular basis by the Department of Justice.

As discussed with respect to Recommendation #9, one of the Definitive Objectives of the Department of Justice for 1993-94 is to develop guidelines for training of justice personnel in the area of gender equality. Consultation will be required with all the parties. The Department is going to develop a training course on gender questions for its employees. This course will be delivered to employees and arrangements will be made to ensure that it is available for persons employed in related agencies who are not direct employees of the Department.

**RECOMMENDATION #17:** That all practising lawyers who wish to undertake legal aid work and be eligible to be listed on legal aid panels for that purpose be required to undergo continuing education in the area of gender bias and cultural awareness in order to commence or continue that practice.

This recommendation has been passed on to the Executive Director of the Legal Services Board and to the President of the Law Society. The Department will be pursuing the matter with them.

**RECOMMENDATION #18:** That the Law Society of the Northwest Territories be responsible for the development and delivery of programs respecting gender sensitivity and that all members of the profession be encouraged to participate.

This recommendation has been passed on to the Law Society of the N.W.T. The Department will be following up on it.

The Canadian Bar Association Task Force recognizes the need for such training and

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recommends that the CBA offer continuing education programs on issues of gender bias in the substantive law and procedure.

**RECOMMENDATION #19:** That the Status of Women Council for the Northwest Territories undertake a major public awareness campaign directed at providing information concerning the position of women, the perpetuation of stereotypes and the limitations imposed on women as a result of a lack of understanding or refusal to understand the issue of gender bias.

The Status of Women Council supports this recommendation and has indicated that such a campaign is already in the long-range plans of the Council. Such a campaign would examine the position and role of women within all the cultures of the N.W.T.

**RECOMMENDATION #20:** That education materials that continue to portray stereotypes of women be removed from school curricula.

This recommendation was forwarded to the Department of Education.

One of the goals established in the Government's Five Year Plan of Action for Equality for Women (1985-89), was to review textbooks for sex stereotypes. Guidelines were developed and an evaluation of curriculum and program materials was completed in March 1987. Procedures for curriculum development have been formalized and direction is now provided by a Ministerial Curriculum Advisory Committee. Subject advisory committees are responsible for screening sex stereotypes in new curriculums being developed.

The K-9 School Health Curriculum was developed by the Department of Education in consultation with the Departments of Health and Social Services. It specifically addresses the issue of gender equality through discussions on gender role stereotyping, tasks within the family structure, opportunities in career and life choices.

Education materials for curricula are developed at the board level to ensure that materials are culturally relevant.

**RECOMMENDATION #21:** That the Department of Education review available materials directed at deterring violent conduct and that appropriate materials be developed for delivery in the Northwest Territories.

The N.W.T. School Health Curriculum, developed by the Department of Education in

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consultation with the Departments of Health and Social Services addresses the issue of violent conduct in the family context through discussions on types of family violence, factors leading to family violence and methods of coping with family violence. The curriculum has been in place since 1987. Individual boards are responsible for selection of materials to support the curriculum.

The Department of Education, Culture and Employment, in cooperation with the Departments of Justice, Health and Social Services, is currently developing a handbook on child abuse for school personnel. The handbook will address recognizing and reporting abuse, as well as preparing for court. Once completed, the handbook will be made available in all N.W.T. schools.

**RECOMMENDATION #22:** That a major public awareness campaign be launched by the G.N.W.T. directed at changing attitudes towards violence against women. This campaign must be adequately resourced. The campaign must use primarily not written materials, however funding for existing resources in this area such as the regular publication of the Spousal Assault Network Newsletter should be assured.

The Status of Women Council has indicated that a great deal of work in this area has already been done by northern groups. For example, the Council has recently commissioned five television spots on wife abuse.

The Status of Women Council has prepared a Family Violence Prevention Kit entitled "Break the Silence... End the Violence". The kit, which has received wide distribution, provides information for victims and abusers about family violence.

The Department will be consulting with other departments and with women's and community organizations, to determine what needs to be done.

### **ACCESS TO JUSTICE / ALLOCATION OF RESOURCES**

**RECOMMENDATION #23:** That sufficient resources be allocated to clinics to permit them to place greater emphasis on obtaining civil relief on behalf of clinic clients. In some cases this may require contracting the services of a second lawyer whose responsibility would be civil matters.

This recommendation has been passed on to the Legal Services Board. At the same time, it will require further assessment within the Department. The overall cost of legal aid services has increased significantly over the last few years. The Standing

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Committee on Public Accounts in their review of the 1991 accounts recommended that the Government develop criteria to determine who can receive legal aid and under what conditions. The *Strength at Two Levels Report* recommends that legal aid not be available for non-matrimonial civil matters. The question of what kinds of civil matters legal aid coverage may be provided for will be reviewed in detail by the Department in consultation with the Legal Services Board and others.

**RECOMMENDATION #24:** That the Legal Services Board approve or designate a specific category of eligibility respecting applications by persons threatened with or apprehending violence.

The Legal Services Board has agreed to receive applications in cases of restraining order and violence intervention applications.

**RECOMMENDATION #25:** That the Legal Services Board take steps to better inform the public of procedures involved in applying for financial assistance and the mechanisms available for the review of a decision respecting qualification.

This recommendation has been passed on to the Legal Services Board.

The Standing Committee on Public Accounts in their review of the 1991 accounts recommended that a simply worded code of rights be drawn up and translated in all official languages. The Legal Services Board is developing a pamphlet informing people of what they are entitled to, and what their responsibilities are with respect to legal aid. Procedures for applying for legal aid and for an appeal of a decision will be detailed in the pamphlet.

There is already a pamphlet on Legal Aid available in Inuktitut, French and English available from the Arctic Public Legal Education and Information Society.

In addition, the LawLine operates from 6:00 pm to 8:30 pm (MST) on Tuesdays and Thursdays. It is a 1-800 number which people may call to ask for free legal advice. People can call to ask information about legal aid. The LawLine is advertised in the TV Guide, posters, newspapers, in the Yellow Pages and in the white pages of the telephone directory for each community.



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**RECOMMENDATION #26:** That the *Domestic Relations Act* be amended to grant to justices of the peace jurisdiction to hear cases involving custody of and maintenance for children.

This recommendation has been passed on to the Chief Judge of the Territorial Court who is responsible for the Justice of the Peace Program. This recommendation will be considered in the context of the recommendations of the Family Law Review Report which was received by the Minister of Justice in October 1992. (See Recommendation #30.)

**RECOMMENDATION #27:** That the coordinator of the Justice of the Peace training program develop training materials respecting the hearing of civil law matters, with emphasis in the area of family law, and that such training be offered to justices of the peace coincidentally with training in the criminal law sphere.

Currently, the Administrator is preparing a training package on advance trial work that will include materials on child welfare hearings. This training will be delivered to all justices of the peace at the presiding level.

The recommendation for training for justices of the peace in other family law matters will be considered in the context of the recommendations of the Family Law Review Report. (See Recommendation #30.)

**RECOMMENDATION #28:** That the *Maintenance Act* and the *Domestic Relations Act* be amended to provide the option of ordering non-monetary support.

This recommendation was well received by the Status of Women Council. Proposed bills to provide this option were tabled in March 1993 and considered by the Standing Committee on Legislation in May. The report of the Standing Committee is expected in the November session of the Legislative Assembly.

**RECOMMENDATION #29:** That the *Maintenance Act* be amended to enable common-law spouses to obtain spousal support.

The Status of Women Council considers this recommendation to be a very positive step. In the Five Year Plan of Action on Equality for Women (1985-89), the Government indicated its intention to study the legal practice in other jurisdictions related to the recognition of common law relationships and to recommend changes to laws to eliminate any discrimination in this area. This change is long overdue. A

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proposed bill to extend this remedy to common-law spouses was tabled in March 1993 and considered by the Standing Committee on Legislation in May. The report of the Standing Committee is expected in the November session of the Legislative Assembly.

**RECOMMENDATION #30:** That the G.N.W.T. take such steps or allocate such resources as may be necessary to complete the review of family law in the N.W.T. and that the passage of legislation arising from recommendations be given priority.

The Family Law Review Report was received by the Ministers of Justice and Social Services in September 1992 and tabled in the Legislative Assembly. The Report has been intensively studied by the Departments of Justice and Social Services and a preliminary analysis completed.

**RECOMMENDATION #31:** That the *Limitations of Actions Act* be amended by removing the limitation period for civil actions arising out of sexual assaults.

This recommendation was very favourably received by the Status of Women Council. A legislative amendment is being developed.

**RECOMMENDATION #32:** That appropriate measures must be taken to ensure that the criminal injuries compensation program is adequately publicized.

Steps are taken to make people aware of this program. Police are requested to hand out cards containing information about the program to victims of crime. The Criminal Injuries Compensation Officer recently conducted a workshop in Inuvik on the program that was attended by victims advocates, the RCMP and people interested in community justice issues.

The Officer also participated, with representatives from all involved agencies and victims groups, in a sexual assault symposium held in Yellowknife.

In the past, workshops have also been given to court workers and to shelter workers and a video tape has been prepared.

The Federal Government announced that as of April 1, 1992, they would no longer cost-share this program. The G.N.W.T. is currently evaluating its options with respect to this program, including a possible restructuring of the program. Decisions about further publicizing this program will depend on this evaluation.

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**RECOMMENDATION #33:** That the federal government immediately reinstate funding for criminal injuries compensation and for other forms of victims assistance.

This recommendation has been conveyed to the Federal Minister of Justice. Although the Federal Government seems reluctant to reinstate this funding, it was pointed out in the letter to the Federal Minister that, because the Department of Justice, Canada maintains responsibility for criminal prosecutions in the N.W.T., they also bear a responsibility to assist victims through the court process. The N.W.T. Department of Justice will be pursuing this matter with them.

The Federal Department of Justice has established two victim/witness assistance positions (one in Yellowknife and one in Iqaluit) in the Crown prosecutors office. It is hoped that this program will be extended to the Inuvik office of the Crown prosecutor.

**RECOMMENDATION #34:** That policy directives be developed within the Royal Canadian Mounted Police requiring institution of charges under section 127 of the *Criminal Code* in instances where there are reasonable and probable grounds to believe that the terms of a restraining order have been violated.

This recommendation has been passed on to the Commissioner of the RCMP. We will be consulting with them on it.

The Department is aware that there are difficulties surrounding restraining orders that make them less than a fully effective remedy. These problems are not limited to the N.W.T. Justice Canada is currently conducting research into why peace bonds and restraining orders are not effective and the Department will study the results of this research once it is completed.

**RECOMMENDATION #35:** That an appropriate protocol between the courts and the Royal Canadian Mounted Police be established which will enable the police to be accurately informed of existing custody orders and provide them with the capacity to enforce such orders.

This recommendation has been forwarded to the Commissioner of the RCMP. The RCMP agrees that protocols would improve cooperation between the parties, and a mechanism that would allow for the validity of custody orders to be checked rapidly would improve services to the community.

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The RCMP indicate that current policy instructs members to assist in the execution of civil court orders and to assist in the location of an abducted child according to specific policy guidelines.

The Department will discuss with the RCMP and the courts the implementation of this recommendation.

**RECOMMENDATION #36:** That policy directives be developed within the Royal Canadian Mounted Police requiring the institution of appropriate abduction or kidnapping charges when reasonable and probable grounds exist respecting child abduction.

This recommendation has been passed on to the RCMP and to the Regional Office of the Department of Justice, Canada.

Current policy directives of the RCMP require the prompt and thorough investigation of all reports of child abduction including consideration of laying charges under sections 282 or 283 of the *Criminal Code* where appropriate.

The Department will be following up with the RCMP on this matter.

One of the difficulties associated with the enforcement of custody orders is the imprecise and sometimes unenforceable nature of orders prepared by legal counsel.

**RECOMMENDATION #37:** That the Maintenance Enforcement Office be better resourced by the allocation of permanent full time person years.

The Maintenance Enforcement Program is now staffed with a full-time Administrator and a full-time officer, both of which are indeterminate positions. As well, there is currently a casual secretary working in the Office.

**RECOMMENDATION #38:** That the Maintenance Enforcement Officer be provided with access to legal advice either through the GNWT Department of Justice or through a contracted retainer for legal services.

The Maintenance Enforcement Program currently has access to legal advice provided by the Legal Division of the Department. This arrangement is working well.

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**RECOMMENDATION #39:** That the availability of maintenance and enforcement remedies be better publicised by the production of television advertisements and pamphlets and posters translated into aboriginal languages.

A 1991 pamphlet on Spousal and Child Support produced by the Status of Women Council, the Maintenance Enforcement Program and Arctic PLEI, provides relevant information on the program including who to contact for information. This pamphlet is now available English, Inuktitut and French and is being translated on tape in the Dene languages.

The Program is planning to undertake initiatives over the next three years to raise the profile of the Program in communities across the N.W.T. Funding for these initiatives will come primarily from the federal Family Support Program.

**RECOMMENDATION #40:** That regulations pursuant to the *Corrections Act* be enacted to provide for the mandatory deduction of support payments from funds earned by inmates for paid labour or related activities. Such payments should not require the prior existence of a court order for support as most women will not seek support orders in these circumstances.

The Department is currently considering this recommendation.

Money earned by inmates is used to pay court-ordered fines and restitution. Family support is considered the next priority for the use of any money earned. There are few inmates who earn funds which are excess to their own needs while incarcerated. The small group of inmates who earn significant amounts of money from carving, only receive the money while at the Correctional Centre if the carvings are sold from the Correctional Centre.

It should be noted that, if a woman is receiving social assistance payments, the Department of Social Services is required to debit any money received from an inmate from the amount of the assistance.

**RECOMMENDATION #41:** That the *Social Assistance Act* be amended to permit the Director of Social Assistance to apply to the court for child support or spousal support payments from non-custodial parents in instances where financial assistance has been provided by the Department to an applicant.

The Department of Social Services has indicated that such an amendment would bring its jurisdiction in line with the provinces. There are also potential savings to social

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assistance costs as such a measure would ensure that the greatest number of non-custodial parents as possible assume their responsibility to provide financial support. However, additional resources would be required by the Department of Social Services to provide the level of services to custodial parents that is provided in other jurisdictions. In addition, such a service would probably increase the workload for the Maintenance Enforcement Program as well. Further discussions with the Department of Social Services will be undertaken by the Department.

In the Report, the Special Advisor notes that custodial parents applying for social assistance will be encouraged to seek financial support from their spouses, but suggests that this requirement should not exist in the case of abusive relationships. It is indeed the policy of the Department to refer clients to Legal Aid offices for legal assistance in making an application for support. However, this requirement is set aside in cases where the custodial parent can show that they have been victims of abuse by means of evidence such as medical reports or involvement with the police or counsellors.

**RECOMMENDATION #42: That the police charging policy with respect to spousal assaults continue to be rigorously enforced.**

The Status of Women Council has indicated strong support for this policy that they consider to be very important because of the strong message it sends out that spousal assault will not be tolerated.

This recommendation was passed on to the head of Criminal Operations for "G" Division of the RCMP with encouragement to reiterate to members the importance of this policy in confronting spousal assault.

The Superintendent has indicated that the importance of this policy is emphasized at the level of the Officers Commanding the four Sub-divisions, and at the Detachment Commanders level. The RCMP assures the Department that they will continue to ensure that this matter is given the necessary attention to promote the appropriate attitude by members.

**RECOMMENDATION #43: That counselling and support services be provided to victims to permit them to make informed choices about the prosecution of domestic violence offenses.**

For the purpose of acting on this recommendation, and recommendations 46 through 52 concerning the provision of training for victims assistance and counselling, the

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Department intends to engage in extensive consultation with other departments and agencies, in particular with the Department of Social Services, as well as with communities and women's groups. Work in this area will be tied in to the development of a strategy against violence recommended by the Standing Committee on Finance. The Department of Justice is taking a lead role in the development of the strategy.

The Department of Justice Canada has developed a policy manual designed to guide federal Crown prosecutors. In spousal assault cases, prosecutors are to meet with the victim and explain the prosecution policy, the role of the Crown, expectations of witnesses, bail conditions imposed on the accused, and to refer the victim to available victim services.

**RECOMMENDATION #44:** That Crown prosecutors abide by expressed wishes of the complainant unless there are compelling reasons to proceed with the prosecution.

It is important to note that the Special Advisor emphasizes that the decision of whether to proceed with a prosecution cannot and must not be the responsibility of the victim unless that victim has access to the necessary support and counselling services so that an informed decision can be made. Two victim/witness assistance workers operating out of the Crown prosecutors' offices, (one in Yellowknife, and one in Iqaluit), represent a significant step in the provision of services to victims. The Department is moving in the direction of funding community-based victims assistance programs. (See the response to recommendations #46 - 52.)

The Status of Women Council also insists that this recommendation not be acted on in isolation. It must be considered in the context of a well-supported victim and of appropriate alternatives for the sentencing of offenders.

The Department of Justice Canada indicates that the spousal assault prosecution policy is a national one that has been agreed to by the Federal Government and all the provinces and territories. The federal Attorney General is not willing to change the policy in one jurisdiction as that would result in inconsistent treatment of cases across the country. Although there is a recognition of the hardship imposed in individual circumstances, there is consensus across the country generally on the well-founded nature and the effectiveness of this policy if consistently implemented.

The new federal policy on spousal assault prosecutions recognizes that victims may be reluctant to testify for a number of complex reasons. The policy provides that Crown counsel should not resort to contempt of court proceedings unless there are rare and compelling reasons and only with the prior approval of the Regional Director

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who is to consult with the Assistant Deputy Minister before charges are laid.

The Department of Justice Canada is currently preparing a policy on victims of crime that will emphasize the need to be sensitive to victims needs.

**RECOMMENDATION #45:** That the Federal government allocate more Crown attorney positions to the Northwest Territories.

Since this recommendation was formulated by the Special Advisor, there has been an increase of three prosecutors as well as two victim/witness assistants positions in the Regional Office of Justice Canada. The Department will not be pursuing this recommendation with the Federal government.

**RECOMMENDATION #46:** That a training program be instituted through the joint cooperation of the Department of Justice and the Department of Social Services to offer counselling and support services to victims;

**RECOMMENDATION #47:** That training be offered through Arctic College and existing programs of adult education respecting Victim's Assistance;

**RECOMMENDATION #48:** That training for victims' assistance and counselling be community based and culturally relevant;

**RECOMMENDATION #49:** That counselling services for both the victim and the abuser be available at the community level;

**RECOMMENDATION #50:** That paid positions for victim's assistants be available at the community level, and that these positions be funded in part from the victims of crime surcharge;

**RECOMMENDATION #51:** That protocol be developed between the RCMP, Department of Social Services, local resources such as shelters and Victims Assistants respecting contact with and support for victims at the earliest possible stage;

**RECOMMENDATION #52:** That communities be given the opportunity to develop appropriate mandates for victims' assistance as the type and method of support will vary and should be flexible.

Determining an appropriate course for the Government to pursue, within the context of fiscal restraint, for the development of services to both victims and offenders, at the community level, with a community-based and culturally-relevant training program, requires extensive consultation with departments, agencies, communities and women's groups. This will be conducted in the context of the overall interdepartmental approach to developing a pro-active strategy to deal with violence as recommended by the Standing Committee on Finance. Action plans must be long-term and involve all relevant agencies and departments.



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The Department has invited the Department of Justice, Canada to enter into discussions about the possibility of joint funding of projects in the area of victims assistance.

Initial discussions have been held with officials from the Department of Social Services and further discussions will be held soon.

With respect to paying for victims' assistants positions out of money collected through the victims of crime surcharge, all surcharge revenues go into the Victims of Crime Fund and the money is disbursed by the Minister of Justice, based on the recommendations of the Victims Assistance Committee, to community groups that apply. Although the N.W.T. has a better record than most jurisdictions in terms of the imposition of the surcharge both for territorial and federal offences, the fund is unlikely ever to be able to provide funding for very many victims' assistance positions. For 1992-93, the Committee recommended and the Minister approved approximately \$120,000 of funding from the Victims Assistance Fund to 55 recipients for victim-related activities in training, service delivery and public information and awareness.

The Department of Justice provides funding for community-based victims assistance groups providing services in four regional centres. The victims groups arose out of the cooperation of a broad range of groups working in and around the justice system. In all four cases, the groups provide services through a network of volunteers. Training and coordination are provided by a full or part-time victims services coordinator. The mandate of the service is determined by a board of community members who also provide direction for the program.

Community groups provide services, not only to victims from the community in which they are located, but also to victims coming from surrounding smaller communities. In many cases victims come to the larger centres to have access to services such as a shelter. It is hoped to expand the support provided to community victims support groups in other communities.

Community Justice Specialists have a mandate to assist communities in the development of services both for victims and offenders.

With respect to counselling services for abusers, the need for such services has been expressed by all interests. Community Justice Specialists will play an important role in facilitating the development of services for offenders at a community level if that is the direction that a particular community wants to take.

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**COURT PROCESS**

**RECOMMENDATION #53:** That the Government of the Northwest Territories provide increased levels of financial support to the Department of Social Services Family Violence Program.

The Government needs to discuss the best use of scarce resources. This will be examined with the Department of Social Services and should be considered in the development of the strategy to deal with violence which the Standing Committee on Finance has recommended be led by the Department of Justice.

The Status of Women Council has indicated support for this recommendation.

The budget of the Family Violence Prevention Program within the Department of Social Services has grown steadily since its inception. It has increased from approximately \$1,386,000 in 1990-91 to \$2,013,000 in 1993-94. The demand for increased funding remains great.

**RECOMMENDATION #54:** That the *Criminal Code* provisions dealing with the power to release or detain accused persons be amended to provide to the police the authority to impose conditions on release.

Discussion has commenced on the possibility of such an amendment at the federal-provincial-territorial officials level. The recommendation has been passed on to the federal Minister of Justice.

The *Criminal Code* amendment would have to be broad enough to enable the RCMP in the NWT to impose conditions which would be relevant to this jurisdiction. If the Federal Government proceeds, this will be raised with federal officials during the consultation process.

**RECOMMENDATION #55:** That release provisions requiring the accused to leave the community prior to trial or appearance be imposed and tested in the courts.

If the amendment to the *Criminal Code* that is recommended in recommendation #54 is made, then this recommendation will be forwarded to the RCMP. The Department will then encourage the RCMP to impose the condition set out in these recommendations in appropriate circumstances, after consultation with community justice groups, where appropriate.

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**RECOMMENDATION #56:** That, in appropriate circumstances, the court be closed to the public.

This recommendation has been passed on to the judiciary. Section 486 of the *Criminal Code* currently allows for court to be closed in certain circumstances. It is a matter of law within the discretion of the presiding judge.

The issue of closing court has attracted a great deal of attention in southern Canada over the last year, when the media reacted strongly, and with legal action, to the closing of court in several high profile cases, both criminal and civil.

The *Criminal Code* was amended recently to provide that a judge, in considering an application to close the court in cases of sexual and violent assaults against children, must ensure that the interests of the child victim/witness are safeguarded. The *Code* was also amended at the same time to allow a child witness to be accompanied by a support person of their choice. This support person may be present and close to the witness while testifying.

With respect to closing court in matters where the victim is an adult, this could also be addressed by an amendment to the *Criminal Code* that would require the closing of court in specified situations to avoid the revictimization or embarrassment of innocent victims/witnesses.

**RECOMMENDATION #57:** That for offenses that permit the Crown to make an election, in appropriate circumstances the Crown proceed by way of summary conviction.

This recommendation has been passed on to the Regional Director for Justice Canada. Crown prosecutors are very aware of the stakes involved when electing to proceed by indictment or summarily. The Crown office would prefer to elect summarily wherever possible, but this is not an option if the assault is a serious one.

The Status of Women Council has expressed some concern that proceeding summarily may appear to diminish or downgrade the seriousness of an assault. However, they feel that in the balance, this risk is worth running in the interests of having matters dealt with quickly. Delays in having matters disposed of by the courts are a major complaint of victims and offenders alike.

The federal prosecutors policy on victims of crime which is currently being developed, will encourage Crown counsel to minimize delays wherever possible, particularly where the accused is a member of the victim's family or where the victim is a child.

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The concern about delays involved in matters that are proceeded with by way of indictment may also be addressed by more fundamental changes to criminal procedure. If preliminary hearings were done away with, a victim would only have to testify once and matters would proceed to conclusion more quickly. There is considerable interest nationally in eliminating preliminary hearings provided there are adequate provisions for disclosure.

Alternatively, there could be an intermediate category of offence for which a sentence of up to five years could be imposed without having to go through a preliminary hearing before trial.

There is a federal/provincial/territorial process currently underway examining potential changes to criminal procedure including the possibility of eliminating preliminaries. The Department will take a position favouring such a possibility, if the appropriate safeguards are in place.

**RECOMMENDATION #58: That counselling programs specific to abusers be offered at all correctional facilities in the Northwest Territories and that such counselling be mandatory for persons convicted of offences of domestic violence.**

Counselling is currently offered at correctional centres for men convicted of spousal assault. The amount and quality of counselling should improve now that two additional psychologists positions with Corrections Service Division have been staffed.

The setting up of batterers programs is a long-term proposition requiring significant resources. It is also recognized that an institutional setting such as a correctional facility is not the best place to address issues of power and control that are at the heart of abuse issues.

The implementation of this recommendation will be examined in the context of the pro-active strategy to deal with violence as recommended to the Department by the Standing Committee on Finance. The Department will be consulting on this issue.

The Status of Women Council has indicated that women's groups should be involved in the planning and monitoring of any programs for batterers.

**RECOMMENDATION #59: That the use of Victim Impact Statements be expanded to all parts of the Northwest Territories and that the nature and purpose of the statement be explained to victims by police officers and completion of the statement be assisted and encouraged by the police;**

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**RECOMMENDATION #60:** That Crown attorneys be encouraged to use Victim Impact Statements at sentencing;

**RECOMMENDATION #61:** That Victim Impact Statements be available in languages appropriate to the community in which they are being used.

The Victim Impact Statement Pilot Project that was conducted in nine communities across the N.W.T. has been evaluated by an outside contractor and recommendations have been made based on the results of the evaluation. The recommendations have been reviewed by the Department and a program proposal is being developed in consultation with northern NGOs, victims' advocacy and women's groups and justice agencies.

It is hoped to make Victim Impact Statements available in Aboriginal languages and to provide informational materials with the Statements.

**RECOMMENDATION #62:** That mediation services for the resolution of civil law disputes in the area of family law be developed and publicly funded;

**RECOMMENDATION #63:** That training for mediators be mandated by legislation, together with legislation that governs the conduct and competence of mediators;

**RECOMMENDATION #64:** Because of weaknesses in the process, that mediation not be mandatory.

The Department is interested in investigating possible alternative dispute resolution mechanisms to the present adversarial approach to resolution of family law matters. These recommendations will require further consideration and study by the Department. The Department will examine the cultural appropriateness of mediation in relation to family law matters at the community level.

**RECOMMENDATION #65:** That the courts continue to develop means of receiving input from communities with respect to the administration of justice generally, and where appropriate, with respect to the disposition of particular cases. Community committees that may be organized for this purpose must have input from women at the community level and community input must not become a vehicle for legitimizing inappropriate actions towards or attitudes about women.

Recommendation #65 is focused on community committees which assist the courts in reaching decisions, but the Department is regarding the objective of the recommendation in the larger context of community justice generally, and in particular of community justice committees which may actually take on some of the responsibilities of the courts, such as in the case of pre-charge diversion.

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The Department of Justice has embarked on a major initiative arising out of a new vision of the role of the Department and its relations with communities. The new mandate of the Department states that the administration of justice in the Northwest Territories is to be carried out in a manner that respects community and aboriginal values, and encourages communities to assume increasing responsibilities.

The participation of communities in the administration of justice can take place in many different ways. It may take the form of local justice committees, formed of committed people who are willing to take responsibility for an adult or young offender, either pre-charge or post-charge, or to make representations to a justice of the peace or judge about an appropriate sentence.

These innovations are aimed at encouraging community members to assume a greater role in solving problems in their communities. In this way, those people who have been left out of the development of the current Euro-canadian system of justice, and this includes women and aboriginal peoples, will have an opportunity to solve problems in a manner that they think is appropriate.

It is essential that, as a key part of this process, the full participation of women is ensured. In our discussions in communities, women have participated actively. Their voices must continue to be heard. Their help and advice and full involvement must continue to be sought as the input of women in these innovations is key to their success.

The Department will develop guidelines for community justice consultations that will deal with this issue. The Department's Community Justice Specialists, who play a key role in facilitating and assisting communities in the process of playing a more active part in dealing with social problems arising in their communities, are aware of the importance of ensuring the full participation of women, and the need to protect the interests of victims.

Special effort will be made to consult with women's groups so that their concerns are not overlooked. The Status of Women Council, for example, has suggested that it would be appropriate to have equal representation of men and women on all committees.

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**JUDICIAL SELECTION, APPOINTMENT AND DISCIPLINE**

**RECOMMENDATION #66:** That the screening of potential candidates for judicial office include inquiries directed to attitudes about women and that this be a factor in considering the suitability of prospective judges.

This recommendation has been passed on to the Chief Judge of the Territorial Court. The Chairperson of the Judicial Council, the body responsible for making recommendations to the Commissioner about prospective appointments to the Territorial Court bench, has indicated that this factor is one of many that is carefully considered by the Judicial Council. The Chief Judge of the Territorial Court indicates that sensitivity of members of Judicial Council to these issues is most important in the recommendations made to the Minister for appointment.

**RECOMMENDATION #67:** That policy guidelines be developed for the appointment of lay persons to the Judicial Council which guidelines ensure representative appointments on the basis of both gender and culture.

Recommendations concerning the composition of the Judicial Council will be considered by the Department in light of the decision of the N.W.T. Court of Appeal in *R. v. Doyle*. In that decision, the Court indicated that the independence of the judiciary could be compromised if all appointments were made to the Judicial Council as currently constituted in the *Territorial Court Act*. As a result, the Department will be proposing amendments to that Act.

The Department accepts the importance of having lay representation on the Judicial Council. The N.W.T. is the only jurisdiction in Canada where the legislation specifies that there are to be two lay representatives on the Council.

This recommendation has been passed on to the Chief Judge of the Territorial Court. The Chief Judge has indicated that he agrees that the Judicial Council should continue to be structured to be representative of society.

**RECOMMENDATION #68:** That consideration be given to the expansion of the role of the Judicial Council such that it may assume greater administrative responsibilities respecting the operation of the courts, and further that it be able to assume a role in judicial education.

This recommendation has been passed on to the Chief Judge of the Territorial Court.

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**RECOMMENDATION #69:** That lay representation on the committee responsible for vetting applications for judicial appointment to the Supreme Court of the Northwest Territories be a stipulated requirement and that policy directives be developed that prefer the appointment of qualified women candidates and members of visible minorities to the committee.

This recommendation was passed on to the Federal Minister of Justice. The Minister points out that both of the federal representatives on the committee are women.

The Federal Minister has indicated that one of the aims of the federal appointment process is to increase the number of women and ethnic and cultural minorities on the bench in order that the judiciary be more representative of Canadian society.

**RECOMMENDATION #70:** That the local committee have the power not just to review applications received from the Commissioner of Federal Judicial Affairs but to actively recruit judicial candidates.

The Federal Minister of Justice has indicated that by placing the onus on the individual to apply, the process is designed to encourage those attracted to the ideal of public service. It is considered that active recruitment would be seen to jeopardize the impartiality of the committee's advice to the Minister.

**RECOMMENDATION #71:** That affirmative action policies be developed in the Northwest Territories to encourage the recruitment of qualified women for judicial office.

This recommendation has been passed on to the Chief Judge of the Territorial Court indicating the support of the Department for the general principle that the Territorial judiciary should be representative of the population that it serves. It is recognized that currently, this is not the case.

At present, one judge of the five judges on the Territorial Court bench is a woman.

The Status of Women Council has indicated that it supports the call for affirmative action.



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**RECOMMENDATION #72:** That further positions for superior court judges be created to reduce the present barriers to this position for those with child rearing responsibilities.

The Department has been in contact with the federal Department of Justice to discuss the possibility of a fourth resident Supreme Court Judge.

The National Symposium on Women, Law and the Administration of Justice recommended that flexible employment policies should be implemented for judges to accommodate the concrete reality of women juggling a career and a family life.

The 1992 Commission on Judges' Salaries and Benefits has recommended to the Federal Minister of Justice that provision for maternity and parental leave be made in the *Judges Act*. This recommendation is currently under consideration.

**RECOMMENDATION #73:** That the Northwest Territories Branch of the Canadian Bar Association develop a procedure for lodging of anonymous complaints by lawyers respecting the conduct of Territorial Court Judges.

This recommendation has been passed on to the President of the N.W.T. Chapter of the Canadian Bar Association and we have asked for her response.

**RECOMMENDATION #74:** That a code of conduct and judicial ethics be developed which specifies that conduct which ought to attract sanction or investigation.

This recommendation has been passed on to the Chief Judge of the Territorial Court. The Chief Judge has asked the N.W.T. Judge's Association to consider developing a Code of Conduct. This issue is also being studied by the Canadian Association of Provincial / Territorial Judges.

**RECOMMENDATION #75:** That the *Territorial Court Act* be amended to provide that extra-judicial conduct be reviewable for disciplinary purposes if such conduct is of a kind which would erode the public confidence in the judge's capacity to perform his or her function impartially;

**RECOMMENDATION #76:** That further study be undertaken with a view to developing more certain criteria in the *Territorial Court Act* for disciplinary action respecting members of the judiciary;

**RECOMMENDATION #77:** That sanction be available for breaches of a code of conduct and judicial ethics;

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**RECOMMENDATION #78:** That the forms of sanction available be more diverse and that such sanctions be specified in the *Territorial Court Act*.

It is recognized that the maintenance of public confidence in the administration of justice depends on, among other factors, the regulation of judicial conduct. Law societies across the country have in recent years adopted more open disciplinary processes which allow for the participation of lay members. There are indications that public confidence in the process has improved as a result.

A recent report from the Canadian Bar Association calls for the creation of federal, provincial and territorial Commissions of Judicial Conduct. Commissions would be composed of an equal number of judges, lawyers and members of the public and would administer codes of judicial conduct, which codes would be developed by the judicial councils of the respective jurisdictions.

Recommendations #75 through #78 concerning judicial discipline have been passed on to the Chief Judge of the Territorial Court and the Department will be having discussions of these matters. The Chief Judge has asked the N.W.T. Judge's Association to consider developing a Code of Conduct.

Of course, any initiatives in the area of judicial discipline must be developed and implemented with all appropriate recognition of the fundamental importance of the principle of the independence of the judiciary.

**RECOMMENDATION #79:** That codes developed for judicial conduct allow members of the judiciary increased abilities to interact with members of the public.

**RECOMMENDATION #80:** That members of the judiciary undertake efforts to better inform the public and the media of the nature of their function and the role that they are required to maintain in the court process;

**RECOMMENDATION #81:** That members of the judiciary participate on a more regular basis in public legal education, and that opportunities for such participation be extended to members of the judiciary by bodies responsible for such programs.

Recommendations #79 through #81 concerning relations between members of the judiciary and the public have been passed on to the Chief Judge of the Territorial Court. The Chief Judge agrees that consideration should be given to a method to more properly inform the media and the public, and to provide appropriate and accurate information. He points out that the decision to be involved in public legal education is that of each individual judge. Indeed, judges have been involved in the past.

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One important limitation that weighs heavily against the possibility of members of the bench having greater contact with the public is the excessive workload born by most members of the judiciary.

**RECOMMENDATION #82:** That the position of Chief Justice of the Supreme Court of the Northwest Territories be created and that the Chief Justice have primary administrative responsibility respecting the operation of the Supreme Court and responsibility to review at first instance concerns raised about the conduct of superior court Judges and the administration of justice generally at that level of court.

This recommendation has been conveyed to the federal Minister of Justice who has indicated a willingness to discuss the matter. The Department will be following up on this matter.

**RECOMMENDATION #83:** That provision be made for lay representation from various jurisdictions on the Canadian Judicial Council. Such representation should include a cross section of both gender and culture.

This recommendation has been passed on to the federal Minister of Justice. The federal Minister does not consider that the current structure and objects of the Council lend themselves to "community representation".

As noted in response to recommendations 75 to 78, the Canadian Bar Association Task Force on Gender Equality recommended the creation of federal, provincial and territorial Commissions of Judicial Conduct. Commissions would be composed of an equal number of judges, lawyers and members of the public and would administer codes of judicial conduct, which codes would be developed by the judicial councils of the respective jurisdictions.

**RECOMMENDATION #84:** That there be a more diverse spectrum of sanction available respecting the conduct of superior court justices.

This recommendation has been conveyed to the federal Minister of Justice who queried whether any other disciplinary sanction is available under the Constitution.

The Canadian Bar Association Task Force on Gender Equality recommends the development of a code of conduct by the Canadian Judicial Council and graduated levels of sanction for breach of the provisions of the code.

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**RECOMMENDATION #85:** That models of judicial evaluation be reviewed by the Northwest Territories Judicial Council with a view to adapting an evaluation mechanism for use in the Northwest Territories.

This recommendation has been passed on to the Chief Judge of the Territorial Court who has requested the N.W.T. Judges Association to consider this matter.

**RECOMMENDATION #86:** That the *Justices of the Peace Act* be amended to provide for the additional appointment of a second lay representative, in keeping with the provision of adequate public representation on bodies governing the appointment and conduct of judicial officers.

The Department accepts the importance of having lay representation. A proposed amendment to the *Justices of the Peace Act* will be developed by the Department.

**RECOMMENDATION #87:** That the *Justices of the Peace Act* as amended be proclaimed in force and appointments be made so that the Council may take up its functions.

The amendments to the *Justices of the Peace Act* were proclaimed in force on November 2, 1992. Appointments to the Justices of the Peace Review Council by the Commissioner in Executive Council were made in September 1993.

**RECOMMENDATION #88:** That selection criteria for justices of the peace encourage the selection of aboriginal women such that adequate representation of women as justices of the peace is achieved.

This recommendation has been passed on to the Chief Judge of the Territorial Court.

The appointment of aboriginal women as justices of the peace is a priority of the Administrator of the Justice of the Peace Program. Currently, approximately 40% of all justices of the peace are women and approximately 40% of justices of the peace are aboriginal.

The process currently in place for the recruitment of Justices of the Peace starts with recommendations for candidates from communities. The list of candidates is reviewed by the judge in the region, the Justice of the Peace administrator and the Chief Judge. A list of prospective candidates is referred to the municipal or band council in the community. Candidates are to be reviewed by the Justices of the Peace Review

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Council and recommendations are made to the Cabinet for appointment.

**RECOMMENDATION #89:** That grounds for discipline should be specified and it should be clear that grounds for discipline include behaviour out of court.

This recommendation has been passed on to the Chief Judge of the Territorial Court and the Department will have discussions on this matter.

**RECOMMENDATION #90:** That the amendments to the *Justice of the Peace Act* be proclaimed into force so that mechanisms for the review of conduct of justices of the peace are available.

The amendments to the *Justices of the Peace Act* were proclaimed in force on November 2, 1992 and members appointed in September 1993. The Act as amended provides the Chief Judge of the Territorial Court with powers to review the conduct of justices of the peace and to impose certain disciplinary measures where the Chief Judge considers it appropriate.