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## STATEMENT OF ASSURANCE

We have completed the internal audit of the Citizenship and Immigration Departmental Legal Services Unit (DLSU). The overall objective of the audit was to review and assess the framework within which services are delivered by the DLSU to its clients and to recommend improvements.

The internal audit was conducted in accordance with the requirements of the Treasury Board Secretariat (TBS) *Policy on Internal Audit* and the Institute of Internal Auditors' Standards for the Professional Practice of Internal Auditing.

The audit team assessed the management control framework against criteria derived from the *Guidance on Control* issued by the Criteria of Control Board (CoCo) of the Canadian Institute of Chartered Accountants as well as TBS audit guides.

In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the conclusions reached and contained in this report. The conclusions were based on a comparison of the situations as they existed at the time of the audit and against the audit criteria. It should be noted that the conclusions are only applicable for the areas examined.



## **EXECUTIVE SUMMARY**

The Department of Justice has established dedicated Departmental Legal Services Units (DLSUs) for most government departments and agencies. These units provide client organizations with legal advice to facilitate their operations. This audit focused on the management practices of the DLSU that provides legal services to Citizenship and Immigration Canada (CIC).

### **Objectives and Risks**

At the outset of the audit, the DLSU did not have documented objectives but was expected to develop them in response to the 2007-08 Citizenship, Immigration, and Public Safety Portfolio Business Planning process. The document produced as part of this process contained all of the required elements, but did not contain documented objectives. While both the management and staff of the DLSU were able to articulate a consistent set of expected achievements, we have recommended that specific, measurable, achievable, and time-related organizational objectives be documented in writing.

The DLSU has considered the legal risks its client faces with respect to its program and the financial risks that the DLSU may face. This is a sound start to the risk identification and management process. We believe, however, that it needs to be extended to consider other non-financial risks that the DLSU may face in achieving its objectives. We have made a recommendation that a formal risk assessment be undertaken and the risks and strategies for managing these risks be developed and documented after the DLSU's objectives have been documented.

### **Policies and Procedures**

The DLSU has developed an extensive set of clear policies and procedures that are well communicated to all staff.

## **Plans and Performance Indicators**

The DLSU participates as requested in the planning process for CIC and for the Citizenship, Immigration, and Public Safety Portfolio Business Planning process. The audit team is of the opinion that more should have been done to develop a stand-alone business plan for the DLSU that specifies the number and level of counsel, support staff, and other resources (e.g. funding for travel, training, materials, and supplies) required to support the client's priorities and initiatives. A recommendation to this effect has been made.

There is consensus among the DLSU's managers and lawyers as to what constitutes high quality legal services. Both quantitative and qualitative aspects of performance are monitored and adjustments are made as needed when problems arise. The quantitative measures used are similar, although not identical, to the approved set of departmental performance metrics developed by the Department of Justice's Office of Strategic Planning and Performance Measurement.

## **Organization**

The DLSU's lawyers are assigned to one of four teams that, with one exception, mirror the client's business lines. This organization generally works well. The only exception is the Corporate team, which provides services to both CIC and the Canada Border Services Agency (CBSA). Since its creation in late 2003, the CBSA's needs have evolved to the extent that a growing amount of its corporate legal requirements are for services that the CIC DLSU does not provide to CIC. Plans were under way at the time of the audit for CBSA to acquire the necessary resources to provide these services directly through its own DLSU. A six-month transition period was envisaged starting on April 1, 2007 to implement this change.

Many of the lawyers interviewed were of the perspective that having one or two paralegal positions would be beneficial. Support staff who had been with the DLSU over one year were generally in favour, in part because it would create career opportunities. Others were of the view that the priority should be in staffing the two vacant records management positions on a permanent basis. At the time of the audit management had initiated action that was expected to result in the two positions being filled on an indeterminate basis in April 2007. Nonetheless, we are of the opinion that a comprehensive review of the DLSU's support staff organization that considers current and longer-term requirements should be undertaken. A recommendation to that effect was made.

The DLSU's workload management practices are generally effective in ensuring that requests for legal services are assigned to appropriate counsel. Team leaders assign or oversee the assignment of work. This assignment is based on the team leader's assessment of each team member's expertise, interests, and current workload. There was a general consensus that this process works well. Occasional surges in demand do occur. When this happens, steps are taken to increase the team's resources and/or to prioritize the work with the client.

### **Communications**

The DLSU's communications practices are effective in ensuring that all staff have the information needed to do their jobs: orientation is provided to all new staff; bi-weekly all lawyer meetings alternate with bi-weekly team meetings; the SGC meets bi-weekly with each Team Leader; and both the SCG and team leaders maintain an open-door policy.

### **Human Resources**

The DLSU has not prepared and documented a complete human resources development plan. Its input to the 2007-08 Portfolio Business Planning process spoke to its current priorities to fill vacancies in support staff positions and existing Team Leader positions on a permanent basis. The document did not address issues of retention, succession, and training, or integrate the human resource requirements with the anticipated future business requirements. A recommendation has been made to develop a human resource management plan that considers the DLSU's longer-term requirements.

DLSU management is diligent in ensuring that all staff receive a thorough orientation when they join the DLSU, and that they have ample opportunities for professional development. Performance appraisals that contain individual objectives and personal learning plans were complete for all lawyers in the DLSU. Several were missing for support staff. A recommendation was made that performance appraisals and personal learning plans be completed annually for all of the DLSU's support staff as well as its lawyers.

Flexible work arrangements are widely available in the DLSU. We found that they do not affect the DLSU's ability to provide services to its clients.

## **Financial and Materiel Management**

The measures taken to administer the DLSU's financial resources are adequate: all financial transactions examined were in compliance with the requirements of the *Financial Administration Act*. Key physical assets are also protected in an appropriate manner.

## **Information Systems**

The DLSU's information systems generally support management decision-making and accountability as well as the provision of legal services to its clients. Key systems include the Legal Opinions and Precedents On-Line Retrieval System (LOPORS); GASPARD, a system that is administered by the Quebec Region used for research in support of litigation activities; the Recorded Information Management System (RIMS); and Quicklaw, a subscription-based system. Efforts to improve the integrated access to these systems are currently under way.

Until October 2006, the DLSU utilized an internally developed Access database to capture and report timekeeping information. With the implementation of iCase in October 2006, the DLSU found that it could no longer obtain as much information on specific activities conducted in the DLSU as it had under the Access system. At the time of the audit, staff were investigating how reports with the desired level of detail could be obtained from iCase.

## **Legal File Management**

Several weaknesses in the DLSU's management of its information assets were identified. There are well-established policies and procedures within the DSLU for the management of information. Support staff turnover, combined with the absence of permanent staff in the records management function, has contributed to the inconsistent application of these policies and procedures. There are also differences of opinion in how to implement the documented procedures. The assignment of keywords to documents, in particular, is error-prone and inconsistent, resulting in consistent complaints about the inability to retrieve files using keyword searches in RIMS. Recommendations were made to provide additional training to the DLSU's lawyers and support staff concerning the DLSU's legal file and records management procedures, and to monitor the application of these procedures in order that remedial action could be initiated if it was found that the procedures were not consistently applied.

There was also a backlog of files waiting to be archived. Planned steps to fill the existing records management vacancies should address this issue.

## **Legal Risk Management**

The DLSU is not directly responsible for legal risk management, but supports processes that take place at the portfolio and client department level. We found this support to be fully satisfactory.

## **Compliance with Legislation and Policies**

The DLSU is in compliance with key government and department legislation and policies including the *Financial Administration Act*, the Government Contracts Regulations, and the *Official Languages Act*.

## **Interfaces with the Department of Justice**

The DLSU has regular interactions with the portfolio, regional office litigators, and specialists in the Public Law Sector of the Department of Justice. The interfaces ensure appropriate coordination and cooperation on shared responsibilities.

## **Client Satisfaction with Services**

The DLSU's relationships with its clients are positive and the clients indicated that the DLSU is a source of valuable advice and counsel.

*The management response to the recommendations contained in this report was provided by the Senior General Counsel, Citizenship and Immigration Canada Legal Services.*



# **1. INTRODUCTION**

## **1.1 Background**

The Department of Justice has established dedicated Departmental Legal Services Units (DLSUs) for most government departments and agencies. These units provide client organizations with legal advice to facilitate their operations. This audit focused on the management practices of the DLSU that provides services to Citizenship and Immigration Canada (CIC).

The CIC DLSU has a staff of 37 employees, consisting of 25 lawyers and 12 support staff, which include six legal assistants, records management, and finance and administrative staff. (See Appendix A for more details on the organizational structure.) The DLSU is organized into four teams of lawyers, each headed by the Team Leader, and a support staff team headed by the Manager, Administrative Services. The team leaders and the Manager, Administrative Services report to a Senior General Counsel (SGC). Forecasted expenditures for 2006-07 were \$2,873,604 for salaries and \$324,609 for O&M. These amounts totalled \$3,198,213. Additional contextual information on the DLSU is provided in Appendix B.

Some of the key risks that were identified during the audit planning phase include: impact of legal work, ability to forecast demand for legal services, inefficiencies in the organization and in workload management, reporting of performance information, provision of consistent legal advice, management of electronic information, and appropriateness of linkages with the client department.

## **1.2 Audit Objectives and Scope**

The overall objective of this audit was to review and assess the framework within which the CIC DLSU delivers services to its clients and to recommend improvements to this framework.

The audit team examined and assessed:

- the management framework (policies, practices and procedures relating to planning, organizing, controlling, leading and communicating, and the management of human, financial and materiel resources);
- the reliability of information systems for decision-making and accountability purposes;
- the extent of compliance of key systems, procedures and practices with legislation (i.e., *Financial Administration Act*, *Official Languages Act*), regulations and key central agency/departmental policies;
- the appropriateness of interfaces with other sections of the Department, including regional offices, and other DLSUs in the Citizenship and Immigration and Public Safety Portfolio;
- the effectiveness of the legal file management processes;
- the appropriateness of interfaces with the client department;
- the level of client satisfaction with the legal services provided.

The audit also addressed:

- mix of support staff resources (including use of paralegals)
- work flow processes
- liability forecasting/planning

The planning and on-site examination for this audit were carried out between January and mid-February 2007.

Details on the audit methodology are outlined in Appendix C.

## 2. OBSERVATIONS—MANAGEMENT FRAMEWORK

### 2.1 Objectives and Risks

*The DLSU does not have documented objectives.*

Setting and documenting organizational objectives are important steps in ensuring that professional and support staff receive a clear indication of expectations. Objectives should be specific, measurable, achievable, and time-related.

We were told that the DLSU did not have documented objectives at the start of the audit, but expected to develop them in response to the 2007-08 Citizen, Immigration, and Public Safety Portfolio Business Planning process. This process was launched in September 2006 and required each DLSU to provide input on the following specific sections:

- Who we are and what we do - The section required a narrative description of the main areas of focus for each DLSU, its organizational structure, and its planned financial and human resources.
- Environmental scan - This required each DLSU to identify four or five key environmental factors, including client initiatives, that could have significant impact on what is delivered by the DLSU and how delivery is accomplished.
- Managing financial risks - If there is a likelihood that some portion of anticipated funding will not be secured, each DLSU was to identify the measures to be taken in response and the associated impacts on its operations.
- Human resources plan - Each DLSU was to identify its current and future human resources priorities and strategies.
- Managing our risks - Each DLSU was to identify two or three key priorities or activities that are at risk, describe each risk and its risk level, and identify planned risk management measures.

The deadline for providing input was January 31, 2007.

Our review of the CIC DLSU's final submission showed that while it provided the requested input, it did not contain a statement of the DLSU's objectives. None of the other documentation provided to the audit team, for example, the DLSU's Orientation and Training Manual, contained documented objectives.

Although the DLSU does not have documented objectives, the managers, lawyers, and support staff we interviewed articulated a consistent and clear understanding of the DLSU's expected achievements and of their roles in and contribution to achieving them.

It is the audit team's opinion that the DLSU has a strong, positive organizational culture and that this culture offsets the risks that can arise when objectives are not documented. Nevertheless, it is still preferable to promote organizational objectives by documenting them in writing.

#### Recommendations and Management Response

- 1. It is recommended that the SGC develop a written set of organizational objectives for the DLSU that are specific, measurable, achievable, and time-related.**

I agree. The LSU will develop a written set of organization objectives for the next fiscal year [by April 1, 2008].

#### ***All the significant risks faced by the DLSU have not been explicitly identified.***

The significant internal and external risks faced by an organization in the achievement of its objectives should be identified and assessed in order to develop strategies for addressing them. The DLSU was unable to provide us with an assessment of its risks at the outset of the audit. Near the conclusion of the on-site audit work, we were provided with the DLSU's inputs to the 2007-08 Portfolio Business Planning process concerning risks. We found that the document focused mainly on the legal risks its client faced with respect to its program, not on the risks faced by the DLSU itself. One section of the document addressed financial risks and was focused on the DLSU itself. Strategies for dealing with these risks were presented.

It is the audit team's opinion that the DLSU's assessment of its financial risks represents a sound start to the risk identification and management process, but that it needs to be extended by considering other non-financial risks that the DLSU may face. In particular, the audit team is of the view that the development of written DLSU objectives will be most worthwhile if it is complemented by an analysis of the risks confronting the achievement of the objectives and by the development and documentation of strategies for addressing these.

## Recommendations and Management Response

- 2. It is recommended that, once the DLSU’s objectives have been documented, the SGC undertake a formal risk assessment and ensure that both the risks and strategies for addressing these risks are identified and documented.**

I agree. While risk assessments, on many levels, have been part of an intuitive, unwritten process within the management team at the LSU, and in response to client officials and client workload demands, a more formal risk assessment can be undertaken. This risk assessment will be undertaken after the LSU’s written objectives are established in consultation with the A/ADAG of the CIPS Portfolio.

### **2.2 Policies and Procedures**

*The DLSU has developed an extensive set of clear policies and procedures that are well communicated to all staff.*

Written policies and procedures should be in place in any organizational unit, as they help promote the conduct of activities in a consistently effective, efficient, and economical manner, and help provide assurance that the organization’s resources are safeguarded.

The DLSU has an Office Procedures Manual that states the objectives of the procedures; details how requests for legal services are to be logged in and out of the Recorded Information Management System (RIMS); and describes general office procedures (e.g. filing, telephones, computers, leave, translation, library). There is also an extensive Orientation and Training Manual. Both manuals are bilingual.

The audit team found that both the above manuals provide clear descriptions of the DLSU’s policies and procedures. The lawyers and support staff in the DLSU told us that the manuals are useful references with respect to the DLSU’s policies and procedures. They also told us that new or revised procedures are communicated to all staff via e-mail and the manuals are updated to include these.

## 2.3 Plans and Performance Indicators

***The DLSU has not prepared and documented an independent business plan to govern its activities and establish associated resource requirements.***

Business planning is used by successful organizations to identify issues, activities, and initiatives that will contribute to the achievement of stated objectives. It is also the process by which managers identify priorities—an important aspect of managerial responsibilities, especially in situations where resources are scarce.

We were told at the start of the audit that the DLSU did not have a formal business planning<sup>1</sup> process. Instead, the DLSU participated in the CIC business planning process by reviewing the plans prepared by CIC's main organizational units and by providing comments on the legal risks associated with the initiatives and priorities documented in these plans.

Toward the end of the audit we were provided with the DLSU's written input into the 2007-08 Portfolio Business Planning process, which included:

- brief narratives describing the responsibilities of its client and the services the DLSU provides to CIC;
- brief descriptions of CIC's current initiatives with significant legal components that will require support from the DLSU;
- details of the financial risks faced by the DLSU;
- a point-form plan for filling vacant support staff positions and for creating a new senior counsel position in the DLSU.

It is the audit team's opinion that while this input may have satisfied the requirements of the 2007-08 Portfolio Business Planning process, more should be done. We note that the process for preparing the submission was informal. The SGC developed an initial assessment of the resources that the DLSU would require based on her knowledge of the client's objectives and priorities. This was then shared with the team leaders for input based on their knowledge<sup>2</sup>. There was no formal validation of this assessment with the client. A written estimate of required legal and other resources (e.g. support staff, and O&M funding for materials, training, travel) was not

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<sup>1</sup> A business plan should lay out an organization's objectives and priorities, the risks to achieving those objectives and priorities, how those risks will be mitigated to the extent possible, the resources (both human and financial) required, and in the case of human resources, how they might be acquired (i.e. by developing existing resources or hiring new resources).

<sup>2</sup> The SGC participates in CIC's senior management committee meetings (e.g. Departmental Executive Committee (DEC), Senior Management Committee (SMC), Audit Committee). The team leaders participate in similar meetings in the client's organizations. They gather intelligence about likely demand for legal services from these meetings.

produced. Instead, the SGC held a series of discussions with client management to clarify priorities and secure agreement that the DLSU’s resources will be focused on those priorities. If following these meetings it becomes evident that estimated demand would exceed supply, the SGC stated that she would approach the portfolio for additional funding. If this was not forthcoming, she would request that the client fund some of the DLSU’s lawyers<sup>3</sup>.

The SGC stated that this process has worked satisfactorily. Nevertheless, it is the audit team’s opinion that a formal business plan is required. The plan should specify the number and level of counsel that are Department of Justice-funded and, if applicable, client-funded, to support the client’s priorities and initiatives. The plan should also detail other associated requirements (e.g. the number of support staff and the financial resources earmarked for accommodation, travel, training, materials, and supplies). A formal business plan is essential, particularly since demand for legal services is unlikely to abate and the DLSU may at some point need to request client funding for some lawyers. The preparation of a DLSU business plan is consistent with Department of Justice initiatives to implement a formal business planning process.

#### Recommendations and Management Response

### **3. It is recommended that the SGC develop a formal business plan for the DLSU.**

I agree. A formal, written business plan will be in place for the fiscal year commencing in April 2008.

#### ***The DLSU relies on an appropriate mix of qualitative and quantitative indicators to monitor its performance.***

Performance monitoring is the ongoing, systematic process of collecting, analyzing, communicating, and using quantitative and qualitative performance information. Monitoring is an essential component of assessing an organization’s progress in relation to its plans and, if necessary, making adjustments to ensure these plan are achieved. It supports decision making, accountability, and transparency.

The DLSU does not have documented performance targets for the services it provides. Nevertheless, there is consensus among its managers and lawyers that high-quality legal services are:

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<sup>3</sup> At present, all the DLSU’s lawyers are funded by the Department of Justice; all legal services provided to CIC [litigation, advisory, legislative, etc.] are paid from the Department of Justice’s A-base, which is a very rare arrangement. In many DLSUs, funding for lawyers’ salaries comes from the Department of Justice (and its appropriation from Parliament) and the client.

- timely;
- consistent with previous advice and opinions rendered by the Department of Justice;
- practical (i.e. take into consideration the client’s operational processes, practices, and constraints);
- thorough (i.e. the advice or opinion is based on an assessment of alternatives, and the risks of each alternative are explained when the advice or opinion is rendered).

With the exception of timeliness, the other elements cannot be easily quantified. Nevertheless, the DLSU has fostered an organizational culture and has implemented practices that help ensure that both quantitative and qualitative aspects of performance are monitored, and that adjustments are made as needed when problems arise.

RIMS is used to provide quantitative information on workload volumes and the timeliness of service. All incoming requests for service are logged within 24 hours of receipt, regardless of how they originate (e.g. written request, fax, e-mail, phone). Outgoing documents (responses to requests for service) are also logged into RIMS and matched to the incoming request to provide a record that the request has been “closed”. Weekly reports (by client, by lawyer, and by age of request) are produced from RIMS on the number of outstanding requests for service. Age-of-request reports also show the number of requests that remain outstanding after 60 days. These weekly reports are provided to the lawyers for verification as to accuracy and completeness.

Team leaders receive RIMS statistics bi-weekly and use them to monitor the age of open requests. Period-by-period comparisons provide an indication of whether there is an increasing backlog for the team or for an individual lawyer on the team. If there are increases in the number of aged files, or if the number of open files increases (backlog), team leaders investigate through discussions with lawyers at the bi-weekly team meetings or in person. Interventions tailored to the problems (if any) being experienced by the lawyer are then made.

The quantitative measures of workload volumes and service timeliness that the DLSU extracts from RIMS are similar to the approved set of departmental performance metrics developed by the Department of Justice’s Office of Strategic Planning and Performance Measurement (SPPM). (A detailed list of the approved metrics can be found in Appendix D.) Furthermore, until the recent implementation of iCase, the DLSU was able to produce level-of-effort reports<sup>4</sup> from an internally developed Access database (see “Information Systems” for a discussion of how the DLSU is trying to restore this lost capability). Level-of-effort metrics are also part of the approved set of departmental performance metrics.

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<sup>4</sup> A level-of-effort report provides a breakdown by employee of the number of hours spent on different activities/files.

Qualitative aspects of performance are monitored by the SCG and the team leaders who:

- review draft advice and opinions before they are sent to the client. (The extent of this review will depend on the lawyer’s experience and expertise and on the complexity of issues at hand. Lawyers who are new to the DLSU have their drafts reviewed, even with respect to straightforward matters. Once a lawyer has more experience/developed more expertise, reviews will only occur for complex or sensitive issues.);
- meet regularly with lawyers on their teams, either in person or in groups, to discuss requests for service and how they are being addressed. (These meetings provide opportunities to provide direction and advice.);
- maintain regular contact with their team’s clients to ensure that from the client’s perspective performance is satisfactory.

We interviewed a sample of CIC officials to ascertain their views on the timeliness and quality of the DLSU’s services. We found very high levels of satisfaction with both. Consequently, it is our opinion that the performance indicators currently used by the DLSU are providing suitable feedback to its managers to maintain its performance.

## **2.4 Organization**

Key management responsibilities include organizing teams and providing direction to team members in order that work can be processed in the most efficient manner possible. Appropriate organization and direction assist team members to understand and address priorities within required time periods.

### **2.4.1 Counsel**

***The DLSU’s organization into teams that mirror its client’s organization is appropriate, with one exception.***

The DLSU’s lawyers are assigned to one of four teams that, with one exception, mirror the client’s business lines:

- Refugees (three lawyers plus the Team Leader)
- Selection (seven lawyers plus the Team Leader)
- Integration/Risk Assurance/ Citizenship (five lawyers plus the Team Leader)
- Corporate (five lawyers plus the Team Leader)

This team structure enables the lawyers in each team to specialize in the law related to that business line and to develop collegial working relationships with client officials. The only exception is the Corporate team, which provides services to both CIC and the Canada Border Services Agency (CBSA)<sup>5</sup>.

We were told by the SGC, the team leaders, and their counsel that this organization works well for all teams except the Corporate team. It does not work well for the Corporate team primarily for the following reasons:

- The CBSA requires legal services that are not required by CIC. For example, CBSA has real property holdings and requires legal services in support of real property acquisition and management and landlord-tenant relations. Such requirements were not part of CIC's operations before the CBSA was created, and the CIC Corporate team lacks the in-depth expertise required to address them efficiently.
- When CBSA was first created, the initial corporate legal needs between both CIC and CBSA were focussed heavily on transitional matters – e.g., creation of the new CBSA, delegation / designation of powers under the Immigration and Refugee Protection Act, and drafting of legislation to create the CBSA, amongst other files. Over time, CBSA as a client had more significant legal needs where neither the CIC or CBSA LSU lawyers had expertise.
- The CIC Corporate team lawyers are not co-located with CBSA as is the CBSA DLSU and are therefore less familiar with what is going on within the Agency. Difficulties are experienced on occasion in obtaining sufficient contextual and background information to provide proper legal advice within the timeframe provided, and ready access is not always available to CBSA clients and their policy and operations manuals.

We were also told that when the CBSA DLSU was created, management had considered splitting the CIC Corporate team, transferring some lawyers to the new CBSA DLSU. In part, this was because splitting the small CIC Corporate team would have left both organizations without sufficient resources to provide the necessary legal services. In the end, the CIPS ADAG decided to try a “common services” arrangement, whereby the CIC DLSU Corporate team would provide corporate services to both client Departments. In the initial 18 month period, most of the corporate legal issues that were arising related to the creation of the new agency. This has since

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<sup>5</sup> The CBSA was created on Dec. 12, 2003, by bringing together the Customs Services, from Canada Customs and Revenue Agency, most of the Intelligence and Enforcement programs of Citizenship and Immigration Canada, and the Canadian Food Inspection Agency's Import Inspection at Ports of Entry program. When it was created, the team of lawyers in the CIC DLSU who had been serving its Intelligence and Enforcement programs moved to the CBSA DLSU. It was decided, however, that the entire team of lawyers in the CIC DLSU who served corporate needs would stay with the CIC DLSU and provide services to both CIC and CBSA.

changed. We were told that in fiscal year 2005-06 the CIC DLSU’s lawyers on the Corporate team were spending about 25% of their time on CBSA issues, and that this time commitment is progressively declining as the CBSA LSU develops expertise on CBSA specific legal issues.

Management has recently decided to assess whether both CIC’s and CBSA’s requirements for “corporate” legal services would be better addressed by having the lawyers in each DLSU focus exclusively on their client organization’s needs. We were told that consultations on this issue between the heads of the of the CIC DLSU and the CBSA DLSU began in July, 2006, and that a business plan for the CBSA DLSU has been developed to acquire the resources that will enable it to provide corporate law services to the CBSA. Implementation of this plan will start on April 1, 2007, and there is expected to be a six-month transition period while the CBSA DLSU staffs the positions that will form its Corporate team. Provisions are also in place for the transfer of knowledge from the CIC DLSU team to the CBSA DLSU team over this time period. It is our opinion that the implementation of the plan will satisfactorily resolve this issue.

***The DLSU’s team leaders have delegated authority appropriate to their responsibilities and qualifications.***

The DLSU’s team leaders are in regular contact with their team members and are fully apprised of team and individual workloads. They approve vacation and sick leave for members of their teams and also approve all requests for training within their teams that involve no costs to the DLSU (i.e. Department of Justice internal training).

The team leaders monitor the performance of each lawyer on their team and complete performance reviews and employee appraisals (PREA) for these lawyers.

Team leaders who have taken the required staffing course (only one has thus far) can staff positions within their teams. However, they have no spending authority and cannot approve management leave.<sup>6</sup>

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<sup>6</sup> Management leave is paid leave in excess of an employee’s entitlement to vacation and sick leave granted when an employee has been required to work excessive hours or has worked on a day of rest or a holiday.

## 2.4.2 Support Staff

*The resource mix in the DLSU needs to be reviewed, as there are no paralegals among the support staff.*

All support staff currently assigned to the DLSU's teams are legal assistants at the CR05 level. Lawyers we interviewed expressed different opinions with respect to the appropriateness of this resource mix. Many stated that having one or two paralegal positions would be beneficial, as the paralegals could take on functions (e.g. legal research, organizing legal opinions, responding to ATIP requests, supporting preparation of affidavits) that require a level of legal training that legal assistants do not possess. Other lawyers did not share this opinion.

Support staff also expressed mixed views. Those who had been with the DLSU for over one year were generally in favour of creating paralegal positions, mostly because they anticipated that it would create career opportunities. Other support staff stated that they were satisfied with the current resource mix, and that the priority should be staffing the two records management positions on a permanent basis.

As part of a plan to improve records management in the DLSU, the SGC has changed the classification of the two positions devoted to records management. The SGC told the audit team that in her opinion these positions were under-classified (i.e. as SCY03 and CR04), and that it was difficult to keep staff in these positions because CR05 positions were readily available in other departments. The positions have now been reclassified to CR05. While the reclassification was being undertaken, casual employees were used to fill the positions. Since reclassification, the DLSU has filled the positions from the Federal Student Work Experience Program (FSWEP)<sup>7</sup>. A unique feature of this program is that it allows students who have worked for a department to become indeterminate employees upon completing their education. Known as "bridging", this feature permits departments to expedite staffing by appointing the student, without a competition, directly into a position. The SGC plans to bridge the two students to the records management positions in April 2007.

It is the audit team's opinion that this plan will help address the problem that the DLSU has faced in maintaining staffing of its records management positions, but will do little to address resource mix. . In the audit team's opinion, the DLSU needs to review its entire support staff organization.

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<sup>7</sup> FSWEP is the primary vehicle through which federal departments and agencies recruit students for temporary students jobs. FSWEP gives full-time post-secondary students fair and equal access to students jobs offered by the Public Service of Canada and opportunities to learn about the federal government and gain valuable experience while developing and improving their employability skills.

## Recommendations and Management Response

- 4. It is recommended that the SGC initiate a comprehensive review of the DLSU’s support staff organization that would consider current and longer term requirements for both numbers and types of support staff positions.**

I agree. All but one non-lawyer position in the DLSU have been reviewed and, where appropriate, reclassified, starting in March 2005. In light of the upcoming implementation of the new costing model for CIC, and gaps identified for items such as legal trend analysis, I am considering adding SI and AS positions to the DLSU. This will be part of the human resources plan for FY 2008-09.

### **2.4.3 Workload Management**

*The DLSU’s workload management practices are generally effective in ensuring that requests for legal services are assigned to appropriate counsel.*

The team leaders assign or oversee the assignment of all new requests for legal services to lawyers in their teams by:

- serving as the focal point through which requests for services from clients are channelled;
- ensuring that lawyers on their teams keep them informed about requests for services that come to them directly from clients with whom they have established an ongoing relationship. (Lawyers copy their team leaders on all such requests, and team leaders review each lawyer’s decision to accept the request.)

Work assignments are approved by team leaders and are based on the leader’s assessment of a team member’s expertise, interests, and current workload. Team leaders take into account the snapshot provided by the bi-weekly reports from RIMS on individual and team workload, their own knowledge of each file, and the feedback they obtain on individual workloads and case complexities at bi-weekly team meetings. A particular focus is given to requests that remain outstanding 60 or more days after receipt. Actions typically taken for outstanding requests include:

- doing nothing, as short-term surges in workload are unavoidable;
- confirming with the client that the request no longer has a priority and can be closed in RIMS;

- meeting with the lawyer individually to discuss the request and provide direction;
- reassigning the request to another lawyer who has more experience with the matter;
- assigning another lawyer to assist with the request.

The team leaders and the lawyers we interviewed stated that this process results in a balanced distribution of work assignments. They also stated that no change is required. We concur with this assessment.

One team is experiencing a surge in demand for services that is related to several major issues that are before the courts. Both the SGC and the Team Leader know that this team's workload is very high and have taken steps to manage the current demand (e.g. by adding additional lawyers, ensuring that the team's clients agree that these issues take precedence, and taking direct responsibility for some aspects of the files). Despite the high workload, lawyers on this team also stated that they did not require changes to the work assignment process.

## **2.5 Communications**

*The DLSU's communications practices are effective in ensuring that all staff have the information needed to do their jobs.*

Effective and appropriate communications are essential in any workplace. Information needs to be shared on a timely basis so that actions can be taken based on current and correct information.

The DLSU uses a variety of mechanisms to ensure that all staff have the information they need:

- Each new employee undergoes a three-day orientation and training course. (An extensive manual accompanies the course.);
- Special training is provided when new systems or procedures are put in place in the DLSU (e.g. the recent implementation of iCase);
- The SGC and the team leaders maintain an open-door policy so that employees can access them as required with their questions;
- There are bi-weekly all-lawyer meetings chaired by the SGC, which alternate with bi-weekly team meetings held by each Team Leader;
- The SGC meets each Team Leader individually on a bi-weekly basis;
- The SGC meets with the team leaders every week to discuss issues relating to management of the office, and to debrief on recent developments with the client's senior executive

committee, DOJ senior management, Portfolio management, etc. (The portfolio’s National Litigation Coordinator also attends this meeting.)

In our interviews, lawyers and support staff consistently stated that they do not lack the information required to do their jobs. The organization’s culture was characterized as open, sharing, and collaborative by all interviewees. It is our opinion that current DLSU communications practices are appropriate.

## **2.6 Management of Human, Financial, and Materiel Resources**

### **2.6.1 Human Resources**

***The DLSU has not prepared and documented a complete human resources development plan.***

The presence of qualified human resources is critical to a DLSU’s ability to provide legal services to its clients. Each DLSU should therefore have a human resources development plan that addresses recruitment, retention, learning, development, promotion, and succession. This is also consistent with the direction being promoted by the Public Service Human Resources Management Agency of Canada (PSHRMAC).

At the start of the audit the DLSU had no such human resources development plan. However, as noted previously, each DLSU was required to identify its current and future human resources priorities and strategies as part of the 2007-08 Portfolio Business Planning process.

The DLSU’s input, in the form of a half-page point-form e-mail, speaks mainly to its current priorities to fill vacancies in support staff positions. The need to fill existing Team Leader positions (two of the current team leaders are acting) is also mentioned, as is the potential need for a new senior counsel position. With the possible exception of a stated intention to review the DLSU’s organizational structure to determine whether it is still appropriate given the client’s recent reorganization (March 2006), longer-term considerations are absent, as are details on retention, succession, and learning.

It is the audit team’s opinion that while the DLSU’s input may have satisfied the requirements of the 2007-08 Portfolio Business Planning process, more should be done. The PSHRMAC is actively promoting integrated business and human resources planning as the foundation for assessing and understanding the current and future human resources needs of government organizations. We therefore would have preferred to see the DLSU’s input address explicit linkages to the DLSU’s business objectives and priorities as well as quantitative estimates of

demand for legal services. Furthermore, given the emphasis placed on training at the individual employee level in the DLSU (see next section), there was an unexpected lack of information on retention and learning. Finally, despite the fact that the SGC advised the audit team that she expected requirements for more extensive business and human resources planning to become a permanent feature in the Department of Justice, there was no indication of how the DLSU was planning to cope with such requirements. In our view a human resource management planning process should be developed, and an appropriate first step in this process would be the completion of the review of the DLSU's support staff organization recommended earlier.

### Recommendations and Management Response

**5. It is recommended that the SGC, in conjunction with the formal business planning recommended earlier, develop a human resources management plan that considers the DLSU's longer term requirements.**

I agree. Within the CIPS Portfolio, the initial request was for input to the HR and business planning to be provided at the Portfolio level. The CIPS Portfolio management team had discussed further improvements by, for example, extending this process to each individual DLSU. My DLSU will be in step with this process, producing a significantly more developed HR plan for FY 2008-09.

***The DLSU's management is diligent in ensuring that all staff receive a thorough orientation when they join the DLSU, and that they have ample opportunities for professional development during their employment.***

The acquisition of skills and knowledge and the development of managerial and leadership know-how is critical for the effective management of the public service. Training needs to be provided to staff to address any identified gaps in the existing skill set.

A standard orientation seminar is given to all new staff when they join the DLSU. Counsel and support staff stated that the orientation training they received was relevant and useful. Professional development training for counsel was also described as relevant, useful, and available. Counsel further noted that their team leaders proactively track whether they are accomplishing their learning objectives throughout the year (i.e. a monthly report is prepared for the SGC that indicates all the training taken by each staff member). We were told that team leaders remind staff of their learning objectives and encourage them to take advantage of training opportunities that become available. Support staff also stated that training was strongly encouraged in the DLSU.

We reviewed the performance appraisals on file for counsel and support staff. Performance appraisals that contain individual objectives and personal learning plans were complete for all lawyers. Performance appraisals for some support staff were missing. There was none for the Executive Assistant for the SGC, who was acting in the position from September 2004 to September 2006. Also, no appraisals or learning plans were on file for the Office Manager since October 2002. Despite this, training records showed that the Office Manager had taken training in 2005-06.

We are of the opinion that when performance appraisals are not completed or do not include learning plans, there is a risk that performance deficiencies are not addressed and important opportunities for professional and personal development are lost. A lack of completed performance appraisals also compromises the employer's ability to ensure that its workforce has up-to-date qualifications and abilities.

#### Recommendations and Management Response

- 6. It is recommended that the SGC ensure that performance appraisals and personal learning plans are completed annually for the DLSU's support staff as well as for its lawyers.**

I agree. Performance appraisals and learning plans will be completed annually.

*Flexible work arrangements are widely available in the DLSU and they do not impinge on the DLSU's ability to provide services to its clients.*

The SGC stated that anyone in the DLSU can take advantage of a flexible work arrangement (e.g. part-time employment, compressed work week), provided it does not compromise operational requirements. The audit team interviewed several lawyers who are doing so. Staff who are working flexible hours told us that their arrangements are well known to both their clients and colleagues and the arrangements do not affect service delivery. Our interviews with the DLSU's clients provided no indication that flexible work arrangements are compromising the quality of services they receive.

#### **2.6.2 Financial Management**

*The measures taken to administer the DLSU's financial resources are adequate: financial transactions are in compliance with the requirements of the Financial Administration Act.*

The DLSU receives regular financial reports that are produced by the financial systems of both the Department of Justice and CIC. The reports are reviewed, reconciled, and verified by the Office Manager. The Office Manager meets the SGC on a weekly basis to discuss any financial issues that may have arisen during the week.

We reviewed a sample of 25 transactions that encompassed expenditures against both Department of Justice and CIC components of the DLSU's budget. All transactions had relevant supporting documentation (e.g. copies of invoices, contracts) and the required approvals under the *Financial Administration Act*.

We are of the opinion that the measures taken to administer the DLSU's financial resources are sufficient and reasonable.

### **2.6.3 Asset Management**

***Key physical assets are protected in an appropriate manner.***

The DLSU's key physical assets are provided by CIC, which maintains an up-to-date inventory of all assets (primarily computers and peripherals such as monitors, scanners, and printers) that could be easily removed from the premises. There is a satisfactory level of physical and personnel security. The DLSU is located in separate offices in the client's building. Visitors to the DLSU must report to guards stationed at a control desk in the building's foyer. All individuals who do not have building-specific passes must sign in and be escorted to and from the control desk to their destination within the building. The DLSU's office space within the building is further secured with electronic door locks that restrict access to the DLSU's employees. The filing room, which is in the basement of the client's building, has an alarm system.

We were told that there has only been one theft in recent memory (i.e. a book of taxi chits). The theft was investigated and the matter turned over to the Ottawa Police. The DLSU changed its procedures so that all taxi chits are in the possession of and must be requested from the Office Manager.

We are of the opinion that the measures taken by the DLSU to protect key physical assets are appropriate.

### 3. OBSERVATIONS—PROGRAM OPERATIONS

#### 3.1 Information Systems

*The DLSU's information systems generally support management decision making and accountability, as well as the provision of legal services to its clients. Efforts to improve integrated access to these latter systems are under way.*

Management requires reliable and timely information on which to base decisions. A significant amount of that information generally comes from various computerized information systems.

Information and reports are provided by the integrated financial management and salary management systems for financial management and control of both the Department of Justice and CIC. In addition, the DLSU has the following systems to support its provision of legal services to its clients:

- LOPORS (Legal Opinions and Precedents On-Line Retrieval System) is a Department of Justice system used nationally for recording legal opinions that can be useful for reference purposes. It facilitates the provision of consistent advice across the country and over time;
- GASPARD, an information management system administered by the Regulatory Law Directorate, Quebec Regional Office, is used primarily for research in support of litigation activities in specific areas of practice, including citizenship and immigration cases. (It contains acts, regulations, case law, pleadings (factums), legal opinions, and other reference documents in electronic form.);
- Quicklaw is a subscription-based, on-line legal research system from LexisNexis Canada. Its database contains full-text court and tribunal decisions and case law summaries, as well as commentary, legal analysis and collections of the laws enacted in every province and territory.

The use of multiple, on-line databases of acts, regulations, laws, opinions, etc. is important to the DLSU's emphasis on consistency and thoroughness in its provision of legal advice and opinions. It is, however, inefficient for staff to be required to search the various databases individually, as

several lawyers noted in our meetings. The SGC recognized this problem and recently acquired a license for ISYS, a software product designed to provide search, navigation, and discovery of contents across a range of formats, languages, and environments. If the product works as promoted, it should enable the DLSU's lawyers to search multiple databases as well as e-mail and shared hard disk drives in the DLSU with a single query. At the time of the audit ISYS was not deployed in the DLSU and lawyers had not been trained in its use. Thus, while the product looks promising, we are unable to comment on its usefulness.

Access to the Department of Justice's corporate and legal applications such as LOPORS and iCase is provided on the Department of Justice Intranet site, JUSnet, through either JUSaccess or direct access. JUSaccess is a web-based gateway that provides secure access to JUSnet. No problems in using JUSnet or JUSaccess were identified by the lawyers we interviewed.

Until October 2006, the DLSU used an Access database that it had developed to capture and report timekeeping information. In October 2006, iCase was implemented. iCase is a web-based integrated case management, timekeeping and billing, document management, and reporting application developed by the Law Practice Applications group within the Information Management Branch (IMB) of the Department of Justice. The development of iCase involved the re-engineering and integration of several older departmental applications into a single, national system. At present, the DLSU is using only the timekeeping features of iCase.

We were told that iCase's response time was very slow when it was first implemented, but this has since been satisfactorily rectified. A more serious problem is that the timekeeping reports from iCase do not provide as much information on the specific activities conducted in the DLSU as was previously available under the Access system. The DLSU had developed several customized reports for use by the SGC and the team leaders based on the data entered into the Access system<sup>8</sup>. Lawyers had also been able to print their own reports under the Access system.

DLSU staff now face the challenge of determining how to generate iCase reports that provide the type of information they previously obtained from the Access system. We were told that they are willing to engage in some manual intervention, such as rearranging data in iCase or creating a new report, in order to have the same information as they had previously.

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<sup>8</sup> For example, reports were available on the time spent by various activities, such as developing opinions, supporting litigation, administration, supporting legislation, management. These level-of-effort reports are similar to the approved departmental performance metrics discussed in "Plans and Performance Indicators".

### 3.2 Legal File Management

*There are weaknesses in the DLSU’s management of its information assets.*

The efficient management of legal files and records is critical for any legal practice so that relevant information and precedents can be quickly retrieved.

The DLSU uses RIMS for both the management of its workload and its information. We found that RIMS is more successful for managing workload.

The DLSU has policies and procedures for the management of information. These require that all incoming requests for service be logged into RIMS within 24 hours of receipt, regardless of how they originate (e.g. written request, fax, e-mail, phone). A standard file-naming protocol must be used. Outgoing documents (responses to requests for service) must also be logged into RIMS and matched, via the file name, to the incoming request to provide a record that the request has been “closed”. Copies of outgoing documents are also to be stored on the DLSU’s shared hard disk drive using a file-naming protocol.

We were told that staff do not clearly understand or consistently follow these policies and procedures. Support staff turnover, combined with the absence of permanent staff, in the records management function (as discussed earlier) has contributed to this problem. In addition, the DLSU’s lawyers have differing views concerning how to best implement the documented procedures. Some told the audit team that every e-mail and document should be sent to a legal assistant for filing from the inception of a request for service. Others told us that because they cannot predict how large a file associated with a request for service may become, they prefer to wait until an opinion has been rendered before opening a file and sending its e-mails and documents to the assistant. When doing this, some send all the information they have (as per the documented procedure), while others cull the information to weed out unnecessary material<sup>9</sup>. Other lawyers told us that information management is the responsibility of support staff and that they were unaware of the details. The resulting inconsistencies in practices lead to inconsistencies in the volumes and types of information sent to legal assistants for filing and, ultimately, stored on the shared hard disk drive.

We found that the assignment of keywords is inconsistent and error-prone. Some lawyers provide keywords<sup>10</sup> for the documents and e-mails they send for filing; others do not, rather leaving it up to the legal assistant to make the determination. If the lawyers, who are most

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<sup>9</sup> For example, protracted e-mail exchanges to coordinate schedules for a meeting.

<sup>10</sup> Keywords are significant words specified by the user that relate to a particular topic. They are used by a search engine to construct a search statement to find documents containing one or more of the keywords.

familiar with a file, do not provide the keywords, there can be no assurance that consistent keywords will be selected, since legal assistants frequently change as a result of periodic rotation between the different teams. The audit team received consistent complaints from both lawyers and support staff about their inability to retrieve all relevant material in RIMS pertaining to a legal issue using keyword searches.

There is also a backlog of files in the basement file room that is waiting to be archived. We were told that a legal assistant had been assigned to clearing the backlog, but the individual was away on sick leave and at the time of the audit had not yet returned.

The SGC is aware of these problems and, as discussed previously, has taken steps to stabilize staffing of the DLSU's records management function in order to systematically address the problems. It is our opinion that these steps, while sound, need to be supplemented by actions such as additional training for staff and/or greater monitoring by team leaders to ensure that there is consistent understanding and application of the DLSU's records management procedures.

#### Recommendations and Management Response

- 7. It is recommended that the SGC ensure that additional training is provided to the DLSU's lawyers and support staff concerning the DLSU's records management procedures.**
- 8. It is recommended that the SGC, through the team leaders, monitor the application of the DLSU's records management procedures by staff and take appropriate remedial action in cases where these procedures are not being consistently applied.**

I agree with both of these recommendations. Training on office procedures will be developed for delivery early in FY 2008-09; following this, the management team will implement a monitoring process, by team, to ensure better consistency in how office procedures are followed.

### **3.3 Legal Risk Management**

*The DLSU plays an important role in assessing and advising on legal risk with respect to various policy initiatives.*

As described in "Interfaces with the Department of Justice", the DLSU works closely with the portfolio's National Litigation Coordination Team, and the DLSU's lawyers act as a liaison

between client department officials and the regional office litigators who are defending the Crown. Regional office litigators develop the legal strategies and plans for a successful defence and determine the legal risks associated with each case, completing (and if necessary, updating) the required fields in iCase. Acting as intermediaries for the regional office litigators, the DLSU's lawyers ensure that CIC officials in Ottawa are apprised of the litigators' legal positions and strategies, and verify that these are consistent with CIC policy and objectives. We were told by regional office litigators that they rely on the DLSU's knowledge of the client and its policies to develop ideas for a winning case.

Several types of litigation reports are produced that deal with legal risk. In terms of the assessment of risk, the lead is taken by litigators who carry out the initial assessment. DLSU lawyers have the opportunity to comment on these assessments but in most cases concur with the assessments done by litigation counsel as it is felt that the regional litigators defending the case are the ones best positioned to make these assessments.

We were told that on legal opinion work, DLSU counsel frequently are called upon to provide risk assessments for various options under consideration [e.g., when legislative or regulatory change is contemplated]. This is often done in consultation with litigators and/or more specialized advisory units, such as the Human Rights Law Section.

We interviewed client department officials, regional office litigators, and the National Litigation Coordinator. All stated that they were fully satisfied with the role played by the DLSU's lawyers in the legal risk management process.

### **3.4 Compliance with Legislation and Policies**

*The DLSU is compliant with key government and departmental legislation and policies (including the Financial Administration Act and the Government Contracts Regulations). Employment equity requirements are met.*

Staffing in the DLSU is conducted through a competitive process. We were told that the DLSU has consistently exceeded its employment equity targets.

The DLSU complies with the requirements of the *Official Languages Act*. Services are provided to clients in the language of their choice, and many of the staff we interviewed were bilingual. Official languages training is encouraged for DLSU lawyers. We were told that even if the position they occupy is not classified as bilingual, staff have access to part-time language

training (i.e. four to five hours a week). In meetings with the lawyers and support staff, the audit team found that the conversation shifted quite naturally between English and French.

As noted in “Financial Management”, the DLSU was also found to be compliant with the requirements of the *Financial Administration Act* and the Government Contracts Regulations.

### **3.5 Interfaces with the Department of Justice**

*The DLSU’s interfaces with regional offices and the portfolio ensure appropriate coordination and cooperation on shared responsibilities.*

The CIC DLSU has regular interactions with:

- the National Litigation Coordination Team (portfolio level)
- regional office litigators
- specialists in the Public Law Sector of the Department of Justice (e.g. Constitutional and Administrative Law (CALs), Human Rights Law Section (HRLS), Information Law and Privacy (ILAP), International Law)

The National Litigation Coordination Team, which operates at the portfolio level, manages all litigation related to CIC. There are about 10,000 court challenges launched a year against CIC. Independent tribunal decisions are challenged, such as those of the Refugee Protection Division of the Immigration and Refugee Board, as well as decisions made by CIC officials [e.g., visa officers, pre-removal risk assessment officers, etc]. Regional litigators receive instructions on carrying out the litigation; a certain percentage of files must come to NHQ for assignment to a DLSU lawyer and contact with the client at the national level. This is done via the National Litigation Coordinator who will request the assignment of a DLSU lawyer to the litigation team via the DLSU team leaders. Once the Team has been advised of who has been assigned, it informs the manager responsible for the litigation in CIC.

There are approximately 200 lawyers in the Department of Justice who specialize in immigration and citizenship issues (mostly litigators). Most are located in the Montreal, Toronto, and Vancouver regional offices. We were told that they work well together as a national team. There is a teleconference every two weeks involving the leader of the National Litigation Coordination Team, the SGC, and managers of the immigration litigation sections from the Montreal, Toronto, Vancouver and Prairies regional offices. This group also has in-person meetings twice a year to share information and network. We were told that the entire process, which has been in place for at least six years, works very well.

Relationships with all parts of the Department that the DLSU regularly interacts with were consistently described by DLSU personnel as collaborative and cordial. Neither the DLSU's lawyers or the litigators we interviewed indicated that there were requirements for changes. We concur with this assessment.

### **3.6 Client Satisfaction with Services**

*The DLSU's relationships with its clients are positive and the clients indicated that the DLSU is a source of valuable advice and counsel.*

CIC officials we interviewed expressed a very high level of satisfaction with the range of services provided by the DLSU and the manner in which those services are provided. Several clients referred to the DLSU's services as consistently excellent, describing its lawyers as efficient, responsive, knowledgeable, and respectful. We were often told that no changes in the client-DLSU relationship were required.



#### **4. OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSE**

*The DLSU does not have documented objectives.*

- 1. It is recommended that the SGC develop a written set of organizational objectives for the DLSU that are specific, measurable, achievable, and time-related. ....10**

I agree. The LSU will develop a written set of organization objectives for the next fiscal year [by April 1, 2008].

*All the significant risks faced by the DLSU have not been explicitly identified.*

- 2. It is recommended that, once the DLSU's objectives have been documented, the SGC undertake a formal risk assessment and ensure that both the risks and strategies for addressing these risks are identified and documented. ....33**

I agree. While risk assessments, on many levels, have been part of an intuitive, unwritten process within the management team at the LSU, and in response to client officials and client workload demands, a more formal risk assessment can be undertaken. This risk assessment will be undertaken after the LSU's written objectives are established in consultation with the A/ADAG of the CIPS Portfolio.

*The DLSU has developed an extensive set of clear policies and procedures that are well communicated to all staff.*

*The DLSU has not prepared and documented an independent business plan to govern its activities and establish associated resource requirements.*

**3. It is recommended that the SGC develop a formal business plan for the DLSU.....13**

I agree. A formal, written business plan will be in place for the fiscal year commencing in April 2008.

*The DLSU relies on an appropriate mix of qualitative and quantitative indicators to monitor its performance.*

*The DLSU's organization into teams that mirror its client's organization is appropriate, with one exception.*

*The DLSU's team leaders have delegated authority appropriate to their responsibilities and qualifications.*

*The resource mix in the DLSU needs to be reviewed, as there are no paralegals among the support staff.*

**4. It is recommended that the SGC initiate a comprehensive review of the DLSU's support staff organization that would consider current and longer term requirements for both numbers and types of support staff positions.....19**

I agree. All but one non-lawyer position in the DLSU have been reviewed and, where appropriate, reclassified, starting in March 2005. In light of the upcoming implementation of the new costing model for CIC, and gaps identified for items such as legal trend analysis, I am considering adding SI and AS positions to the DLSU. This will be part of the human resources plan for FY 2008-09.

*The DLSU's workload management practices are generally effective in ensuring that requests for legal services are assigned to appropriate counsel.*

*The DLSU's communications practices are effective in ensuring that all staff have the information needed to do their jobs.*

*The DLSU has not prepared and documented a complete human resources development plan.*

- 5. It is recommended that the SGC, in conjunction with the formal business planning recommended earlier, develop a human resources management plan that considers the DLSU's longer term requirements.....22**

I agree. Within the CIPS Portfolio, the initial request was for input to the HR and business planning to be provided at the Portfolio level. The CIPS Portfolio management team had discussed further improvements by, for example, extending this process to each individual DLSU. My DLSU will be in step with this process, producing a significantly more developed HR plan for FY 2008-09.

*The DLSU's management is diligent in ensuring that all staff receive a thorough orientation when they join the DLSU, and that they have ample opportunities for professional development during their employment.*

- 6. It is recommended that the SGC ensure that performance appraisals and personal learning plans are completed annually for the DLSU's support staff as well as for its lawyers. ....23**

I agree. Performance appraisals and learning plans will be completed annually.

*Flexible work arrangements are widely available in the DLSU and they do not impinge on the DLSU's ability to provide services to its clients.*

*The measures taken to administer the DLSU's financial resources are adequate: financial transactions are in compliance with the requirements of the Financial Administration Act.*

*Key physical assets are protected in an appropriate manner.*

*The DLSU's information systems generally support management decision making and accountability, as well as the provision of legal services to its clients. Efforts to improve integrated access to these latter systems are under way.*

*There are weaknesses in the DLSU's management of its information assets.*

- 7. It is recommended that the SGC ensure that additional training is provided to the DLSU's lawyers and support staff concerning the DLSU's records management procedures. ....28**

- 8. It is recommended that the SGC, through the team leaders, monitor the application of the DLSU's records management procedures by staff and take appropriate remedial action in cases where these procedures are not being consistently applied.**

I agree with both of these recommendations. Training on office procedures will be developed for delivery early in FY 2008-09; following this, the management team will implement a monitoring process, by team, to ensure better consistency in how office procedures are followed.

*The DLSU plays an important role in assessing and advising on legal risk with respect to various policy initiatives.*

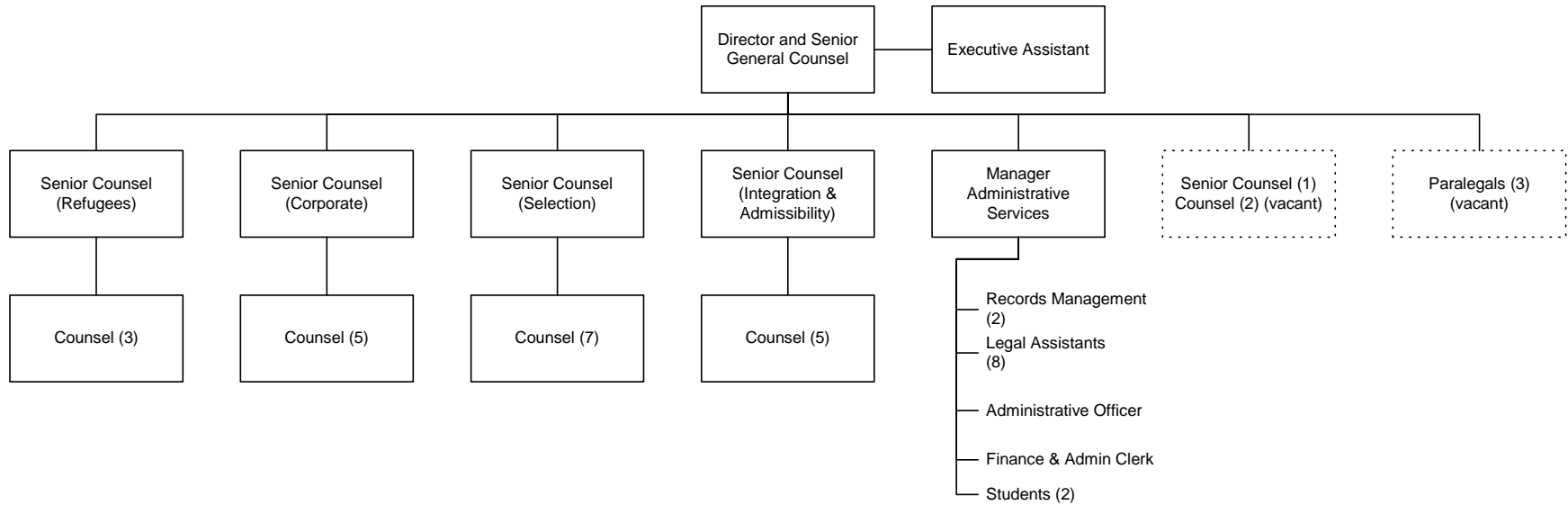
*The DLSU is compliant with key government and departmental legislation and policies (including the Financial Administration Act and the Government Contracts Regulations). Employment equity requirements are met.*

*The DLSU's interfaces with regional offices and the portfolio ensure appropriate coordination and cooperation on shared responsibilities.*

*The DLSU's relationships with its clients are positive and the clients indicated that the DLSU is a source of valuable advice and counsel.*

## APPENDIX A—CIC DLSU ORGANIZATION

**Figure 1**



It should be noted that the following positions were vacant at the time of the audit.

- one Senior Counsel
- two Counsel
- three paralegals
- two legal assistants

At the time of the audit there were also three Counsel positions and the Administrative Officer's position where the incumbent was on long-term leave or secondment. The position of SGC's Executive Assistant was filled on an acting basis by one of the legal assistants. Also, one of the records management positions was a casual position.



## APPENDIX B—CONTEXTUAL INFORMATION

In carrying out its responsibility to provide legal advice to other government departments and agencies, the Department of Justice has established dedicated Departmental Legal Services Units (DLSUs) for most government departments and agencies. These units are responsible for:

- providing client organizations with legal advice and assistance to facilitate their operations;
- ensuring that DLSU policies, programs, and operations conform to the law.

The DLSUs interact with other sectors of the Department of Justice with respect to litigation and to obtain advice on specialized matters such as compliance with the *Canadian Charter of Rights and Freedoms*, *Access to Information Act*, and *Privacy Act*.

Within the Department of Justice, DLSUs have been organized into groups or portfolios based on areas of commonality in legal practice. The CIC DLSU is part of the Citizenship, Immigration and Public Safety Portfolio. A Senior General Counsel (SGC) is responsible for the DLSU and reports to the Assistant Deputy Attorney General of the portfolio.

A close relationship typically develops between DLSUs and their clients. DLSUs are generally located in the same building as the client's senior management team, and most DLSU heads regularly attend their client's departmental management committee meetings.

Generally, the client provides the DLSU with funding to offset the costs of providing legal services. In the CIC DLSU's case, its client provides funding for:

- operations and maintenance (O&M)
- support staff
- office space

The Department of Justice also provides funding for O&M (see Table 1).

All DLSU lawyers are Department of Justice employees. Support staff are CIC employees.

The current financial and human resources allocated to the CIC DLSU are shown in Table 1.

**Table 1  
CIC DLSU Resources**

<b>Human Resources</b>	<b>2006–2007</b>
Number of lawyer positions	25
Number of support staff positions	12
<b>Financial Resources</b>	
<b>Salary Costs</b>	
Department of Justice A-Base	\$2,336,704
CIC A-Base	\$536,900
<b>O&amp;M Costs</b>	
Department of Justice A-Base	\$239,609
CIC A-Base	\$85,000
<b>Total Available Funding –</b>	<b>\$3,198,213</b>

## **APPENDIX C—METHODOLOGY**

The criteria for the audit were based on the *Guidance on Assessing Control* issued by the Criteria of Control Board (CoCo) of the Canadian Institute of Chartered Accountants and on TBS guidance on auditing management frameworks.

Information for this audit was obtained through the following methods:

- a review of relevant documentation concerning the operations of the CIC DLSU;
- interviews and focus groups with management, lawyers, and staff in the DLSU and with management and staff within the Assistant Deputy Attorney General's (ADAG) office (Citizenship, Immigration and Public Safety Portfolio);
- telephone interviews with litigators in the Department's regional offices;
- telephone interviews with client representatives.



## **APPENDIX D—DEPARTMENT OF JUSTICE PERFORMANCE METRICS**

The Office of Strategic Planning and Performance Measurement (SPPM) has devised an approved set of departmental performance metrics. These metrics, which were included in the call for departmental and portfolio business plans, encompass quantitative and qualitative aspects of DLSU performance and include:

- Legal and advisory client training:
  - level of effort (number of hours)
  - number of clients trained
  - feedback on training
  - client feedback on quality of advisory services
  
- Legal representation, litigation, and litigation support
  - level of effort (number of hours)
  - level of effort by risk levels
  - number of active files
  - number of files opened
  - number of files closed
  - age of active inventory
  - levels of risk of active and closed inventories
  - levels of complexity of active and closed inventories
  - levels of effort by risk levels (high, medium, low)
  - total value of settlements and award of closing inventory (at year-end)
  - case outcomes of closing inventory (at year-end)
  
- Legislative and regulatory drafting
  - level of effort (number of hours)
  - number of Bills
  - number of regulations in Part I
  - number of regulations in Part II