

TABLE OF CONTENTS

STATEMENT OF ASSURANCE	i
EXECUTIVE SUMMARY	1
GENERAL MANAGEMENT RESPONSE	9
1. INTRODUCTION.....	11
1.1 Organizational Structure	11
1.2 Audit Objectives and Scope.....	14
1.3 Methodology	15
2. FINDINGS – MANAGEMENT FRAMEWORK	17
2.1 Objectives and Risks.....	17
2.2 Policies and Procedures	20
2.3 Plans, Client-Driven Service Agreements, and Performance Indicators	22
2.4 Organization.....	28
2.5 Communications	35
2.6 Management of Human, Financial, and Materiel Resources.....	36
3. FINDINGS – PROGRAM OPERATIONS	43
3.1 Information Systems	43
3.2 Legal File Management	45
3.3 Library.....	47
3.4 Legal Risk Management	47
3.5 Compliance with Legislation and Policies.....	49
3.6 Interfaces with the Department of Justice.....	50
3.7 Client Satisfaction with Services	51
3.8 Presence Within the RCMP of non-Department of Justice Legal Advisors.....	52
4. CONCLUSIONS	54
5. RECOMMENDATIONS AND MANAGEMENT RESPONSE.....	55

STATEMENT OF ASSURANCE

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

This internal audit was carried out 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) to provide legal advice and assistance to other government departments and agencies. This audit focused on the management practices of the Department of Justice DLSU that provides legal services to the Royal Canadian Mounted Police (RCMP).

Objectives and Risks

The RCMP DLSU has a mission statement that communicates its vision and summarizes its values and philosophy. It also has a team charter that describes how all staff are expected to conduct themselves. Both documents were developed in the late 1990s and have been periodically revisited since then. While the current mission statement and team charter contain important information for establishing the organizational culture, they do not address the effectiveness and efficiency of operations or the reliability of internal and external reporting. Many of the statements are not measurable, achievable, or time-related, making it difficult for the DLSU to devise performance indicators that can be used to assess its progress. We found that the degree of awareness of the mission statement and charter within the DLSU varied widely. The audit team has made recommendations on developing measurable, achievable, realistic, and time-related objectives that are known to all staff.

The risk identification and management process followed by the DSLU is an informal one based on the experience of the Senior General Counsel (SGC) and the intelligence gained by the participation of the SGC and her Senior Counsel on various RCMP committees. This process is at variance with practices being implemented by the Department of Justice to document the risks associated with key priorities and to identify planned risk management measures. We have made a recommendation that a formal risk assessment be undertaken and that the risks and strategies for managing these risks be developed and documented after the DLSU's objectives are refined.

Policies and Procedures

The DLSU has made a good start in the development and documentation of a set of procedures that will help ensure that its activities are conducted in an effective, efficient, and economical manner. Manuals have been developed for DLSU-specific office procedures and records management. The records management manual was found to provide insufficient direction to new staff on requirements and procedures. There are also plans to develop a legal risk management manual for the use of the DLSU's paralegals. The audit team concurs with this initiative. We have made a recommendation to develop the legal risk management manual as soon as possible and to prepare a more complete manual for records management.

Plans, Client-Driven Agreements, and Performance Indicators

As part of a Department-wide project to establish a new, integrated business planning process that links expected results to activities and resources, the DLSU is planning to develop a detailed Legal Services Business Plan by December 31, 2007. It last prepared a formal business plan in 2000. At the time of the audit, the DLSU was in the process of developing its input to the Citizenship, Immigration and Public Safety Portfolio's business plan for 2007-08. This task of providing responses to the Portfolio was falling to the SGC and selected Senior Counsel because support staff lacked the relevant experience and expertise. To ensure that the DLSU is more able to address this type of requirement in future, the organizational structure of the DLSU was recently reviewed and a proposal developed that would include support staff who possess planning experience and expertise. The audit team is concerned that once these support staff are in place, the SGC may become disengaged from the planning process. Maximum benefit from the planning process is obtained only if plans are prepared by those who will be responsible for their implementation. Thus, the direct and active engagement of the SGC and her management team in the planning process is important. The audit team has recommended that the SGC and members of her management team become sufficiently knowledgeable of the business planning process so that they can lead and actively participate in it.

The DLSU has a number of agreements with the RCMP that detail the funding that will be provided for specific services. There is no overall agreement such as a Client-Driven Service (CDS) agreement that addresses the overall demand for legal services, plans for resource allocation, the allocation of costs, and reporting requirements. The Citizenship, Immigration and Public Safety Portfolio does not require its DLSUs to develop such an agreement at this time, but may do so in the future. In recent years, when the DLSU required more resources, it has been able to obtain them from the RCMP, as long as the request was supported. It is the audit team's opinion that while this approach may be providing the DLSU with sufficient resources at present,

it is inefficient and vulnerable to changes in management. A preferable approach would be to have one overall agreement that specifies the required resources (i.e. number and level of counsel, number of support staff, and O&M requirements), performance management, and reporting. We have made a recommendation to this effect.

As part of a Department-wide effort to establish a new, integrated business planning process, the Office of Strategic Planning and Performance Measurement (SPPM) developed a detailed set of approved departmental performance metrics. At the time of the audit, no quantitative performance measurement systems or processes were in place within the DLSU that could provide feedback related to these performance measures. The SGC instead relies on ad hoc feedback from the client. The audit team acknowledges that the feedback received in the course of the audit was positive. Nonetheless, we believe that client satisfaction data needs to be complemented by efficiency and productivity measures of the type devised by SPPM and that these results need to be communicated to the client. We have made recommendations that the DLSU implement a more formal performance monitoring system, and that these indicators and the reporting of results be incorporated into a formal agreement for services with the client.

Organization

The organizational structure has been evolving in response to the DLSU's rapid growth since 2001. At the beginning of the audit, all lawyers were assigned to one of four practice groups. By the end of November 2006, the SGC had developed a proposal for a more hierarchical organization that would include a Deputy Director and a Program Director with delegated planning, financial, and human resource authorities. We have some concerns with the proposed responsibilities for these positions. The draft position descriptions combine management responsibilities with responsibilities for the provision of strategic legal advice and services to the SGC, clients, and other lawyers. In our experience there is a risk that in practice the responsibility to provide legal advice and services will overwhelm the managerial responsibilities. We have made a recommendation that these positions focus their time on their supervisory and quality assurance role and limit time spent on complex legal files.

The overall ratio of support staff to professionals in the DLSU was judged by the SGC, lawyers, and support staff themselves to be appropriate. It has been difficult, however, to maintain support staff levels at the approved strength due to security requirements and the location of the office. We have recommended that the SGC should investigate mechanisms such as anticipatory staffing to expedite the staffing of support staff vacancies. The specific ratio of paralegals to legal assistants was also considered to be too low by paralegals, other support staff, and some lawyers. Proposed changes to the organizational structure will exacerbate this. As a result, we

have recommended that the SGC should review the proposed new support staff organization before it is approved and implemented.

Informal processes are used to manage and control the workload of lawyers in the DSLU. These processes have been satisfactory, as there is a consensus that while workload levels are high, it is fairly balanced. None of the lawyers we consulted expressed a desire to change the workload distribution process. In the audit team's experience, however, when an organization experiences increased demand for services that drives the growth of the organization to the planned size of the RCMP DLSU, problems begin to emerge with informal workload management processes. We have observed situations in other DLSUs where lawyers spend increasing amounts of their time negotiating competing priorities rather than working on the requests themselves. In our opinion, a better approach is to channel all requests for services through a manager or supervisor who is responsible for determining relative priorities and assigning requests to lawyers on the basis of their experience and availability.

The SGC advised the audit team that she does not use the monthly reports prepared on staff time utilization to monitor workload because in her view some staff under-report their time. The audit team is of the opinion that if there are inaccuracies in the time reporting, the accuracy should be improved rather than discounting the reports as a method of assessing workload. We have made a recommendation to improve the accuracy of time reporting.

Communications

Regular all-lawyer meetings led by the SGC are held to provide lawyers with an opportunity to discuss the files they are working on and to place issues before their colleagues for discussion. Separate practice group meetings are also held at which group-specific legal issues can be raised. The Office Manager holds separate meetings for the support staff, although at the time of the audit, they had not taken place for several months. The paralegals used to be invited to the all-lawyer meetings, but this has been discontinued. At the time of the audit neither the support staff nor the paralegals had a formal mechanism for acquiring relevant information. Also there are many new staff in the DLSU due to its growth and staff turnover. In our view, periodic all-staff meetings devoted to discussing non-legal issues would help to ensure that relevant information is communicated to everyone in the DLSU. We have made a recommendation to that effect.

Human Resources

A human resources plan that is driven by the business plans and that encompasses leadership, recruitment, retention, succession, and learning currently does not exist either at the departmental level or in the RCMP DLSU. Such a plan is expected to be an outcome ultimately of the Department's integrated business planning process that was still being implemented at the time of the audit.

None of the lawyers or support staff consulted during the audit expressed any concerns about lack of training and professional development opportunities. We did observe, however, that orientation for new staff members relies on informal person-to-person information exchanges. These were reported as being both useful and helpful. We are of the opinion that given the growth of the DLSU and its level of staff turnover, an orientation manual that described the DLSU's mission, objectives, and structure as well as the client's organization, office policies, and standardized procedures would reduce the time required for orientating new staff members. We have made a recommendation that a manual be developed to familiarize new staff with the DLSU and its client.

Our review of performance appraisals found that they were prepared for all lawyers for the 2005-06 fiscal year but a significant number were either incomplete or contained such minimal information that their usefulness was doubtful. We found no support staff performance appraisals for 2005-06 on file. We were advised that no support staff requested an appraisal and there were many other competing priorities in the DLSU. By not completing regular appraisals or by not completing them thoroughly, opportunities for professional and personal development are lost and employees' opportunities are restricted. We have made a recommendation that complete performance appraisals be prepared annually for all lawyers and support staff.

We found that there was an inconsistent understanding within the DLSU as to what provisions were available for flexible work arrangements. It is our opinion that the DLSU's policy on flexible work arrangements needs to be clarified and clearly communicated to staff. A recommendation was made to that effect.

Financial and Materiel Resources

The measures taken to administer the DLSU's financial and materiel resources are adequate.

Information Systems

The DLSU uses several standard Department of Justice IM/IT systems including JUSnet/JUSaccess, the Legal Opinions and Precedents ON-Line Retrieval System (LOPORS), iCase, and the Timekeeping System (TKS). Generally these systems provide reliable information in a timely manner. Staff expressed a certain degree of frustration to the audit team with respect to the need to use multiple passwords to access departmental information systems.

Legal File Management

The DLSU uses the RCMP's Integrated Records and Information Management System (iRIMS) to manage operational files, documents, and its law library catalogue because the files require a system that can accommodate top-secret information. In our review of a sample of files recorded in iRIMS, we found that 87 percent of files were located as described in the system. We were told that files can sometimes get lost, that sometimes there are problems locating files, and that some files are not complete.

The DLSU's file room is very cramped and there were files on the floor when we inspected it. File management has not received the ongoing attention it requires due to staff shortages and the involvement of the Records Management Analyst with the implementation of iCase in the latter part of 2006. The audit team is of the opinion that at least in the short term, insufficient resources are devoted to legal file management within the DLSU. We have recommended a review of the number of resources devoted to file management in the proposed organizational structure.

Legal Risk Management

In response to the active promotion of legal risk management by the DLSU, the RCMP established an Integrated Legal Risk Management Committee to manage legal risks at a corporate level. The RCMP now chairs the committee while the SGC provides advice. In 2005, a Risk and Litigation Management Practice Group was established within the DLSU. One of the key issues facing this practice group is the inconsistency in the interpretation of levels of risk across the country. The assessed level of risk is entered into iCase by litigators in the regional offices. Until almost the end of our audit, the DLSU did not have on-line access to iCase and had to transcribe manually quarterly iCase print-outs from the regional offices.

The DLSU now has access to the overall risk assessment but does not have access to the source documents because iCase only provides a read-only functionality. In December 2006, a plan was

developed to provide the Risk and Litigation Management Practice Group with access. It is dependent on each Regional Office agreeing to provide access. There is a risk that an office, or a litigator in an office, may withhold permission. We have recommended that a protocol be developed to permit the access and review of Regional Office iCase documents by DLSU lawyers and staff without requiring them to contact regional offices for permission.

Compliance with Legislation and Policies

The DLSU is in compliance with key government and department legislation and policies including the *Financial Administration Act*.

Interfaces with the Department of Justice

The DLSU's primary interactions with the Department of Justice's Headquarters and regional offices concern litigation. We encountered mixed perceptions concerning these interactions. The DLSU's counsel told us that the interactions with the litigators has improved over the past five years. Several of the litigators we spoke to suggested that it would be beneficial to have national standards and approaches for common types of suits as well as clarification on which files the DLSU needs to be informed of on a detailed basis. As noted under Policies and Procedures, the DLSU has plans to develop a legal risk manual. The rapid growth of the group and the difficulty in finding qualified candidates to meet growing demand for services has meant that most of the group's resources have been consumed in compiling and verifying the accuracy and completeness of reports prepared for the RCMP's Integrated Legal Risk Management Committee.

Client Satisfaction with Services

RCMP officials we interviewed consistently indicated that there was a very high level of satisfaction with the range of services provided by the DLSU and the manner in which those services are provided.

Presence Within the RCMP of non-Department of Justice Legal Advisors

The RCMP has a long tradition of supporting its regular and civilian members in acquiring legal training and of hiring fully qualified lawyers as staff advisors. The RCMP took steps in June 2006 to ensure that it is clearly understood that the provision of legal advice and services to the RCMP is the exclusive purview of the Department of Justice. In our view, the situation will need to be monitored, and we have recommended that the SGC, through the DLSU's lawyers, bring incidents of non-compliance with the new policy to RCMP management's attention.

Conclusions

The RCMP DLSU has experienced strong and sustained growth in demand for its services since the 2001. The DLSU's organization and resources have evolved (and continue to evolve) in response. Challenges have been experienced in recruiting the numbers of qualified professional and support staff required to address the increase in demand. Nevertheless, the DLSU's clients were very positive concerning the quality and value of its services, and are willing to continue to fund its growth.

The audit team found that, as it grows, the DLSU will require improvements in several aspects of its management infrastructure and practices. These include:

- objectives and risks
- policies and procedures
- plans and performance indicators
- organization
- workload management
- human resources management
- funding and budget
- legal file management
- legal risk management

GENERAL MANAGEMENT RESPONSE

The management response to the recommendations contained in the report was provided by the Senior General Counsel, RCMP Legal Services.

The SGC and some of the management team members were directly involved in the first Portfolio formal business planning exercise, in 2006-2007. They have also been directly involved in detailed Legal Services' level planning exercises over a period of several years in other legal services in the past, including on risk identification and management. Thus, they support the view that it is important that managers be sufficiently knowledgeable and competent in the business planning process so that they can lead and actively participate in it.

To reduce duplication, it would be useful if support could be provided both at the departmental and portfolio level on some of the recommendations.

1. INTRODUCTION

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*.

This audit focused on the management practices of the DLSU that provides services to the Royal Canadian Mounted Police (RCMP).

Some of the key risks identified in relation to the audit include the impact of legal work for the RCMP and other DLSUs in the Citizenship, Immigration and Public Safety Portfolio; inappropriate linkages with other organizations such as the Criminal Law Branch and other DLSUs; inability to forecast demand for legal services; ability to respond adequately to client demand for legal services; inefficiencies in the organization and the workload management; inappropriate reporting of performance information; inconsistency in the provision of legal advice; issues with management of electronic information; and appropriateness of linkages with the client.

1.1 Organizational Structure

Within the Department of Justice, DLSUs have been organized into groups or portfolios based on areas of commonality in legal practice. The RCMP 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. This is the case for the RCMP DLSU, which is co-located with the RCMP at its national headquarters campus in Ottawa.

Generally, the client provides the DLSU with a significant level of funding. Client funding covers costs for:

- all operations and maintenance (O&M)
- support staff including paralegals
- office space
- salaries and bar fees for some of the lawyers on staff

All DLSU lawyers are Department of Justice employees. Support staff are RCMP employees. The current financial and human resources allocated to the RCMP DLSU are shown in Table 1¹.

Table 1
RCMP DLSU Resources

Human Resources	2006–2007
Number of lawyer positions	37
Number of support staff positions	20
Financial Resources	
Salary Costs	
Department of Justice A-Base	\$724,472
RCMP A-Base	\$1,223,644
O&M Costs	
RCMP A-Base	\$140,481
Total Available Funding – before specific initiatives funding²	\$2,088,597

¹ Numbers of lawyer and support staff positions are as per the approved organization at the start of the audit. Several positions (e.g. Clerical Assistant, Executive Assistant to the SGC, Deputy Director, several lawyers) were vacant at that time. Recruitment and staffing processes were under way during the audit. In addition, the SGC was in the process of enlarging the organization and by the end of 2006 had proposed an organization consisting of 40 lawyers and 20 support staff.

² The RCMP DLSU receives specific initiatives funding throughout the fiscal year (see “Management of Human, Financial and Materiel Resources” for additional discussion). Most of this funding comes from the RCMP. By the conclusion of the fieldwork, this funding had totaled \$950,000 for fiscal year 2006-07.

All lawyers in the DLSU have been assigned to one of four practice groups:

- Risk and Litigation Management
- Corporate Management/Human Resources
- Operational Priorities
- Firearms

A Deputy Director position (approved but vacant at the time of the on-site examination) reports directly to the SGC. Two practice groups (Risk and Litigation Management, and Corporate Management/Human Resources), which comprise 13 lawyers, paralegals, and the Litigation Analyst, report to this position. Lawyers and support staff in the remaining practice groups (Operational Priorities and Firearms) report to the SGC³.

The Risk and Litigation Management practice group provides legal services in support of the RCMP's integrated risk management efforts and coordinates litigation affecting the RCMP at the national level.

The Corporate Management/Human Resources practice group provides legal services related to the RCMP corporate infrastructure, such as services in support of addressing human rights complaints and individual actions by employees or former employees (e.g. negligent performance of duties, violations of the RCMP code of conduct). The group also assists the RCMP in defining and properly documenting its relationships with other law enforcement agencies that work on joint law-enforcement teams (i.e. Integrated Border Enforcement Team, Integrated Market Enforcement Team).

The Firearms practice group was added to the DLSU in May 2006, when the government decided to place the firearms program under the RCMP. It had previously reported directly to the Minister of Public Safety. The Firearms group provides legal advice to the Commissioner of Firearms, the Federal Firearms Officers, and the Registrar of Firearms concerning the issuance of individual and business firearms, authorizations for the transport and carriage⁴ of firearms, approval of shooting ranges, and the designation of Canadian Firearms Safety Course Instructors.

The Operational Priorities group supports all the RCMP's operational priorities (e.g. organized crime, terrorism, economic integrity, youth, Aboriginal communities) and provides operational

³ In the proposed organization, the two practice groups will report to the SGC through a new Program Director position and the support staff (except the paralegals) will continue to report to the SGC through the Office Manager.

⁴ In the Firearms Act, authorization to transport refers to being authorized to move a firearm between two or more specified places, whereas authorization to carry refers to being authorized to have a firearm on your person as required, for example, to fulfill an official duty.

training to the RCMP. Some of its major files include the Air India Inquiry and security for the 2010 Olympics.

The approved support staff positions include:

- an office manager
- an administration officer
- a clerical assistant
- an analyst for records management and one for information systems
- five paralegals and a Senior Paralegal
- a litigation Analyst
- an executive Assistant to the SGC
- seven legal assistants

The five paralegals and the Litigation Analyst report to a Senior Paralegal, who reports in turn to the Group Leader for Risk and Litigation Management. The legal assistants, Clerical Assistant, analysts for records management and information systems, and the Administration Officer report to the Office Manager. The SGC's Executive Assistant reports to the SGC.

1.2 Audit Objectives and Scope

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

The audit team examined and assessed:

- the management framework, including policies and procedures related to planning, organizing 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 systems, procedures, and practices with legislation, regulations, and key central agency/Department policies;
- the appropriateness of interfaces with other sectors of the Department of Justice, including regional offices;
- the effectiveness of the legal file management process;
- the appropriateness of interfaces with the client department;
- the level of client satisfaction with the legal services provided;

- the adequacy of the current budget received from the Department of Justice and the RCMP for the provision of quality legal services.

In addition to these general elements, the audit team gave specific attention to the:

- mix of resources (including use of paralegals);
- workflow processes;
- liability forecasting/planning (legal risk management);
- presence within the RCMP of non-Department of Justice legal advisors and the impact on the Department.

The planning and on-site examination phases for this audit were carried out between August and December 2006.

1.3 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 RCMP 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);
- interviews with managers in the Office of Strategic Planning and Performance Management (SPPM) and the Human Resources and Professional Development directorates, as well as with lawyers in the Department's regional offices;
- telephone interviews with client representatives.

2. FINDINGS – MANAGEMENT FRAMEWORK

The management framework comprises policies, practices, and procedures relating to planning, organizing, controlling, leading, and communicating, and to the management of human, financial, and materiel resources. The audit team examined:

- the DLSU’s objectives and the risks faced by the DLSU in the achievement of its objectives;
- the policies and procedures governing the activities of the DLSU and its counsel;
- how the DSLU plans and how it monitors its performance in relation to its plans;
- how it organizes and directs staff;
- the DLSU’s communications practices;
- the adequacy of financial, human, and materiel resources to deliver legal services.

2.1 Objectives and Risks

2.1.1 Objectives

Setting organizational objectives is an important step in ensuring that professional and support staff receive a clear indication of expectations. Objectives should be specific, measurable, achievable, realistic, and time-related. Managers in an organization should avoid becoming so involved in their day-to-day activities that they forget the organization’s main purpose or objective. The significant internal and external risks faced by an organization in the achievement of its objectives should also be identified and assessed in order to develop strategies for managing them.

We found weaknesses in both the DLSU’s objectives and its identification of risks relating to these objectives. Documented objectives should be both short- and long-term in nature, and address the effectiveness and efficiency of operations, reliability of internal and external reporting, and compliance with applicable laws, regulations, and policies. There should also be documentation concerning the risks faced by the DLSU in the achievement of its objectives. We found that documentation concerning the DLSU’s objectives was outdated, and that there was no documentation concerning risks.

The RCMP DLSU has a mission statement that communicates its vision and summarizes its values and philosophy. There is also a team charter that describes how all staff are expected to conduct themselves during day-to-day operations with respect to communicating with other members of the DLSU, supporting each other, and maintaining a professional office environment. The team charter prescribes specific staff behaviour such as avoiding gossip, respecting individuals' privacy, making themselves available to colleagues for the sharing of ideas, and emptying the shredder when it is full. We were told that these documents were developed as part of a team-building exercise that took place in the late 1990s. We were also told that both documents had been periodically revisited, and that they had been redistributed to staff several times as the DLSU has grown. Nevertheless, we found lawyers' knowledge of these documents to be uneven.

Some lawyers in the DLSU told us that they were not aware of either document. Others said that they were aware of the mission statement but had not read it. Still others stated that they were familiar with the charter, and that they expected that it will be reviewed at the retreat planned (but not yet scheduled) for January or February, 2007. Among those lawyers who were aware of the documents, we did not find a common understanding of the importance of these documents in accomplishing their work. On the one hand, some stated that, as individuals, they are expected to "measure up" to the prescriptive behaviours outlined in the charter. On the other hand other lawyers indicated that their role was to focus on accomplishing their share of the DLSU's work and to balance their efforts among this work to ensure that the client's key issues and priorities were addressed.

In its current form the mission statement communicates the values, ethics, and enduring qualitative standards⁵ of the DLSU. While these are important in establishing an organizational culture, they do not address the effectiveness and efficiency of operations or the reliability of internal and external reporting. Many of the statements are not measurable, achievable, or time-related, making it difficult for the DLSU to devise performance indicators that can be used to assess its progress in relation to the mission. The team charter contains a mix of values-oriented statements and prescriptions for behaviour. It is the audit team's opinion that both the mission statement and team charter need to be, first, reviewed for their continuing relevance to the DLSU; and second, refined and extended to provide practical guidance to the DLSU's lawyers, support staff, and their supervisors. Furthermore, both documents need to be better known and understood within the DLSU. Otherwise, individual employees lack a benchmark against which to assess their own contributions to the mission and charter.

⁵ For example, the values and philosophy section of the mission statement espouses "teamwork, respect, fairness, effective communication, dedication and commitment, recognition, knowing the client, proactive, professional ethics, continuous improvement, enjoyable and effective work environment, and balanced lifestyle".

Recommendations and Management Response

- 1. It is recommended that the SGC undertake a review of both the mission statement and the team charter to determine whether these documents have continuing relevance to the DLSU, and adjust them as necessary to ensure that they do.**

I agree. The mission statement and the team charter will be reviewed in the context of the next Legal Services office retreat with a view to determine whether they continue to be relevant and to adjust them as necessary.

- 2. It is recommended that the SGC develop DLSU-specific objectives that are measurable, achievable, realistic, and time-related.**

I agree. Legal Services will develop objectives that are not only measurable and realistic, but also take into account those of the Department and of the Portfolio.

- 3. It is recommended that the SGC ensure that all staff in the DLSU are knowledgeable of and understand the DLSU's objectives as well as the role they play, as individuals, in achieving them.**

I agree. The objectives will be distributed to all employees and discussed with them to ensure that they understand the role they play in achieving them.

2.1.2 Risk Identification and Management

At the beginning of the audit, the DLSU could not provide us with documentation concerning the significant internal and external risks it faces. After consulting with several of the DLSU's senior counsel, the SGC did provide a list of risks during an interview. We were told that the listed risks were based on the experience of the SGC and her Senior Counsel, and were developed through the intelligence that they gain by participating on various RCMP committees. For example, the SGC is a member of the RCMP's Senior Executive Committee, and the leader of the Corporate Management/Human Resources practice group sits on the Human Resources Sub-Committee of the RCMP's Senior Executive Committee. The SGC stated that she has been able to address some of the risks (e.g. the length of time it takes the RCMP to process a security clearance for new staff), but there were others (e.g. the Legal Services Review under way throughout the Department of Justice) that were beyond the DLSU's control.

The risk identification and management process followed by the DLSU is an informal one. It is at variance with the process that the DLSU has been recommending for several years to the RCMP with respect to the management of its legal risks. (See “Legal Risk Management”.) The process is also at variance with practices being implemented within the Department of Justice itself. As we discuss later, as part of the departmental planning process, a call letter was issued in September 2006 via the ADAG, Citizenship, Immigration and Public Safety that requested each DLSU in the Portfolio to identify and document two or three key priorities or activities that are at risk, describe each risk and its risk level, and identify planned risk management measures. It is the audit team’s opinion that this call for the identification of at-risk activities provides the DLSU with an opportunity to launch its own structured risk management process that is tailored to its specific circumstances and requirements. In particular, the audit team is of the view that the development of more detailed DLSU objectives will be most worthwhile if it is complemented by an analysis of the risks confronting these objectives, and by the development and documentation of strategies for managing the associated risks.

Recommendations and Management Response

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

I agree. This is only the second year that a formal Business Plan will be completed at the Portfolio level. At the time of the audit, the first business plan was in the process of being developed and the risk assessment in Legal Services was being done informally. Legal Services will continue to contribute to the Portfolio Business Plan, including to formal risk assessment.

2.2 Policies and Procedures

Policies are stated principles that require, guide, or restrict action. Procedures are methods employed to carry out activities in conformity with prescribed policies. Policies and procedures promote the conduct of authorized activities in an effective, efficient, and economical manner, and help provide assurance that the organization’s resources are suitably safeguarded.

The RCMP DLSU relies on government- and department-wide policies and procedures issued by the Treasury Board Secretariat and the Department of Justice. In some cases, such as the

acquisition of goods and services, the DLSU uses its client department's policies and procedures⁶.

A DLSU-specific office procedures manual has recently been developed. The manual provides information and direction on a comprehensive range of subjects (e.g. office hours, using the help desk, contact numbers, making conference calls, booking boardrooms, correspondence/mail distribution, leave, travel, receiving legal documents from a bailiff). It was under review by a committee created solely for the purpose of reviewing the document at the start of the on-site examination phase and was approved for publication and distribution by its conclusion.

The Risk and Litigation Management Practice Group is also planning to develop a legal risk management manual for the use of the group's paralegals. This is intended to include working tools, such as templates for standard reports or forms used in the legal risk management process. We were told that the development of this manual is important for fostering consistency in the application of legal risk management procedures within the DLSU and assisting in the orientation of paralegals who are new to the DLSU and to legal risk management. The manual would provide information and guidelines with respect to both their responsibilities and the practices required for performing their functions. The audit team concurs with this initiative.

With respect to records management, we found that there are DLSU-specific procedures as well as a current manual. These outline the features of the filing system and provide a description of the file room set-up (e.g. how to arm/disarm the door and how to use the filing cabinet for top-secret and secret files). The audit team's review of this manual revealed that it provides insufficient information to understand how the DLSU's file and records management procedures operate. For example, the section of the manual for the DLSU's counsel refers only to file opening and file closure. There is scant (two lines) information on file maintenance. In its current form, the manual provides insufficient direction to new staff on requirements and procedures. We were advised that this manual is intended to be supplemented by person-to-person training provided by the Records Management Analyst. We were also told, however, that this individual has been very busy supporting the implementation of iCase and lacks the time to be proactive in the records management process.

It is the audit team's opinion that the DLSU has made a good start in the development and documentation of a set of procedures that will help ensure that its activities are conducted in an effective, efficient, and economical manner, but that more needs to be done. The development of manuals for legal risk management and for records management are particularly important given the reported difficulty that the DLSU is having in maintaining support staff levels at the

⁶ It uses the RCMP's policies and procedures for acquisitions because these expenses are funded primarily by the RCMP.

approved strength. (See “Organization”.) In such situations, well-documented procedures can reduce the time needed by incoming staff to become fully productive and help mitigate the risks associated with staff turnover.

Recommendations and Management Response

- 5. It is recommended that the SGC ensure that the manual for legal risk management is developed as soon as possible, and that a detailed manual for records management is also prepared.**

I agree to ensure that the manual for legal risk management as well as a detailed manual for records management be developed as soon as possible. As indicated above, if support could be provided centrally, this could facilitate and accelerate this project.

2.3 Plans, Client-Driven Service Agreements, and Performance Indicators

Planning is an essential function of management. It serves to ensure objectives are met and 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.

2.3.1 Business Planning

The DLSU provided the audit team with no evidence that it has completed any systematic and formal planning or performance monitoring since it prepared a Legal Services Business Plan in 2000. This plan encompassed demand for legal services⁷ and associated professional and support staff human resource requirements, as well as funding for operations and maintenance of the DLSU. The DLSU has grown rapidly since the 2000 plan was prepared. We were advised that most of this growth has been funded by the client, which was described as very cooperative in this regard, provided there were clear explanations of why additional staff were needed. As noted later in this section, the process has enabled the DLSU to remain fully funded while facing growing demand for its services.

Because additional funding was available without a formal business plan and because considerable time was required to deal with the rapidly growing and evolving organization, the SGC concluded that the time and effort required for developing and documenting a formal plan

⁷ This was based on consultations with clients to forecast growth in demand for services.

outweighed its benefits. However, as explained below, the Department of Justice is now requiring the development of business plans at the portfolio level, and there is an expectation that the portfolios will solicit input from individual DLSUs in order to prepare their plans. We were advised that the DLSU, therefore, is now planning to develop a complete Legal Services Business Plan by December 31, 2007, and that it will be the responsibility of the Deputy Director, once that position has been filled.

The requirement for business plans at the portfolio level is taking place in the context of a Department-wide project to establish a new, integrated business planning process that links expected results to activities and resources. This project, which is expected to be completed by March 31, 2008, is now in its second year. Its objectives are to ensure that:

- the work performed by each departmental organization is aligned to and supports departmental strategic objectives and priorities;
- operational activities and expected results (and targets) are clear;
- there are clear links between human and financial resources and expected results;
- performance measures are in place to allow managers to monitor the implementation of their plans and to assess and report on progress.

The Office of Strategic Planning and Performance Management (SPPM) is leading the project. We were told that SPPM's mission is to create and institutionalize integrated planning and performance measurement in the Department. It is therefore responsible for defining the planning process and cycle, and for creating the required tools (e.g. call letters, templates, guides). SPPM does not prepare plans on behalf of others in the Department; rather it consolidates inputs produced by them and integrates these inputs into a departmental plan.

The departmental planning process for 2007-08 was initiated by a call letter issued to portfolio heads, including the ADAG, Citizenship, Immigration and Public Safety, on September 8, 2006. The call letter was accompanied by a template and instructions that identified the required information to be submitted in response. Managers in SPPM told the audit team that while the SPPM hoped that the portfolios would pass the call letter and accompanying guidance down to the DLSU level, there was no explicit requirement that they do so.

The Citizenship, Immigration and Public Safety Portfolio did not simply pass the call letter down to its individual DLSUs. Instead, it used its previous year's plan to create a skeleton draft of a portfolio-level plan and sent this to its DLSUs, including the RCMP. The portfolio also requested input from each DLSU on the following specific sections:

- Who we are and what we do – The section requires a narrative description of main areas of focus for each DLSU, its organizational structure, and its planned financial and human resources.
- Environmental scan – This requires 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.
- Managing financial risks – Each DLSU is to identify, if there is a likelihood that some portion of anticipated funding will not be secured, what measures will be taken in response and the associated impacts on its operations.
- Human resources plan – Each DLSU is to identify its current and future human resources priorities and strategies.
- Managing our risks – Each DLSU is 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.

As of mid-November 2006, the DLSU was in the process of developing its input. The SGC explained, however, that heavy operational requirements in the DLSU did not allow for support staff to be involved in developing the input. She further indicated that the required input constitutes a new type of request for the DLSU and current support staff lack the relevant experience and expertise to provide responses. The SGC also indicated that the perception is that there is an increasing reporting burden being imposed on the DLSU by Department of Justice Headquarters. The SGC, therefore, decided to engage a consultant to analyze the request and develop a proposal for a new organization that would include support staff who have the necessary experience and expertise in planning. Meanwhile, the DLSU was planning to provide its input as best it could by the January 31 deadline.

It is the audit team's opinion that the SGC's decision to engage a consultant to develop a proposal to enhance the DLSU's organization is sound: the results of the Department-wide project to establish a new, integrated business planning process will require experience and expertise that many DLSUs lack. Furthermore, the problem with the high level of turnover in support staff, which the audit team has observed in other DLSUs as well as in the RCMP DLSU, would be more manageable if there were resources in the DLSU dedicated to human resources management.

In the audit team's opinion, there is a risk associated with developing an enhanced organization with support staff who have expertise in planning: once it is in place the SGC may become disengaged from the planning process, leaving it to the support staff. Indeed, one of the main reasons that SPPM does not prepare plans on behalf of groups in the Department, but rather consolidates and integrates plans produced by them, is because in its view maximum benefit is

obtained from planning only if plans are prepared by those who will be responsible for their implementation. The audit team concurs and is of the view that the direct and active engagement of the SGC and her management team in the planning process is important. In our opinion, while the active participation of the SGC and her management team in the planning process will require the acquisition of new skills and the mastery of new processes, this will be worthwhile.

Recommendations and Management Response

6. It is recommended that the SGC and the DLSU's new Deputy Director/General Counsel become sufficiently knowledgeable of the departmental business planning process so that they can lead and participate actively in it.

I agree. The SGC and the Deputy Director fully contributed to the development of the 2007-2008 Portfolio Business Plan and are already engaged with respect to the 2008-2009 Business Plan.

2.3.2 Client-Driven Service Agreements

In addition to the formal business plans required by the departmental planning process, some portfolios in the Department of Justice encourage or require their DLSUs to establish Client-Driven Service (CDS) agreements. The purpose of a CDS agreement is to provide a comprehensive approach to establishing a joint management framework between the Department of Justice and its clients. A CDS agreement addresses the rationalization of demand for legal services, plans for resource allocation, commitments related to shared contribution to the costs of justice, and reporting requirements.

We were advised that the Citizenship, Immigration and Public Safety Portfolio does not require its DLSUs to develop such agreements at this time, but may do so in the future. None has been developed by the RCMP DLSU. Instead, the SGC has established specific agreements for client-funded lawyers in specific areas (e.g. for services provided to the RCMP's DNA (forensics) unit and to its child pornography task force).

The SGC advised the audit team that when the DLSU requires more resources, she approaches the RCMP's Deputy Commissioner, Comptroller. We were told that, provided the DLSU can support its request with statistics (e.g. timekeeping data), the Deputy Commissioner, Comptroller is accommodating with funding, and that the DLSU has received funding to staff all its approved positions. The SGC stated that she has a good relationship with the Comptroller, and that in her view DLSU funding is not vulnerable to a change in the incumbent in this position. The

Comptroller corroborated the quality of the current relationship with the SGC and with the process described by the SGC.

It is the audit team's opinion that while this approach may be providing a suitable level of funding at present, it is vulnerable to changes in management, either in the DLSU or in the client department. It is also inefficient, as numerous meetings with the client are required to determine from which client budget the needed funding will be drawn. It would be preferable to establish a formal process that specifies the number and level of counsel that are Department of Justice-funded and client-funded⁸ and the O&M requirements (e.g. the number of support staff, accommodation, travel, training, materials, and supplies). The process should culminate in a CDS agreement or equivalent that encompasses resourcing, performance management, and reporting. Without such a process and agreement, there is a risk that the DLSU will have insufficient resources to provide high quality legal services.

Recommendations and Management Response

- 7. It is recommended that the SGC develop with the RCMP a CDS agreement or equivalent that explicitly details the provision of legal resources, operational support, and the costs associated with each.**

I agree. The SGC made a formal presentation on the Legal Services' Business Plan to the client for fiscal year 2007-2008. The SGC and the Deputy Director have met, and will continue to meet, frequently with the client to discuss funding and the provision of legal services. Business plans will continue to be prepared and presented on an annual basis. Business plans could eventually be established for longer periods once there is more stability regarding the DOJ funding contribution further to Legal Services Review.

2.3.3 Performance Monitoring

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 plans are achieved. It supports decision making, accountability, and transparency.

⁸ In each DLSU, funding for lawyers' salaries comes from the Department of Justice (and its appropriation from Parliament) and the client.

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

There are no quantitative performance measurement systems or processes in place in the DLSU that could provide feedback related to these performance indicators. Instead, the SGC relies on ad hoc feedback from the client. She advised the audit team that the RCMP would readily communicate any dissatisfaction with service. She also observed that most of the growth in the size of the DLSU since 2000 has been client-funded. She stated that since the RCMP has been and continues to be willing to support the growth of the unit by funding the provision of additional lawyers, this can be taken as evidence that it is highly satisfied with the service it receives. The RCMP has also agreed to end the duplicative process of requiring staff who have up-to-date government security clearances to obtain RCMP security clearances. This change will

enable the DLSU to staff vacant positions in a more timely fashion and was also regarded as evidence of client satisfaction.

The audit team interviewed a sample of the DLSU's clients and found that they were satisfied with the DLSU's performance. Notwithstanding, this finding constitutes anecdotal feedback and cannot replace a systematic, formal survey of client satisfaction. The audit team is also of the opinion that client satisfaction data need to be complemented by efficiency and productivity measures of the type devised by SPPM. Finally, the communication of qualitative and quantitative performance information to the client is an essential component of assessing an organization's progress in meeting expected results. One mechanism for providing this information formally to the RCMP would be to incorporate annual performance reporting into the CDS agreement recommended earlier.

Recommendations and Management Response

- 8. It is recommended that the SGC implement formalized, annual performance monitoring with respect to client satisfaction and DLSU efficiency and productivity starting in the 2007-08 fiscal year.**

I agree. We will continue to implement formalized annual performance monitoring as recommended.

- 9. It is recommended that the SGC incorporate appropriate indicators for monitoring and reporting DLSU performance into the CDS agreement.**

I agree. In the presentation made to the client by the SGC in June on Legal Services funding, performance indicators were provided to the client and formed part of our justification for increased funding.

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 RCMP DLSU has grown rapidly since the terrorist attacks of September 11, 2001⁹, and its organizational structure has been evolving in response to this growth. At the start of the audit, all lawyers had been assigned to one of four practice groups: Corporate/Human Resources, Risk and Litigation Management, Operational Priorities, and Firearms. Some groups, however, did not have team leaders¹⁰. By the conclusion of the audit, the SGC had developed a draft proposal for a more hierarchical organizational structure that would include 40 lawyers (each to be assigned to one of the four practice groups) and 20 support staff. Two of the practice groups would report to the SGC through a Deputy Director at the LA-3A level. The other two groups would report to a newly-proposed Program Director position (also at the LA-3A level). The support staff, except for the paralegals, would comprise a separate group reporting to the SGC through the Office Manager. Each of the LA-3A positions would be practice group managers with delegated planning, financial, and human resources authorities. (At present, the SGC exercises all formal financial and human resources authority directly, and the practice group leaders have only informal authority relating to human resources, such as monitoring performance, completing or assisting the SGC in the completion of performance appraisals, and recommending leave and training for group members.)

It is the audit team's opinion that, at its projected strength of 40 lawyers and 20 support staff, the DLSU would be large enough to warrant a formal, hierarchical structure of the sort envisaged in the SGC's proposal. Our review of the draft position descriptions for the LA-3A positions, however, raises concerns. The descriptions combine business management and human resource planning responsibilities with responsibilities for the provision of strategic legal advice and services to the SGC, clients, and other lawyers within the DLSU. In the audit team's experience, there is a risk that in practice the latter responsibilities will overwhelm the former. The SGC will need to take steps to ensure that practice group managers exercise their legal expertise primarily in supervisory and quality assurance roles and do not expend a significant amount of time working on complex files.

⁹ As recently as 2000, the total approved strength of the DLSU was nine lawyers, six of whom were funded by the Department of Justice and three by the RCMP. The current approved strength is 37 lawyers. This corresponds to a growth rate of about 33 percent per year.

¹⁰ The Operational Priorities Practice Group contains a Senior Counsel, but this individual is not currently a team leader.

Recommendations and Management Response

10. It is recommended that in implementing the proposed organizational structure, the SGC ensure that the practice group managers focus their time on their supervisory and quality assurance role and limit time spent on complex legal files.

I agree. The new organizational structure continues to be implemented, as planned. Among others, the Deputy Director and Program Director positions were filled. This approach is being followed by the members of the management team, including practice group managers.

2.4.2 Support Staff

All support staff (except the paralegals and the SGC's Executive Assistant) fill RCMP positions and report to the SGC through the Office Manager. Under the SGC's proposed organization, this reporting relationship will not change, but the Office Manager's position will become significantly more senior (e.g. will be reclassified from a AS-04 level to an AS-06 level). In addition, the Office Manager will have two direct reports at the AS-03 or AS-04 level—one for financial management and budgets, and one for human resources planning and staffing.

As discussed earlier, the DLSU has experienced repeated challenges in recruiting and retaining the professional and support staff needed to provide services in response to ever-increasing demands for services. Demand is expected to continue to grow over the foreseeable future: the RCMP is receiving significant additional resources as the government strengthens its response to terrorism.

It is the audit team's opinion that the SGC's plan to create a more hierarchical organization with resources dedicated to specific functions (e.g. one resource specifically for human resources issues) is an appropriate response to the staffing issues that the DLSU has experienced and will further strengthen the DLSU and position it to better address the challenges of growth.

2.4.3 Resource Mix

At its proposed strength, the DLSU would have two lawyers for each member of its support staff. Not all support staff, of course, would work directly for lawyers. Several support staff positions (e.g. the administrative officers dedicated to finance and human resources, and the information systems and records management analysts) will provide DLSU-wide services. Nevertheless, the

overall ratio of support staff to professionals was judged by the SGC, lawyers, and support staff themselves to be appropriate.

However, we found the following issues:

- It has been very difficult to maintain support staff levels at the approved strength because of the following disincentives to recruitment:
 - The location of the RCMP's campus has limited public transportation services and a year-long wait for a parking permit. (This problem is expected to be exacerbated when the RCMP headquarters moves to its new location at 3000 Merivale Road in 2009.)
 - In addition to bilingualism qualifications, the RCMP requires that all its employees, including DLSU support staff, possess a security clearance to at least the top-secret level.
 - The process involved in granting a security clearance is lengthy¹¹. We were told that some candidates who had been offered jobs with the DLSU had accepted positions with other organizations while they waited for their clearances to be processed.
- The ratio of paralegals to legal assistants (6 to 7) is too low. Both the paralegals and other support staff we consulted, as well as some lawyers, agreed that with a greater number of paralegals, more of the research and records functions that now must be done by the lawyers themselves could be done by paralegals, which would free lawyers' time for substantive legal issues.

It is our view that the proposed organizational structure is not designed to address the ratio of paralegals to legal assistants. Indeed, as presented to the audit team at the conclusion of the audit, it will exacerbate the problem. The organization chart we were shown (dated November 30, 2006) shows a reduction of one paralegal position from the chart we were shown in August 2006. Furthermore, the proposal to strengthen the support staff organization by dedicating positions to financial management and budgets, and human resources planning and staffing will require the addition of three positions—one for each of the foregoing, plus a financial support clerk. Since the overall number of approved non-lawyer positions in the DLSU is to remain at 20 under the proposal, the creation of these three new positions will require a reduction in the number of other support staff positions in the DLSU.

It is the audit team's opinion that the proposed new support staff organization requires further analysis before it is approved and implemented. Otherwise, there is a risk that in attempting to solve one problem (the need for more senior and experienced resources to support planning and

¹¹ Until recently, the RCMP was completing its own security clearance process regardless of whether the individual had a pre-existing clearance. The audit team was informed that efforts to get the RCMP to stop duplicating clearance processes for individuals with existing clearances were successful.

human resources management), it will exacerbate other problems (the ratio of paralegals to legal assistants).

A new organizational structure, of course, will not resolve any staffing issues that result from the location of the RCMP headquarters campus. Therefore, in our view, the SGC should investigate means of expediting the staffing of support staff vacancies. One mechanism we suggest to assist in this regard is anticipatory staffing, which involves the creation of pre-qualified pools of applicants.

Recommendations and Management Response

11. It is recommended that the SGC review the proposed new support staff organization to ensure that there is an adequate number of paralegal positions.

I agree. The support staff organization has been reviewed and four more paralegal positions are currently being staffed.

12. It is recommended that the SGC investigate the use of anticipatory staffing to create pre-qualified pools of applicants as a mechanism for alleviating the delay in filling support staff positions that become vacant as a result of staff turnover.

I agree. This is the approach we have always been taking. The difficulty is that candidates receive other job offers during the period of two months or more that it takes for the client to complete a top secret security check.

2.4.4 Workload Management

The lawyers and support staff we interviewed stated that there was no formal workload tracking in the DLSU. The SGC, practice group leaders, and lawyers all advised the audit team that individual lawyers are expected to manage their own workloads. Many are highly integrated with their clients and are working on long-term projects that involve ongoing contributions to their clients' activities. Practice group leaders and the SGC informally monitor the workload of individual lawyers. In consultation with the individual lawyers, the practice group leaders and the SGC assign additional ad hoc requests¹² that come to the DLSU through them. Lawyers also receive ad hoc requests directly from their clients. The SGC and the practice group leaders rely

¹² Ad hoc requests are those that are not part of long-term projects to which specific lawyers have been assigned and which have estimable workload demands.

on the individual lawyers to alert them if the assigned workload becomes excessive (either for volume reasons or due to complexity).

The informal processes in place to manage and control the workload of the lawyers in the DLSU have thus far been satisfactory. There was consensus that workload is fairly balanced among the DLSU's lawyers (i.e. no individual lawyer is constantly over-tasked and none is chronically under-used). Workload levels were reported to be high. Lawyers told us that everyone is busy all the time..

We analyzed the timekeeping records maintained by the DLSU for 2005-06 and 2006-07¹³. The analysis showed that a small group of the same counsel, all of them senior (and including the SGC), consistently worked an average of 45 hours a week or more. In 2005-06, this group comprised 15 percent of the professional staff of the DLSU; in 2006-07 it was 31 percent. This increase appears attributable to the fact that the DLSU had a smaller complement of professional staff in the four months for which data were available in 2006-07. As one group put it, the DLSU lost and replaced eight people, but the workload did not go down while they were recruiting and staffing replacements.

None of the lawyers we consulted expressed a desire to change the workload distribution process. In fact, the only concern consistently raised in relation to workload was with regard to the amount of time it takes to replace staff who leave the DLSU, either temporarily (i.e. for maternity leave or on secondment) or to take up a new permanent position elsewhere in the Department of Justice.

Notwithstanding, in our experience, problems can begin to emerge with informal workload distribution processes when an organization experiences increased demand for services that drives the growth of the organization to that of the planned size of the RCMP DLSU. Lawyers who are expected to manage their own workload while responding to a combination of long-term project activities, ad hoc requests from clients, and requests from superiors can begin to experience difficulty in prioritizing requests and balancing workload. We have observed situations in other DLSUs where lawyers spend increasing amounts of their time negotiating competing priorities with service requestors rather than working on the requests themselves. This reduces both their individual productivity and the overall productivity of the DLSU.

In the audit team's opinion, a better approach is to channel all requests for services through a manager or supervisor who is responsible for determining relative priorities with service

¹³ There were four months of data available for 2006-07 when the analysis was performed.

requestors and assigning requests to lawyers on the basis of their capability and availability¹⁴. Such a process requires that lawyers are organized into teams that report to managers. This is the approach of the SGC's proposed organizational structure for the DLSU. The process also requires that team managers systematically monitor the workload and availability of their team members.

On a monthly basis, the Records Management Analyst prepares a report for the SGC that summarizes the number of hours worked by each lawyer and paralegal, as well as the number of hours of leave taken, if any. The SGC told us that she does not use these reports to monitor the workload of the DLSU's lawyers because in her view some lawyers do not report time correctly (they under-report). As a result, time recording data are not as useful for the SGC as regular personal contact with the lawyers¹⁵.

It is the audit team's opinion that accurate time reporting is essential for monitoring workload and availability of staff. Accurate time reporting data are also essential for supporting requests for funding.

Recommendations and Management Response

13. It is recommended that the SGC remind all lawyers of the importance of completing time reports accurately and in a timely manner.

I agree. Counsel and paralegals have been and will continue to be regularly reminded to complete time reports accurately and on a timely basis.

14. It is recommended that the DLSU's Management Team use time-reporting statistics to complement their workload monitoring practices.

I agree. Time-reporting statistics have been and will continue to be taken into account in monitoring workload.

¹⁴ We were told that this type of process is already used by the Corporate Management/Human Resources practice group.

¹⁵ The SGC holds weekly meetings with all the lawyers who report directly to her. These meetings provide an opportunity for each lawyer to indicate the nature of the files on which they are working as well as their overall workload. This provides the SGC with insight into each lawyer's current workload in order that she may determine who could be tasked with additional files, if needed. Likewise, the leader of the Corporate Management/Human Resources practice group holds regular meetings with his lawyers.

2.5 Communications

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 SGC and the practice group leaders use a variety of mechanisms to ensure that the DLSU's staff are apprised of relevant information. However, the growth of the DLSU and its location within the RCMP's campus present issues with respect to ensuring that everyone has all necessary information.

Until recently, there were weekly all-lawyer meetings led by the SGC that provided an opportunity for the lawyers to discuss the files that they are working on and to place issues before their colleagues for discussion. However, the practice groups also hold weekly meetings (either in-person or via teleconference) at which group-specific legal issues may be raised. Therefore, the SGC has decided to hold the all-lawyer meetings less frequently.

Both the weekly practice group meetings and the now less frequent all-lawyer meetings are valuable mechanisms for exploring substantive legal issues, as well as for providing the SGC and the practice group leaders with a sense of the workload of individual lawyers. However, neither of the meetings has a formal agenda. A structured agenda is important to ensure that meetings are conducted in an efficient and timely manner and that all important items are on the table for discussion. In addition, since both meetings focus on files and associated legal issues, other important matters do not get discussed.

The support staff (other than the paralegals) told the audit team that in the past meetings were called by the Office Manager to update them on DLSU activities, but that these meetings had not taken place for several months. It was their opinion that this was as a result of the turnover in support staff and the resulting high workload among legal assistants. Furthermore, we were told that in the past paralegals were invited to attend the all-lawyer meetings, but that this had been discontinued. Consequently, neither the support staff nor the paralegals have an established forum such as staff meetings for acquiring relevant information.

As a result of the DLSU's growth and staff turnover, there are many new staff in the DLSU. It is the audit team's opinion that periodic all-staff (lawyers, paralegals, and other support staff) meetings devoted to discussing non-legal issues would also help ensure that relevant information is communicated to everyone in the DLSU. We believe that these meetings should:

- take place every six to eight weeks;
- have a formal agenda that is distributed in advance;

- present a variety of non-legal information (e.g. the Department’s training and conference schedule and planned attendance, announcements with respect to leave/secondment, new hires, updates on changes to administrative practices);
- be appropriately recorded.

Recommendations and Management Response

15. It is recommended that the SGC institute periodic all-staff meetings within the DLSU.

I agree. All Counsel and paralegals meet once every two weeks to discuss legal files and issues. Once a month, all support staff is also invited to attend staff meeting.

2.6 Management of Human, Financial, and Materiel Resources

The Treasury Board Secretariat has established an extensive framework of policies for managing human, financial, and materiel resources. One of the requirements of these policies is that limited resources are to be managed with prudence and probity.

2.6.1 Human Resources Management

Planning

The Public Service Human Resources Management Agency of Canada 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. Its *Overview of Integrated Human Resources Planning* notes that integrated planning can help identify optimal strategies and activities for such important human resources management components as recruitment, retention, learning, development, promotion, and succession. The audit team therefore inquired whether the DLSU has a human resources plan that is driven by its business plans and that encompasses leadership, recruitment, retention, succession, and learning. We learned that no such plan exists, either at the departmental level or within the RCMP DLSU. However, as discussed in “Plans and Performance Indicators”, the Department of Justice is undertaking a project to develop an integrated business planning process that links expected results to activities and resources, and includes the development of such a human resources plan.

At the time of the audit, there was no written policy governing human resources planning in the Department. There was, however, a Manager’s Guide to Developing Human Resources Plans

that was issued in July 2006 and distributed with the September call letter from SPPM that launched the 2007-08 departmental planning process. The guide includes instructions, templates, and checklists that set out expectations, considerations, and contents of a Human Resources plan.

With respect to the call letter from SPPM, we were told that certain issues impact the response from the DLSU. As noted earlier, the Director of Program Support and Business Strategies of the Citizenship, Immigration and Public Safety Portfolio told the audit team that because of resource constraints at both the portfolio and DLSU level, the deadline designated by SPPM for a response to the call letter was unrealistic. We were also told that senior general counsels in DLSUs will require both training and expert support to address the administrative management concepts required in the response to SPPM. At the time of the audit, no formal training had been provided. To address longer term requirements for integrated planning, the SGC was proposing a support staff organization with specialists for business and human resources planning.

As stated earlier, in our view, optimal benefits can be obtained from planning when plans are prepared with the active and direct involvement of those who will be responsible for their implementation. The SGC and her new Deputy Director/General Counsel will need to acquire new skills and master new processes in order to contribute directly to the departmental business and human planning process. (For a recommendation on this issue, see “Plans and Performance Indicators”.)

Training and Performance Appraisals

In recent years Treasury Board has placed considerable emphasis on training and developing staff. The 2003 TBS *Management Accountability Framework* includes “people” as one of its ten elements for success. Indicators of success include renewed/sustained capacity and opportunities to grow. The TBS *Policy on Learning, Training and Development*, issued and effective January 1, 2006, states that, “Learning, training, leadership development and professional development are key to ensuring that the public service is equipped to meet the challenges of the 21st century. 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”.

The DLSU does not have any formal training and orientation materials for lawyers or support staff who join the unit. Rather, it relies on informal person-to person information exchanges between the Practice Group Leader and newly-hired lawyers (for the Corporate Management/Human Resources practice group only), and the Office Manager and newly-hired support staff. We were advised that these are both useful and helpful. However, given the projected growth of the DLSU and its level of staff turnover, these exchanges will become increasingly inefficient. Also, several lawyers commented that the RCMP is a large and complex

organization with a difficult-to-understand structure. An orientation manual for new staff that describes the mission, objectives, and structure of the DLSU as well as the client's organization, office policies, and standardized procedures would not only serve as a valuable reference for new staff, but would also reduce the time required for managers to orient new staff.

The SGC advised the audit team that one way she tries to offset the workload pressures of the DLSU is to ensure that lawyers receive appropriate training and professional development and take part in conferences. None of the lawyers or support staff consulted during our examination phase expressed any concerns about lack of training and professional development opportunities.

The *Policy on Learning, Training and Development Performance* also states that, "Employees are responsible for acquiring and maintaining the knowledge, skills and competencies related to their level and functions, and for developing and pursuing learning plans that are aligned with departmental business priorities and prepare them to do the next job. Managers at all levels and deputy heads are responsible for ensuring the timely completion of training". Performance appraisals for all DLSU staff are therefore required to be prepared annually. They are important tools for setting objectives, providing feedback on performance, and for identifying training requirements.

The audit found that while performance appraisals were done for all lawyers for the 2005–06 fiscal year, a significant number were either incomplete or contained such minimal information that their usefulness was doubtful. Seven of the 16 appraisals reviewed did not have a Personal Learning Plan. Three performance appraisals had no stated objectives for the next year. Three others referred to objectives, but documented objectives were not provided, and five had scant (one or two line) descriptions of the individual's objectives for the next year.

We found no support staff performance appraisals for 2005-06 on file. The Office Manager explained to the audit team that there were many other competing priorities in the DLSU that precluded the completion of performance appraisals. However, she stated that preparing performance appraisals for all staff is a good practice and that at a minimum these should document objectives for the coming year and include a training plan. We were told that the RCMP's Human Resources Sector does not monitor the preparation of performance appraisals for DLSU support staff.

When performance appraisals are not completed, are incomplete, 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. This also compromises the employer's ability to ensure that its workforce has up-to-date qualifications and abilities.

Recommendations and Management Response

16. It is recommended that the SGC ensure that a staff orientation and training manual is developed to familiarize new staff with the DLSU and its client.

I agree. A “Staff Orientation and Training Manual” was developed. It was distributed to all employees and they were encouraged to go through the manual. A copy of the manual is also given to every new employee who joins Legal Services. Components still need to be added, and this will be done as recommended.

17. It is recommended that the SGC ensure that complete performance appraisals are prepared annually for all lawyers and support staff.

I agree. Complete performance appraisals were prepared for all lawyers and support staff for the 2006-2007 fiscal year.

Flexible Work Arrangements

TBS is committed to providing policies designed to help public service employees balance their work, personal, and family responsibilities.¹⁶ It has developed policies on part-time work, flexible hours, variable work week (compression and extension), and teleworking.

The DLSU’s lawyers expressed differing views on flexible work arrangements. Some stated that flexible work arrangements are available when needed, and that several professional and support staff have taken advantage of these policies to establish non-traditional working schedules. Others indicated that they were not aware that these arrangements could be available, or that flexible work arrangements would be acceptable at this time. It is the audit team’s opinion that the DLSU’s policy on flexible work arrangements needs to be clarified and clearly communicated to all staff so that there will be a common understanding.

Recommendations and Management Response

18. It is recommend that the SGC clarify in writing the DLSU’s policy on flexible work arrangements and ensure that this clarification is distributed to all staff.

I agree. The DOJ policy will be communicated to all staff.

¹⁶ Treasury Board of Canada Secretariat, *Telework Policy*, December 9, 1999.

2.6.2 Financial Management

The audit team sampled the DLSU's financial transactions and reviewed its financial reporting and verification processes. It is our view that the measures taken to administer the DLSU's financial resources are adequate.

With regard to the acquisition of goods and services, the DLSU follows its client's policy and procedures since the RCMP provides the funding¹⁷. The DLSU rarely acquires professional services. We were able to trace the transactions we sampled to invoices, contracts, and authorizations and concluded that these were in compliance with the requirements of the *Financial Administration Act* and the *Government Contracts Regulations*.

In addition, the DLSU's financial management responsibilities are supported by a variety of reports and forecasts. Several of these are prepared internally by the Office Manager and enable her, in conjunction with the SGC, to perform a monthly analysis of all the expenses charged to the DLSU's account versus the relevant supporting documentation held in the DLSU. Several originate externally to the DLSU. These reports and forecasts include:

- A Budget Forecast that is prepared by the Office Manager, reviewed by the SGC, and sent to the Finance Department of RCMP as required.
- A Legal Services Salary Report that is updated by the Office Manager on a quarterly basis at the beginning of the fiscal year, and then more frequently as the fiscal year-end approaches. (This report reflects the projected salary costs to be spent until the end of the fiscal year. The forecasted amount is used to determine if additional salary funding will be required.)
- A Salary Management System Report that is provided on a monthly basis to the DLSU by the portfolio for its review to ensure that all lawyer positions funded by the Department of Justice and the RCMP are captured by and forecasted in the Department of Justice's financial system. (The accuracy of these reports is verified by the Office Manager.)
- A Public Safety and Anti-terrorism Report that is provided to the SGC and the RCMP on a quarterly basis by the Office Manager. (This provides updates of the work accomplished on the DLSU's anti-terrorism files and is used to justify how funding allocated by the RCMP for this initiative is spent in both salary and O&M.)
- A reconciliation of the TEAM (Total Expenditures and Assets Management Review) Report to the original invoices that is prepared by the Office Manager on an ongoing basis and when specific information pertaining to expenses spent to date on employees or O&M is required. (This information is most useful at the end of the fiscal year because the amount spent to date

¹⁷ Expenditures are primarily for travel, books, and subscriptions and for access to on-line legal reference services such as Quicklaw and LawSource.

can help determine if additional spending should be approved or not; the SGC also uses the information to ensure that the training and travel funds are allocated equitably.)

2.6.3 Funding and Budget

The SGC told the audit team that the A-Base funding allocated to the unit by the Department of Justice and the RCMP over the years has not been sufficient to cover the DLSU's projected salary and O&M requirements. Also, because there have been no increases in Department of Justice-funded lawyers since 2001, it has been necessary to ask the client for additional resources. She therefore meets several times a year with the RCMP Deputy Commissioner, Comptroller to discuss funding for legal services. The Deputy Commissioner, Comptroller, who corroborated this process, is reported to have been very cooperative in providing the additional funding needed¹⁸. From time to time, the DLSU also receives funding from the RCMP or the Department of Justice for specific initiatives or to provide services to client divisions or directorates (e.g. for work related to DNA and child pornography). This combination of regularly supplemented and specific initiative funding has meant that the DLSU has not been required to address risks that arise from lack of Department of Justice funding.

Toward the conclusion of the audit, these additional resources for 2006-07 totaled \$950,000 from the following sources:

- Department of Justice Lawful Access Program: \$180,000 (Salary) and \$46,500 (O&M);
- RCMP Public Safety and Anti-Terrorism Initiative: \$203,333 (Salary) and \$56,000 (O&M);
- National Security Enhancement: RCMP \$80,000 (Salary) and \$10,000 (O&M);
- RCMP salary recovery: \$94,340;
- RCMP Air India Inquiry: approximately \$270,000.

As noted earlier, while the current relationship between the DLSU and the RCMP is conducive to ensuring adequate funding, it is vulnerable to changes in management in either organization. Also, it is an ad hoc and inefficient process. The audit team is of the opinion that a more formalized and structured process based on annual plans and CDS agreements will reduce these risks. We made recommendations to this effect earlier in this report.

¹⁸ The Deputy Commissioner, Comptroller observed that the Department of Justice appears not to have recognized that organizations such as the RCMP that have been given increased resources as a result of their national security and anti-terrorism mandates have a corresponding growing demand for legal services that the Department is unable to satisfy in a timely manner.

2.6.4 Asset Management

It is our view that the measures taken to track and protect the DLSU's materiel resources are adequate.

There is a high level of physical and personnel security. The DLSU is located in separate offices in the client's building. This building sits in a fenced campus. Visitors to the campus must report to guards at its entrance gate. A second layer of security within the building itself consists of a control desk and locked entrance doors controlled by uniformed desk staff. 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. All DLSU employees (both professional and support staff) must have a top-secret-level security clearance issued by the RCMP.

High-value portable assets such as mobile computers are kept in the Records Room when they are not in use. This is an alarmed room that is locked every night. The Information Systems Analyst maintains an inventory of computer equipment. We were told that there has never been any reported loss of theft of computer equipment.

3. FINDINGS – PROGRAM OPERATIONS

3.1 Information Systems

The DLSU uses several IM/IT systems. It is imperative that these systems provide reliable information in a timely manner.

3.1.1 JUSnet/JUSaccess

The Department of Justice Intranet, which is known as JUSnet, makes information available to departmental staff across the country. It comprises over 200 sub-sites that are maintained on a decentralized basis by the branches and divisions within the Department. JUSnet is a vehicle for making information (e.g. concerning training opportunities) available to departmental employees. JUSaccess is a web-based gateway that provides secure access to JUSnet and thence to the Department's corporate and legal applications such as LOPORS and iCase (see below). JUSaccess uses Public Key Infrastructure (PKI)¹⁹ as a security mechanism to restrict access to Department of Justice employees. It requires a password and a special diskette that holds a PKI certificate (a PKI ID). Once connected by way of JUSaccess, users require another user ID and password to log on to JUSnet. Once logged on to JUSnet, most applications require yet another user ID and password. Staff told us that they find this process to be very frustrating.

3.1.2 Legal Opinions and Precedents On-Line Retrieval System (LOPORS)

The Department of Justice's LOPORS is used to capture information on legal opinions provided to client departments. It is an essential tool for the Department, as it facilitates the provision of consistent advice on a Department-wide basis.

Other than the need to use multiple passwords to access LOPORS through JUSnet/JUSaccess, no problems were reported to the audit team concerning this system.

¹⁹ PKI is an encryption service that enables users to establish secure connections for remote access to the departmental network.

3.1.3 Quicklaw

Quicklaw is a commercial (fee for service) system operated by LexisNexis Canada that provides an online collection of court and tribunal decisions, legislation, current awareness sources²⁰, expert commentary, and legal news. The collection of court and tribunal decisions has full-text decisions and case law summaries from all Canadian courts and from 185 federal and provincial administrative tribunals. There is also a complete collection of federal, provincial, and territorial statutes, regulations, and court rules, as well as informed commentary and legal analysis that provides explanations, guidance, and context.

No issues were reported with Quicklaw.

3.1.4 iCase

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 of the Department of Justice. The development of iCase involved the re-engineering and integration of several departmental applications into a single national system.

The DLSU was given full access to iCase on December 7, 2006, and training of users was still under way as we completed the audit. The implementation of iCase is expected to improve the ability of the Risk and Litigation Management Practice Group to support the RCMP in managing its legal risks, although limitations associated with the system remain a hindrance. (See "Legal Risk Management".)

iCase has replaced the previous system for recording time—Timekeeping System (TKS). It produces reports similar to those provided by that system.

²⁰ These are periodic newsletters or updates on specific areas of the law produced either by LexisNexis or by other organizations/authors.

3.1.5 Timekeeping System

The Timekeeping System (TKS), which was developed by the Department of Justice, was until recently (October 30, 2006) used to record the working time of the DLSU's lawyers. Timekeeping data from November 1, 2006 forward is being entered into iCase.

The working time of the DLSU's lawyers captured by TKS (now iCase) is reported to the Department of Justice, where it is processed and sent back to the DLSU as a summary report. The DLSU must validate the data in the report.

A Timekeeping Monthly Compliance Report is prepared by the Records Management Analyst. It provides a summary of the hours entered into the timekeeping system by counsel and paralegals. The number of hours worked by each lawyer and paralegal are indicated, as well as the number of hours of leave taken (if any). The number of hours of leave taken are deducted from the hours worked and compared to the average number of hours for the month (the average is assumed to be the number of working days in the month times 7.5 hours per day). This comparison shows whether individuals are working overtime, and if so, how much. As noted earlier, the SGC does not use these reports to monitor workload because it is her view that the DLSU's lawyers do not necessarily report time accurately (i.e. some under-report).

We made a recommendation that addresses the need to ensure that lawyers report time accurately.

3.2 Legal File Management

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

- prompt filing of all correspondence and related documents, including e-mails;
- indexing files;
- removing multiple copies of the same document.

Completed files should be archived in accordance with the TBS *Policy on the Management of Government Information* and the associated National Archives-approved Records Disposition Authorities so that on-site space requirements can be minimized.

The DLSU uses the RCMP's Integrated Records and Information Management System (iRIMS) to manage operational files, documents, and its law library catalogue. iRIMS is used rather than

the Department of Justice's own records management system because the RCMP's files require a system that can accommodate top-secret information.

As noted in "Policies and Procedures", the DLSU has a manual for records management that outlines the set-up of the filing system and describes file room procedures. As previously noted, this manual is not sufficiently detailed to allow staff to manage records without the support of the Records Management Analyst. Our review of a sample of files recorded in iRIMS indicated that 87 percent of the files were located as described in the system. The other files were either closed and in the file room when the system indicated that they were assigned to a lawyer or a legal assistant. It is the responsibility of each legal assistant to review the status of files with the responsible counsel and determine which files should to be closed and scheduled for transfer to archival storage. The demands of operational priorities can prevent timely attention by the legal assistant to this review. We were also advised that the current Records Management Analyst lacks both the time and the legal expertise to be able to perform a more proactive role in the process. Lawyers, paralegals, and other support staff told us that files can sometimes get lost, and that there can be problems locating files. We were also told that some files are not complete and that the DLSU has encountered problems when responding to Access to Information requests.

The DLSU's file room is very cramped and there were files on the floor when we inspected it. We were told that 327 files were scheduled to be transferred to the Federal Records Centre at Tunney's Pasture. The Office Manager stated that while some progress has been made in file management, a housekeeping of the file room was overdue. This, however, had not been done because iCase was being implemented and the Records Management Analyst had been dedicated to that task for several months. The need to use the Records Management Analyst to support iCase implementation was a consequence of the extended absence of the Information System Analyst, who was on leave.

Several lawyers, paralegals, and support staff agreed that file management could be improved, and attributed the current state of affairs to staff shortages. Some expressed the view that, if the DLSU could maintain its support staff at the approved level, file management would improve. Others were of the opinion that even if staffing were maintained at the approved level, it would still be necessary to have more positions devoted to legal file management. The audit team concurs that more resources are required to address this issue, at least in the short term. There is a backlog of files to be closed, as well as a need to develop and document a complete set of procedures for records management. Finally, because of the RCMP's security requirements, some data must be entered into both iRIMS and iCase (e.g. to support the legal risk management process). As a result, that workload has increased with the recent implementation of iCase.

Recommendations and Management Response

19. It is recommended that the SGC review the number of resources devoted to records management in the proposed organizational structure to determine if it is adequate.

I agree. In the context of the restructuring of Legal Services, two employees (1 AS-01 and 1 AS-02) as opposed to only one (AS-01) will be responsible for information and records management.

3.3 Library

The library in any legal practice is an important resource. It is used to research precedents and to obtain differing legal perspectives in particular areas of the law.

Space constraints in the DLSU's office accommodation at the RCMP's headquarters building have precluded the DLSU from setting up its library in a single room. Instead, books are shelved in stacks located throughout the premises occupied by the DLSU. Since these are in an access-controlled section of a secured building and campus, the risk of theft of library materials is minimal. Also, all books have been catalogued using the Library of Congress indexing system in iRIMS and are signed in and out of the stacks using iRIMS. We were advised that this has been an effective way of tracking library materials.

3.4 Legal Risk Management

In 2000, the Department of Justice and Treasury Board jointly launched the Legal Risk Management (LRM) project in response to the growing volume, complexity, and cost of litigation against the Crown. LRM's objectives are to identify, analyze, and control potential litigation challenges so that, if possible, they do not proceed to trial or, if they do and the Crown loses, there is a strategy in place to respond. The RCMP has significant contingent liabilities (estimated by the DLSU to involve over 1,000 separate legal actions and to be in the order of \$1 billion) as a result of police activity (or, in some cases, inactivity²¹) on high-profile (and other) files related to National Security.

²¹For example, if an individual made repeated 911 nuisance calls (i.e. calls that tie up police resources on minor matters), should a later call prove to be a real emergency and the RCMP delayed or refused to respond, it could be subject to allegations of negligence.

The SGC stated that after several years of promoting legal risk management to the RCMP, it formed an Integrated Legal Risk Management Committee to help it manage legal risks at a corporate level. The SGC initially chaired this committee, but the RCMP has now “taken ownership” of it and the SGC attends as an advisor. DLSU clients interviewed by the audit team stated that the SGC’s promotion of legal risk management and the DLSU’s ability to advise them on more than just financial risk was a service of significant value.

In 2005 the Risk and Litigation Management Practice Group was created to provide support to the Integrated Legal Risk Management Committee. The group is responsible for:

- compiling reports of estimated liability on a quarterly basis and completing a general analysis of reported civil litigation cases;
- compiling reports on current high risk/high impact cases;
- analyzing selected categories of litigation (e.g. abuse of police powers, harassment).

The Risk and Litigation Management Practice Group has several issues:

- It is difficult to recruit qualified staff (or to replace departing staff) in a timely fashion. Delays arising from the RCMP’s security clearance process are a factor in this regard. Also, because LRM is a relatively new initiative within the Department of Justice, there is a shortage of experienced candidates to fill vacant positions.
- There are inconsistencies in the interpretation of levels of risk between staff in the Department of Justice’s regional offices, where most lawsuits against the RCMP originate, and Headquarters. The assessed level of risk is entered into iCase by litigators in the regional offices that do not have consistent standards for assessing risk.
- Until recently, the DLSU did not have on-line access to iCase, the Department of Justice’s primary tool for capturing information on legal risks. The Practice Group was receiving quarterly iCase print-outs of regional office litigation and needed to manually transcribe the information into a DLSU database. The risk report produced from the database was then provided to the RCMP’s Integrated Legal Risk Management Committee. This task required the commitment of two of the Group’s paralegals, who had to contact Regional Office litigators for updates concerning the actions reported in the print-outs. This was frustrating to both the paralegals and the Regional Office litigators responsible for the legal actions who may have already entered updates into iCase.

We understand that on-line access to iCase is now available. However, this has only partly resolved the update problem because the Risk and Litigation Management Practice Group still cannot view the source documents associated with the legal actions. It therefore cannot track updates to these actions through iCase or easily provide the RCMP with information on the

particulars of a specific action. We were advised that this stems from an inherent limitation of iCase, which lacks the functionality to provide read-only access to source documents. Without the read-only restriction, there is concern that Practice Group staff would be able to make changes to the source documents.

During the course of the audit, a plan was developed in conjunction with the iCase National Business Application Analyst to address the problem. It has been decided that the Risk and Litigation Management Practice Group will, through the iCase National Business Application Analyst, contact each Regional Office for permission to access its documents on the understanding that it will not make changes to them. If a Regional Office grants the permission, the National Business Application Analyst will enable on-line access to that Office's documents for the Group.

It is the audit team's opinion that requiring the Risk and Litigation Management Practice Group to approach each Regional Office for access permission is inefficient. It also entails a risk that an office, or a litigator in an office, may withhold permission, in which case the Group will continue to be unable to access the source documents. The continuing impact of this on the productivity on the Group will exacerbate the problems it is experiencing in providing value-added services to Regional Office litigators. (See "Interfaces with the Department of Justice".)

Recommendations and Management Response

20. It is recommended that the SGC explore, through the Citizenship, Immigration and Public Safety Portfolio, the development of a protocol that will allow the DLSU's Risk and Litigation Management Practice Group to access and review all Regional Office iCase documents.

While I agree, we have not been given access. This has been raised with the Portfolio Head, the Director General and Senior General Counsel of the Civil Litigation Section at motherhouse as well as with the Risk and Litigation Management Practice Group. In spite of many efforts, to date, we have not been provided access to iCase documents.

3.5 Compliance with Legislation and Policies

We found the DLSU to be compliant with key government and departmental legislation and policies (including the *Financial Administration Act* and the *Government Contracts Regulations*).

Staffing in the DLSU is conducted through a competitive process, and the DLSU has tried to increase its representation of designated groups (e.g. person with a disability, member of a visible minority, an Aboriginal person) in its selection processes. Candidates who are members of a designated group are not only encouraged to apply but to self-identify. Since 2002, the DLSU has hired nine employees who were identified under a designated group.

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. Staff meetings are held in English, but if someone asks a question in French, the answer will be in French and then will be translated into English for anyone who is not bilingual. In meetings with the lawyers and support staff, the audit team found that the conversation shifted quite naturally between English and French.

3.6 Interfaces with the Department of Justice

The DLSU's primary interactions with the Department of Justice's Headquarters and regional offices concern litigation. Most of the lawsuits brought against the RCMP originate in the regions, such as British Columbia, where the RCMP has a large presence because it provides operational policing.²²

We encountered mixed perceptions concerning these interactions. The DLSU's counsel told us that interactions with the litigators responsible for defending the RCMP against lawsuits had improved in the past five years. We were told that at one time it was difficult to get information from the litigators concerning these lawsuits. This is no longer the case, as litigators are more willingly to provide the DLSU with notification of lawsuits as well as updates on their status and progress.

Litigators we interviewed in the Department's headquarters and the regional offices confirmed that their primary interaction with the DLSU is in providing status and progress information on lawsuits brought against the RCMP. Litigators will also channel requests for instructions from the RCMP through the DLSU. Also, for complex lawsuits (e.g. those that have employment law issues or charter implications), they will channel requests for witnesses, evidence, and opinions through the DLSU.

Several, but not all, litigators we contacted observed that their interactions with the DLSU were one-sided and that there could be improvements in several areas such as:

²² For example, about half the RCMP's members work in British Columbia, but its presence in Ontario and Quebec, which have provincial as well as municipal police services, is small.

- clarification on which files the DLSU needs to be kept informed of on a detailed basis;
- clarification on which are routine and do not need detailed or frequent updating;
- more timely response to requests for instructions, information, or opinions from the DLSU;
- the development of national standards and approaches for common types of lawsuits against the RCMP;
- serving as a clearing house to facilitate information sharing (e.g. providing an up-to-date list of litigators across the Department who regularly work on RCMP-related files, and of the nature of those files).

We were advised that the Risk and Litigation Management Practice Group has experienced strong growth in demand for its services since the RCMP started managing its legal risks at a corporate level. While the size of the group has grown from three FTEs in 2005 to a proposed 12 FTEs, it has not been possible to fill positions with qualified candidates at the same rate as demand for services has grown. Thus, while the Practice Group leader wants to develop consistent standards that could be used by litigators across the Department and provide other value-added services, most of the Group's resources have been consumed in compiling and verifying the accuracy and completeness of the reports it prepares for the RCMP's Integrated Legal Risk Management Committee.

Several litigators we interviewed stated that the group was understaffed in relation to its workload. The development of a protocol to allow the Practice Group to access and review Regional Office iCase documents, as recommended earlier, should help alleviate some of the Group's problems in relation to its workload.

3.7 Client Satisfaction with Services

RCMP officials we interviewed consistently indicated that there was 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 dedicated, focused, and hard working. We were told that the timeliness of service could sometimes be improved, but this was always attributed to shortfalls in the number of resources available in the DLSU to meet the client's demand for services. Several clients stated that they would support an increase in the size of the DLSU to address this problem.

3.8 Presence Within the RCMP of non-Department of Justice Legal Advisors

The RCMP has a long tradition of supporting its regular and civilian members in acquiring legal training and hiring lawyers as staff advisors. However on June 6, 2006 the Commissioner issued a memo to his senior management team stating that:

- regular and civilian members who are not part of the DLSU should stop using the professional designations of “Counsel” or “Barrister and Solicitor” on RCMP correspondence because they are not employed by the RCMP in that capacity;
- the provision of legal advice and services to the RCMP is the exclusive purview of the Department of Justice;
- since regular and civilian members of the RCMP are not to be engaged in the provision of legal advice, payment of membership fees to territorial or provincial law societies is no longer authorized.

Both the DLSU’s lawyers and several clients we interviewed indicated their support for this new direction. In their view, staff advisors who are lawyers and called to the bar but who are not part of the Department of Justice should not provide legal opinions and advice, as these could conflict with Department of justice legal opinions and advice, which could have negative consequences. Finally, in their view, there was no accountability for the advice given by staff advisors in the RCMP.

Some clients maintained that it was important to make a distinction between lawyers who have been called to the bar and other individuals who have received some legal training, as have many members of the RCMP. They claim that legal training provides an informed perspective that can improve operational policing decision making. In their opinion, access to such information is valuable. While we do not disagree with this position, an informed perspective concerning an operational policing decision from someone who is not a lawyer does not constitute a legal opinion or advice.

The Commissioner’s memo is a significant first step in addressing this issue. It is the audit team’s opinion, however, that the situation will require monitoring, both by the RCMP and the DLSU. The SGC, by virtue of her presence on the RCMP’s Senior Executive Committee, is positioned to draw to the attention of RCMP management any incidents of non-compliance with the new policy.

Recommendations and Management Response

21. It is recommended that the SGC, through the DLSU's lawyers, bring incidents of non-compliance with the new policy to RCMP management's attention.

I agree. This is being pursued.

4. CONCLUSIONS

The RCMP DLSU has experienced strong and sustained growth in demand for its services since the terrorist attacks of September 2001. The DLSU's organization and resources have evolved (and continue to evolve) in response. Challenges have been experienced in recruiting the numbers of qualified professional and support staff required to address the increase in demand. Nevertheless, the DLSU's clients were very positive concerning the quality and value of its services, and are willing to continue to fund its growth.

The audit team found that, as it grows, the DLSU will require improvements in several aspects of its management infrastructure and practices. These include:

- objectives and risks
- policies and procedures
- plans and performance indicators
- organization
- workload management
- human resources management
- funding and budget
- legal file management
- legal risk management

Recommendations relating to these areas are provided in the report.

5. RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. **It is recommended that the SGC undertake a review of both the mission statement and the team charter to determine whether these documents have continuing relevance to the DLSU, and adjust them as necessary to ensure that they do.....19**

I agree. The mission statement and the team charter will be reviewed in the context of the next Legal Services office retreat with a view to determine whether they continue to be relevant and to adjust them as necessary.

2. **It is recommended that the SGC develop DLSU-specific objectives that are measurable, achievable, realistic, and time-related.....19**

I agree. Legal Services will develop objectives that are not only measurable and realistic, but also take into account those of the Department and of the Portfolio.

3. **It is recommended that the SGC ensure that all staff in the DLSU are knowledgeable of and understand the DLSU's objectives as well as the role they play, as individuals, in achieving them.....19**

I agree. The objectives will be distributed to all employees and discussed with them to ensure that they understand the role they play in achieving them.

4. **It is recommended that, once the DLSU's objectives have been refined, the SGC undertake a formal risk assessment and ensure that both the risks and strategies for managing these risks are developed and documented.....20**

I agree. This is only the second year that a formal Business Plan will be completed at the Portfolio level. At the time of the audit, the first business plan was in the process of being developed and the risk assessment in Legal Services was being done informally. Legal Services will continue to contribute to the Portfolio Business Plan, including to formal risk assessment.

- 5. It is recommended that the SGC ensure that the manual for legal risk management is developed as soon as possible, and that a detailed manual for records management is also prepared.22**

I agree to ensure that the manual for legal risk management as well as a detailed manual for records management be developed as soon as possible. As indicated above, if support could be provided centrally, this could facilitate and accelerate this project.

- 6. It is recommended that the SGC and the DLSU's new Deputy Director/General Counsel become sufficiently knowledgeable of the departmental business planning process so that they can lead and participate actively in it.25**

I agree. The SGC and the Deputy Director fully contributed to the development of the 2007-2008 Portfolio Business Plan and are already engaged with respect to the 2008-2009 Business Plan.

- 7. It is recommended that the SGC develop with the RCMP a CDS agreement or equivalent that explicitly details the provision of legal resources, operational support, and the costs associated with each.26**

I agree. The SGC made a formal presentation on the Legal Services' Business Plan to the client for fiscal year 2007-2008. The SGC and the Deputy Director have met, and will continue to meet, frequently with the client to discuss funding and the provision of legal services. Business plans will continue to be prepared and presented on an annual basis. Business plans could eventually be established for longer periods once there is more stability regarding the DOJ funding contribution further to Legal Services Review.

- 8. It is recommended that the SGC implement formalized, annual performance monitoring with respect to client satisfaction and DLSU efficiency and productivity starting in the 2007-08 fiscal year.28**

I agree. We will continue to implement formalized annual performance monitoring as recommended.

9. It is recommended that the SGC incorporate appropriate indicators for monitoring and reporting DLSU performance into the CDS agreement.....28

I agree. In the presentation made to the client by the SGC in June on Legal Services funding, performance indicators were provided to the client and formed part of our justification for increased funding.

10. It is recommended that in implementing the proposed organizational structure, the SGC ensure that the practice group managers focus their time on their supervisory and quality assurance role and limit time spent on complex legal files.....30

I agree. The new organizational structure continues to be implemented, as planned. Among others, the Deputy Director and Program Director positions were filled. This approach is being followed by the members of the management team, including practice group managers.

11. It is recommended that the SGC review the proposed new support staff organization to ensure that there is an adequate number of paralegal positions.....32

I agree. The support staff organization has been reviewed and four more paralegal positions are currently being staffed.

12. It is recommended that the SGC investigate the use of anticipatory staffing to create pre-qualified pools of applicants as a mechanism for alleviating the delay in filling support staff positions that become vacant as a result of staff turnover.32

I agree. This is the approach we have always been taking. The difficulty is that candidates receive other job offers during the period of two months or more that it takes for the client to complete a top secret security check.

13. It is recommended that the SGC remind all lawyers of the importance of completing time reports accurately and in a timely manner.34

I agree. Counsel and paralegals have been and will continue to be regularly reminded to complete time reports accurately and on a timely basis.

14. It is recommended that the DLSU’s Management Team use time-reporting statistics to complement their workload monitoring practices.....34

I agree. Time-reporting statistics have been and will continue to be taken into account in monitoring workload.

15. It is recommended that the SGC institute periodic all-staff meetings within the DLSU.36

I agree. All Counsel and paralegals meet once every two weeks to discuss legal files and issues. Once a month, all support staff is also invited to attend staff meeting.

16. It is recommended that the SGC ensure that a staff orientation and training manual is developed to familiarize new staff with the DLSU and its client.....39

I agree. A “Staff Orientation and Training Manual” was developed. It was distributed to all employees and they were encouraged to go through the manual. A copy of the manual is also given to every new employee who joins Legal Services. Components still need to be added, and this will be done as recommended.

17. It is recommended that the SGC ensure that complete performance appraisals are prepared annually for all lawyers and support staff.39

I agree. Complete performance appraisals were prepared for all lawyers and support staff for the 2006-2007 fiscal year.

18. It is recommend that the SGC clarify in writing the DLSU’s policy on flexible work arrangements and ensure that this clarification is distributed to all staff.....39

I agree. The DOJ policy will be communicated to all staff.

19. It is recommended that the SGC review the number of resources devoted to records management in the proposed organizational structure to determine if it is adequate...47

I agree. In the context of the restructuring of Legal Services, two employees (1 AS-01 and 1 AS-02) as opposed to only one (AS-01) will be responsible for information and records management.

20. It is recommended that the SGC explore, through the Citizenship, Immigration and Public Safety Portfolio, the development of a protocol that will allow the DLSU’s Risk

and Litigation Management Practice Group to access and review all Regional Office iCase documents.....49

While I agree, we have not been given access. This has been raised with the Portfolio Head, the Director General and Senior General Counsel of the Civil Litigation Section at motherhouse as well as with the Risk and Litigation Management Practice Group. In spite of many efforts, to date, we have not been provided access to iCase documents.

21. It is recommended that the SGC, through the DLSU’s lawyers, bring incidents of non-compliance with the new policy to RCMP management’s attention.....53

I agree. This is being pursued.