



**PUBLIC LAW SECTOR
EVALUATION
Final Report**

March 2013

**Evaluation Division
Office of Strategic Planning and Performance Management**



TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
1. INTRODUCTION.....	1
1.1. Purpose of the Evaluation	1
1.2. Structure of the Report.....	1
2. PROFILE OF THE PUBLIC LAW SECTOR.....	3
2.1. Structure and Services.....	4
2.2. Resources	12
2.3. PLS Program Logic.....	14
3. METHODOLOGY	21
3.1. Document and Data Review	21
3.2. Key Informant Interviews	22
3.3. File Review	23
3.4. Case Studies	24
3.5. Focus Groups	24
3.6. Limitations	25
4. KEY FINDINGS	27
4.1. Relevance	27
4.2. Performance – Achievement of Expected Outcomes (Effectiveness)	37
4.3. Performance – Demonstration of Efficiency and Economy	55
5. CONCLUSIONS	65
6. RECOMMENDATIONS AND MANAGEMENT RESPONSE.....	72

Appendix A : Evaluation Matrix 81

Appendix B : Data collection instruments 89

ACRONYMS

ADM	Assistant Deputy Minister
ATIA	<i>Access to Information Act</i>
ATIP	Access to Information and Privacy
CAILS	Constitutional, Administrative, and International Law Section
CALS	Constitutional and Administrative Law Section
CHRA	<i>Canadian Human Right Act</i>
CLE	Continuing Legal Education
CPP	Canada Pension Plan
DDG	Deputy Director General
DFAIT	Department of Foreign Affairs and International Trade
DG	Director General
DLSU	Departmental Legal Services Units
EI	Employment Insurance
FTE	Full-time equivalents
HRLS	Human Rights Law Section
ILAPS	Information Law and Privacy Section
IPLS	International Private Law Section
JACTPS	Judicial Affairs, Courts and Tribunal Policy Section
JLT	Trade Law Bureau
LPM	Law Practice Model
LRM	Legal Risk Management
NAFTA	North American Free Trade Agreement

ACRONYMS (cont'd)

NLAC	National Legal Advisory Committee
NVA	Net-Voting Authority
OLLS	Official Languages Law Section
PA	<i>Privacy Act</i>
PDD	Professional Development Directorate
PILS	Public International Law Section
PLPS	Public Law Policy Section
PLS	Public Law Sector
SAS	Special Advisory Section
WTO	World Trade Organization

EXECUTIVE SUMMARY

1. Introduction

The Public Law Sector (PLS) is a core resource within Justice Canada that offers specialized legal services and policy expertise on public law issues, as needed, to Justice counsel and other government departments and agencies. The Sector's goals are to provide high-quality legal services, and to contribute to a consistent, whole-of-government approach to public law issues. The PLS is comprised of seven specialized legal advisory/policy and policy sections. The sections are: Constitutional, Administrative and International Law Section (CAILS); Human Rights Law Section (HRLS); Information Law and Privacy Section (ILAPS); Judicial Affairs, Courts and Tribunal Policy Section (JACTP); Trade Law Bureau (JLT); International Private Law Section (IPLS); and Official Languages Law Section (OLLS).

The evaluation of the PLS was conducted between December 2011 and January 2013. This is the first evaluation of the PLS, as well as one of the first evaluations of legal services under the 2009 Treasury Board Secretariat's *Policy on Evaluation*. In accordance with this policy, the evaluation addresses the core issues of the relevance and performance of the PLS. The evaluation covers the work of the PLS between fiscal years 2007–08 and 2011–12.

2. Methodology

The evaluation methodology consisted of a document and data review; key informant interviews with Justice counsel in Departmental Legal Services Units (DLSUs) and other areas of Justice who have worked with the PLS, PLS counsel, and representatives of client departments and agencies; a review of 29 closed files on which the PLS provided legal services; ten case studies from among the 29 files reviewed, which included interviews with representatives of client departments and agencies, as well as PLS staff involved in the files; and four focus groups (two groups with PLS counsel and two groups with DLSU lawyers or regional litigators). Triangulation was used to verify and validate the findings obtained through these methods and to arrive at the overall evaluation findings.

3. Findings

Continued need. Government priorities identified through Throne Speeches and Budget reports identify a number of priority areas and issues related to public law. These include policy initiatives in areas of human rights, justice system enhancement, anti-discrimination, solicitor-client privilege, national security, governance, and official languages. Clients of PLS legal services also indicated a continued need for its public law expertise, particularly for riskier, high complexity files that involve public law issues. While the PLS experienced a slight decrease in demand for its legal services between 2007–08 and 2011–12, demand was affected, in part, by cost recovery for legal services obtained from CAILS, HRLS, and ILAPS, and efforts by other Justice counsel to reduce legal costs for clients. As cost recovery will no longer be used for any PLS legal services starting in 2013–14, it is anticipated that the demand for its services will increase.

Alignment with federal government priorities. The PLS provides support for the federal government’s legislative and policy agendas, which inevitably involve public law issues. Over the past five years, there has been good alignment between governmental priorities and commitments outlined in federal Budget reports, Speeches from the Throne, PLS operational plans, and commitments established in Department of Justice *Reports on Plans and Priorities*. PLS sections have been involved in supporting government priorities as varied as national security policy initiatives, criminal law proposals, the implementation of Canada’s Economic Action Plan, trade and investments agreements, and the Roadmap for Canada’s Linguistic Duality.

Alignment with federal roles and responsibilities. The PLS assists the Minister of Justice and Attorney General in fulfilling his responsibilities under the *Department of Justice Act*. Alignment of the PLS legal services with the *Department of Justice Act* is achieved through its work in advising client departments and agencies on matters of public law and by representing the Crown in litigation involving public law issues (domestically and internationally).

3.1. Performance

Effectiveness. Based on multiple lines of evidence, the evaluation found that PLS clients (primarily DLSU and regional counsel) consider the legal services received from the PLS to be timely, coherent and useful, despite the often challenging practice environment with many urgent requests for advice. Satisfaction with timeliness was consistent across the PLS with the exception

of JLT, which has a heavier workload in terms of hours spent on actively managed files than any other PLS section. Interviewees noted that they had experienced delays in receiving responses to requests from JLT. Therefore, any efforts to improve timely service could focus on JLT and its possible resource constraints.

The evaluation also found a few areas of potential improvement with respect to the coherence or usefulness of advice. The changing practice environment of the PLS, where its legal advice is shared directly with the client departments/agencies and more widely within the federal government, has meant that the audience for its legal opinions is broader. In addition, some DLSU counsel perceived the advice of a few sections, namely CAILS and HRLS, as occasionally too technical or academic for the client departments or agencies without the advice being rewritten by DLSU counsel, which was considered an inefficient use of counsel time. The PLS has responded by developing best practices for legal opinions and individual sections have best practices and quality management frameworks that consider issues such as how to communicate legal advice to clients. Given these results, the PLS may want to consider other ways to respond to this change in its legal practice and how best to work with counsel requesting the advice so that the purpose and use of the advice, including its audience, are clearly defined.

Multiple lines of evidence confirm that the PLS is providing consistent legal advice. Consultations within the PLS, with other Justice counsel, and with other affected departments and agencies are occurring when appropriate. PLS and other Justice counsel reported that when there are disagreements, which were considered to be rare, they could resolve them informally through consultations/meetings between PLS counsel and DLSU or regional counsel. A few areas of potential improvement were noted. While joint opinions from PLS sections are not always appropriate when more than one PLS section is involved on a legal issue, some stakeholders noted that the PLS sections could produce joint opinions more often than they currently are. The evaluation also found that the National Legal Advisory Committee (NLAC), the one formal Justice structure for ensuring consistency for legal advice, was not often used. Many potential reasons were identified for its low usage, including the perceived lack of clarity as to the NLAC's role and a general lack of awareness of the Committee. As a result, it may be appropriate to review the NLAC's terms of reference and clarify its role in the Department.

The PLS is performing its duties to inform government litigators, decision makers, and senior government officials of legal risks, legal options, and policy options, when appropriate. Clients reported valuing the PLS contributions to Legal Risk Management. While the PLS has somewhat lesser involvement in informing stakeholders of policy options and litigation strategies, with DLSU and litigation counsel having the lead role, key informants were satisfied with the level

and quality of PLS involvement. The briefing process was considered generally effective in informing senior government officials of public law issues and legal risks. Some concerns were expressed regarding the lengthy process for approval of briefing notes, which can create delays, and the nature of the briefing process, where the PLS responds to requests for briefing rather than also determining whether to brief senior officials. However, the PLS has developed other processes to brief senior officials when they have the lead on files.

The evaluation concluded that the PLS contributes to the development of consistent legal positions and a whole-of-government approach to legal issues advocated before courts and tribunals. Communicating the government's position to domestic stakeholders was considered to be mainly the role of the client department/agency's than that of the PLS. Moreover, the PLS must respect solicitor-client privilege and confidentiality laws, which again may limit the extent to which PLS counsel communicate with external domestic stakeholders.

The evaluation had limited evidence on the effectiveness of the PLS in advocating the government's position internationally, although, based on the examples provided in documents and by stakeholders, the PLS is well respected internationally, and its work contributes to the effective communication of Canada's legal positions before both international tribunals and other international fora.

The evaluation confirmed that the PLS is actively carrying out its role in providing training to Justice counsel. Combined, its sections have offered over 200 events to over 3,600 participants through the Department's Professional Development Directorate (PDD). These numbers under-represent the training offered by the PLS as sections provide a significant amount of training outside of the PDD. The evaluation found several gaps or other issues with the information collected on PLS training. Given the importance of PLS training in promoting the Sector and in informing other counsel about public law issues, the PLS may want to conduct more systematic reviews of its training at the Sector and/or section-level to ensure that training is meeting needs.

In terms of training for PLS counsel, the evaluation results suggest that satisfaction with the training and skill development opportunities available to the PLS has decreased over the evaluation period. Potential reasons for this identified by PLS counsel included the need for training that is appropriate for subject matter experts, which was seen as limited by budgetary restrictions on travel and registration for training offered by third parties. As well, there has been the move to more basic training to meet mandatory Continuing Legal Education (CLE) requirements of provincial law societies.

All lines of evidence indicated that PLS counsel are considered public law experts. DLSU counsel noted that this expertise enables them to gain client approval for consulting with the PLS. Other Justice counsel generally recognized that the PLS held expertise beyond what the DLSU could offer on public law matters.

Efficiency and economy. The evaluation found that the PLS is operating efficiently and economically with a few issues identified for further attention. PLS was generally found to have sufficient resources (human, technological, materials/equipment, financial) to manage the demand for its services. The one section that appears to have a resource deficit is JLT, as counsel carry a workload that far exceeds other PLS sections and departmental standards for the number of hours' work per counsel in a fiscal year. The PLS may want to focus efforts on determining whether JLT will have sufficient resources to meet projected demands, particularly given government priorities to negotiate more agreements on international trade and investment.

It remains to be seen what the implications of PLS no longer having to bill for cost recovery will be on the ability of the Sector to manage demand and maintain its responsiveness, quality, and efficiency in service delivery. Given that the evaluation indicated that cost recovery may have reduced demand for PLS services on lower profile (lower risk and complexity) files, it is anticipated that demand could increase. The PLS may want to consider a review of the effects of the new funding approach on demand levels, service delivery, and administrative efficiencies after the 2013–14 fiscal year. The results of this evaluation can serve as a baseline.

Generally, the PLS provides cost-efficient legal services. In fact, during the period covered by the evaluation, the PLS expenditures increased modestly by just over 3%. The Department instituted the Law Practice Model (LPM) as a method to achieve cost savings, but its applicability in the PLS was questioned by stakeholders. They consider the expert, complex nature of the PLS work to limit opportunities to assign low-risk, low-complexity work to junior counsel. Unfortunately, because legal risk and complexity on most (99%) PLS files are not entered into iCase, the evaluation could not verify this. Even if these data were available, the unit of analysis (a file) may not be appropriate, as the urgency of legal requests (and one file can contain multiple requests) is often what creates the need for senior counsel involvement. To assist with management of the Sector, demonstrate compliance with the spirit of the LPM and that the PLS is operating as efficiently as possible, the Sector may want to develop performance indicators related to work assignment (file, legal requests) that are appropriate to the PLS and can be tracked.

One area of potential improvement for increasing efficiency identified by the evaluation was the quality of requests for legal services, which still vary in clarity and completeness. Unclear or duplicative requests or misunderstood expectations of what the client needs can lead to unnecessary additional work. Training and improved communications between PLS and other Justice counsel should enhance the quality of legal requests. Justipedia is also considered a key tool for improving efficiencies for PLS counsel, as well as for other Justice counsel who can use Justipedia to determine if legal opinions have already been provided on particular questions of law.

1. INTRODUCTION

The Public Law Sector (PLS) is a core resource within Justice Canada that offers specialized legal services and policy expertise on public law issues, as needed, to Justice counsel and other government departments and agencies. The Sector's goals are to provide high-quality legal services, and to contribute to a consistent, whole-of-government approach to public law issues.

This document constitutes the final report for the evaluation of the PLS. This evaluation responds to the Treasury Board Secretariat's 2009 *Policy on Evaluation*, which requires that all government programs be evaluated every five years. The evaluation, which represents the first for the PLS, was conducted between December 2011 and January 2013.

1.1. Purpose of the Evaluation

In accordance with the 2009 *Policy on Evaluation*, the primary purpose of this evaluation was to assess the relevance and performance of the PLS. In terms of relevance, the evaluation considered the continued need for the PLS and the alignment of PLS priorities and activities with government priorities, departmental strategic outcomes, and federal roles and responsibilities. With regard to performance, the evaluation considered both effectiveness (i.e., the extent to which the PLS has achieved its objectives) and efficiency and economy (i.e., the degree to which appropriate and efficient means are being employed to achieve the desired outcomes).

The evaluation covers the work of the PLS between fiscal years 2007–08 and 2011–12. The Department of Justice Evaluation Division directed the evaluation, and an evaluation working group (an advisory group with representatives from various PLS sections) provided ongoing input into the evaluation.

1.2. Structure of the Report

This report contains six sections, including the introduction. Section 2 provides the background on the PLS, describing its structure, resources, services, and the logic behind its activities;

Section 3 describes the methodology used in the evaluation; Section 4 summarizes the key findings; Section 5 presents the conclusions of the report; and Section 6 contains the recommendations and management response.

2. PROFILE OF THE PUBLIC LAW SECTOR

Mandate, Roles, and Responsibilities

The PLS provides legal services in the areas of advisory services on policy and law, litigation services/litigation support, and support for legislative and regulatory drafting services. Its objective is to provide high-quality legal services by ensuring that legal advice is consistent, the rule of law is respected, and legal risks are mitigated and managed by departments and agencies. In the Sector's legal advisory and legal policy advisor role, the Minister of Justice ensures that the client departments within the Government of Canada, including the Department of Justice, fulfill their respective mandates in accordance with the rule of law. The PLS has both a policy and advisory role in support of the Justice mandate. The work of the PLS related to litigation services and support assists the Attorney General of Canada in ensuring that litigation is conducted in a coherent and consistent manner. PLS also provides support in policy development in areas that relate to its areas of expertise.

The PLS has an important and distinct role to assist the Department of Justice in fulfilling its "central agency" role as coordinator of legal advice across government and Central Agencies. The Sector also supports all areas of the Department directly involved in the provision of legal services by providing legal advice, legal policy advice, and policy advice on an as-needed basis. In addition, counsel from PLS conduct litigation, which includes appearances before international tribunals, and provide litigation support on matters proceeding both domestically and internationally. PLS counsel also both conduct and provide support for the negotiation of a wide range of international instruments.

More specifically, the role of PLS counsel is to provide expert specialized legal advice, legal policy advice, and policy advice to other Justice counsel who consult them, so that they can, in turn, properly advise their client departments, taking into consideration the advice they have received from the Sector. PLS counsel also provide training to Justice colleagues in their specific areas of expertise to maintain the knowledge and professional capacity of Justice counsel. In this regard, PLS counsel are often referred to as the lawyers' lawyers. Clients within the Department of Justice include the Minister, the Deputy Minister, all Department of Justice Portfolios and

their corresponding Departmental Legal Services Units (DLSUs), the Policy Sector, the Litigation Branch, Legislative Services Branch, and the regional offices. Clients outside of the Department of Justice include federal government Central Agencies, the Privy Council Office, the Treasury Board of Canada Secretariat, the Public Prosecutions Service of Canada, and other departments and agencies.

As with all of the Department of Justice counsel, PLS counsel also have a role to play in Legal Risk Management (LRM). PLS counsel must know and apply LRM principles and methods appropriate to their particular positions and areas of responsibility. In an advisory capacity, PLS counsel contribute their assessment of the legal risks associated with the specific areas of law in which they are experts, so that these risks can be considered, along with other areas of legal risk, in making a global risk assessment and assisting clients to manage their own legal risk. If contingency plans are being prepared, PLS counsel can contribute to developing those strategies in the areas of their expertise.

Other specific responsibilities that fall within the mandate of each of the seven sections are described in Section 2.1.2, below.

2.1. Structure and Services

2.1.1. Governance

The PLS is headed by an Assistant Deputy Minister (ADM) who reports directly to the Deputy Minister. The Office of the ADM acts as the liaison between the various sections in the PLS, as well as the other portfolios within the Department and other federal institutions. The ADM's office coordinates the provision of high-quality, specialized legal advice and legal policy advice to clients within the Department of Justice and across the federal government. The ADM has a role on numerous intra- and interdepartmental committees, including Chair of the National Legal Advisory Committee (NLAC). The NLAC serves as a senior advisory authority in the Department of Justice. Its mandate is: a) to promote and ensure consistency and quality in legal advice, including the consideration of an integrated "whole-of-government" approach; b) to manage legal risk in the advisory context; and c) to recommend departmental positions on conflicting or diverging legal perspectives. The NLAC is part of the overall governance structure of the Department in order to ensure that the Department of Justice speaks with "one voice".

In addition to the Office of the ADM, the PLS is comprised of seven specialized legal advisory/policy and policy sections. The PLS is recognized for its expertise in human rights law, constitutional and administrative law, language rights, information law and privacy, judicial affairs, international trade law, public international law, and international private law.

The seven sections are headed by a Director or Director General (DG), who is responsible for the overall management of his/her section and is accountable for its work. Most of these sections also have an assistant or deputy to the Director/DG. For example, the Deputy Director General (DDG) of the Human Rights Law Section (HRLS) assists the DG with the management of the section and is accountable for the quality of the legal work of those lawyers under the DDG's responsibility.

2.1.2. Delivery Approach and Sections

The following information describes each of the seven sections that currently make up the PLS. It should be noted that a number of reorganizations of PLS have taken place over the evaluation period.¹ Prior to 2010, the PLS included the Public Law Policy Section (PLPS), which conducted legal policy work related to access to information law and human rights. As of July 1, 2010, expertise related to the *Access to Information Act* and the *Privacy Act* was consolidated under the Information Law and Privacy Section (ILAPS). As of April 1, 2011, expertise related to the *Canadian Human Rights Act* (CHRA) was consolidated under HRLS. Similarly, in May 2011, the Public International Law Section (PILS) was integrated into the Constitutional, Administrative, and International Law Section (CAILS).

Constitutional, Administrative, and International Law Section (CAILS)

CAILS provides specialized legal and policy advice, legal training and litigation support on the law relating to federal government institutions. In particular, CAILS has a team of lawyers and support staff to provide a variety of services to clients, including both advisory and policy advice in relation to the following areas of law:

- Constitutional Law
- Administrative Law
- Crown Law

¹ In addition, the International Aviation Law Section reverted to the Transport Canada DLSU.

- Public International Law
- Aboriginal Issues.

The Section's main business priority is to provide specialized legal advice, litigation support, and policy advice to clients requesting services, particularly on government priorities, as well as to meet demand created by external pressures such as litigation and proceedings in Parliament. Helping their clients to manage their legal risks appropriately is another key business priority due to the sensitivity, urgency, and cross-governmental considerations associated with many of their files.

CAILS also provides legal advice on a wide range of public international law issues. It is responsible for providing effective and responsive legal advice, legal policy advice, legal training, and legal services to clients (including the Minister and the Department of Justice). Specifically, in relation to public international law, the Section prepares legal opinions, assists with policy advice, participates in international negotiations, and generally provides client support on issues of public international law. The Section provides litigation support to the government's civil, criminal, Aboriginal, tax, and immigration law lawyers, while also litigating international law issues and advising on the filing of *amicus* briefs before foreign courts in cases with cross-border dimensions.

CAILS engages in outreach activities, including legal training, to heighten awareness of the services provided by the Section among clients and colleagues throughout the Department of Justice. CAILS holds regular meetings of the International Law Practice Group, and has created a working group to deal with legal issues related to military operations. In addition, a paper on principles of extraterritoriality is being drafted as a guide for colleagues throughout the Department.

In responding to requests regarding the machinery of government and parliamentary law issues, CAILS strives for close cooperation and coordination with the Privy Council Office, while seeking to provide both legal and strategic advice focused on the whole-of-government. The Section leads the departmental solicitor-client privilege team, and has a permanent representative on the NLAC.

Human Rights Law Section (HRLS)

HRLS is a centre of expertise in the PLS in relation to human rights, encompassing both legal advisory and legal policy functions. HRLS provides specialized legal advice, legal training, and

litigation support on matters relating to the *Canadian Charter of Rights and Freedoms* (Charter), the *Canadian Bill of Rights*, and the CHRA. Lawyers in HRLS prepare legal opinions on regulatory and legislative initiatives, as well as on a wide range of questions referred to them by Justice counsel, the officials in the Policy Sector of Justice, and the Privy Council Office. As part of its advisory role, HRLS advises the Minister of Justice in the exercise of his statutory responsibilities to examine government bills and proposed regulations for consistency with the Charter and the *Canadian Bill of Rights*.

The Section provides strategic policy advice, training and guidance on a broad range of human rights policy issues, including the CHRA, for which the Minister of Justice has responsibility. In providing litigation support to litigation counsel on matters within the Section's areas of expertise, HRLS counsel may prepare legal opinions, assess legal risks, participate in contingency planning, provide input into litigation arguments and strategy, and furnish legal policy input and support (e.g., on CHRA matters).

HRLS is responsible for all legal aspects of domestic implementation of Canada's international human rights obligations. This work embraces all of the Department of Justice's functions: international litigation (e.g., international communications), legal advice (e.g., advising on domestic implications of treaty provisions, advising during negotiations), policy development (e.g., should Canada become a party to a treaty), and litigation support when international human rights treaties are pled in cases before Canadian courts. The Section also assists in drafting compulsory periodic reports to United Nations committees outlining how Canada complies with the respective treaty obligations.

Litigation responding to individual petitions before international treaty bodies represents a portion of the Section's work. The work of HRLS on international human rights requires significant amounts of coordination within Justice and with the Department of Foreign Affairs and International Trade (DFAIT) and affected federal government departments or provinces.

Information Law and Privacy Section (ILAPS)

ILAPS is responsible for ensuring that the positions of the Department of Justice concerning the interpretation of the *Access to Information Act* (ATIA) and the *Privacy Act* (PA) are established in a coordinated and coherent manner that complies with the intent and the letter of this legislation. The Section's primary purpose is to provide legal advice and legal policy advice on access to information and privacy matters to clients, which include the Department, its Minister and Deputy Minister, the DLSUs, regional offices, and Central Agencies. The Section also

provides strategic policy advice on Access to Information and Privacy (ATIP) issues for which the Minister of Justice has responsibility. The Section provides litigation support to the government's civil, criminal, Aboriginal, tax, and immigration law lawyers through the DLSUs. ILAPS also coordinates the Attorney General of Canada's and the federal government's position and assists the Civil Litigation Branch in developing arguments in litigation matters relating to the ATIA and PA.

ILAPS provides specialized legal advice, legal policy advice, legal training, and other services to clients (including the Minister and Department of Justice) that support the government in attaining results for Canadians, including in relation to:

- responding to ATIP requests within the required timeframe;
- developing information-sharing initiatives compliant with the ATIA and PA legislation; and
- engaging in outreach activities, including legal training, to heighten awareness of the services provided by the Section and the role played by the Department of Justice in the functioning of the ATIP system.

In its policy development capacity, the Section is actively involved in developing government bills on ATIP issues, monitoring Private Members' bills dealing with ATIP issues, and supporting the work of Parliamentary committees. ILAPS provides support to the Minister and other senior officials appearing before the Standing Committee on Access to Information, Privacy and Ethics.

Trade Law Bureau (JLT)

JLT provides litigation services, legal training, and legal advice to all government departments on all aspects of international trade law. It advises on, and actively participates in, the negotiation and subsequent implementation of international trade and investment agreements. The goal of the Bureau is to ensure that the federal government receives coherent, high-quality, and timely legal advice on international trade law matters. JLT is a joint unit with staff from both the Department of Justice and DFAIT.

More specifically, JLT provides legal advice to the Government of Canada regarding the consistency of existing or proposed measures (whether Canadian or foreign) with international obligations under the Agreement Establishing the World Trade Organization (WTO), the North American Free Trade Agreement (NAFTA), and other trade and investment agreements.

Canada's trade and investment obligations are governed by the international agreements to which it is a party, such as the World Health Organization, NAFTA, various bilateral trade agreements, and foreign investment protection agreements.

The Bureau is responsible for the conduct of litigation with respect to the enforcement or defence of Canada's rights and obligations under the WTO, the NAFTA, and other trade agreements pursuant to the dispute settlement provisions of those agreements. In the pre-dispute phase, JLT assists government departments in preparing for consultations. Once a panel is established, JLT conducts the litigation, which includes drafting pleadings and submissions, consulting with client departments and stakeholders outside the Government of Canada (e.g., provincial governments and private sector interests) on the preparation of the case, and pleading the case before the panel or tribunal.

Finally, the Bureau advises Canada's negotiators on the scope and coverage of prospective trade agreements, on the expansion of existing trade agreements, and on amendments to these existing trade agreements. JLT leads negotiations on dispute settlement mechanisms in these agreements and helps to coordinate their domestic implementation.

International Private Law Section (IPLS)

IPLS is a legal policy and legal advisory unit. The Section deals with the development of international private law in four broad areas: international commercial law, judicial cooperation and enforcement of judgments, family law and child protection, and protection of property. It also provides legal and legal policy advice to the federal government on private international law issues.

IPLS engages in four main categories of activities:

1. **Negotiation of international private law instruments:** IPLS is involved in the negotiation of international instruments (such as treaties and model laws) under the auspices of international organizations like The Hague Conference of Private International Law, the United Nations Commission on International Trade Law, the International Institute for the Unification of Private Law, and the VIIth Inter-American Specialized Conference on Private International Law of the Organization of American States. Although DFAIT has overall responsibility for the conduct and management of international affairs for Canada, Justice/IPLS is responsible for negotiations in international private law in these multilateral fora. In representing Canada during negotiations of international instruments, a key objective

of the Section's work is to ensure that Canadian interests and approaches are considered and, to the extent possible, reflected in the final product.

2. **Implementation of international private law instruments:** The Section works closely with provinces and territories to draft uniform legislation to implement international instruments and to promote their adoption by provinces and territories.
3. **Application and operation of international private law instruments:** IPLS works closely with its federal/provincial/territorial and international counterparts, including international organizations, to improve the application and operation of private international law instruments in Canada and in other countries. IPLS actively participates in meetings with that objective.
4. **Legal and legal policy advice:** The Section provides legal advice and legal policy advice to the federal government on private international law issues.

Given that most international private law issues are within provincial/territorial jurisdiction, IPLS consults with the provinces and territories during the negotiation of international private law instruments and on their implementation. In addition, it consults with other interested federal departments, the private sector (including the legal and business community), the academic legal community, the Uniform Law Conference of Canada, the Civil Justice Committee, and the Advisory Group on Private International Law.²

Official Languages Law Section (OLLS)

OLLS provides the Government of Canada with a full range of legal services in respect of language rights. The Section ensures that the positions and opinions of the Department of Justice on language rights are coordinated, consistent, and respectful of the purposes and letter of the applicable constitutional and legislative provisions. The Section's mission consists of four key functions:

1. **Legal Advisory Role:** OLLS informs and advises the Minister and other federal institutions on the interpretation of language rights through the provision and coordination of legal opinions, in cooperation with other sections in the Department and counsel from DLSUs. The Section's legal advice may be applied in various contexts, which include the investigation

² The Advisory Group is composed of provincial representatives from five regions (British Columbia, the Prairie provinces, Ontario, Quebec, and the Atlantic provinces) and federal representatives from Justice and DFAIT.

process of the Commissioner of Official Languages, when drafting Treasury Board submissions and Memoranda to Cabinet, as well as during strategic planning and development of policies and programs.

2. **Litigation Support Role:** The Section develops and coordinates the Attorney General of Canada's and the federal government's position in language litigation, and provides support to litigators. As such, OLLS is often called upon to work in close collaboration with litigators in formulating arguments, drafting written pleadings, and preparing oral submissions. OLLS provides strategic advice and opinions on specific issues raised in court proceedings. In cases of greater significance, the Section will oversee the coordination of these matters with the Privy Council Office, key departments (for example, Treasury Board Secretariat, Canadian Heritage, the Public Service Commission), and the client department.
3. **Policy Development Function:** In cooperation with responsible departments, OLLS provides and coordinates policy opinions relating to official languages, including all proposed legislative amendments on language rights; develops policies and legislative reform proposals related to language rights; and provides strategic advice in the context of Private Members' Bills.
4. **Legal Training:** The Section offers training to Justice colleagues and client departments across Canada to increase awareness of language rights, including the rights specified in the Charter, the *Official Languages Act* and the *Criminal Code of Canada*. OLLS participates in the Department's Professional Development programs. It develops work tools such as case briefs, annotated statutes, language rights litigation summaries, and checklists relating to the language provisions of the Charter, directed at departmental or governmental employees, as well as to the public.

The OLLS also plays a role under the federal government's Action Plan for Official Languages and, particularly, its Accountability and Coordination Framework (this Framework is part of the Roadmap for Canada's Linguistic Duality 2008–2013 and is intended to strengthen the Official Languages Program's horizontal coordination).³ As part of this role, the OLLS of the Department of Justice examines issues that may affect the government's constitutional and legal obligations with respect to official languages, monitors potentially litigious files, ensures that government

³ The OLLS was evaluated in 2011–12 by the Department of Justice. The main purpose of the evaluation was to determine the relevance, effectiveness, and efficiency of the OLLS in fulfilling its responsibilities under the Accountability and Coordination Framework.

policies, programs, initiatives, and documents comply with the *Official Languages Act* and the Constitution, and reviews government documents for risk management and legal implications.

Judicial Affairs, Courts and Tribunal Policy Section (JACTPS)

JACTPS provides specialized legal and strategic policy advice on issues related to the provincial and federal superior courts and the judiciary to the Minister and Deputy Minister of Justice, to Central Agencies, and to other federal departments. On request, it provides legal policy advice to the Commissioner for Federal Judicial Affairs on the administration of Part I of the *Judges Act*. JACTPS plays a liaison role, supporting the Minister in maintaining appropriate contacts and relationships with the Canadian judiciary, courts and judicial organizations

In carrying out these duties, JACTPS advises on many issues, including the application of the *Judges Act*, judicial independence, judicial compensation and benefits, the judicial appointments process, and the structure and jurisdiction of superior and other courts in Canada (superior provincial/territorial courts, Aboriginal courts, single-level trial courts, Unified Family Courts, Supreme Court of Canada, and federal courts), as well as issues of judicial resources and the optimal size of the judicial complement for a court. The Section provides policy advice regarding the structure and independence issues relating to administrative tribunals. The primary role of Judicial Affairs is to support the Minister of Justice in his efforts to ensure that Canada has an accessible, efficient, and fair system of justice that upholds the constitutional principle of judicial independence. This principle underlies all the work done by the JACTPS.

2.2. Resources

Table 1 and Table 2 outline the actual expenditures and human resources between 2007–08 and 2011–12 respectively. The Sector's expenditures remained relatively stable between 2008–09 and 2010–11, but decreased by over \$1 million between 2010–11 and 2011–12, largely due to a decrease in salary expenditures. Overall, between 2007–08 and 2011–12, the PLS expenditures rose by just over 3%.

In 2011–12, the PLS had approximately 132 full-time equivalents (FTEs), with roughly 71% of them being classified as lawyers (LA). While the number of administrative FTEs has slightly increased during the evaluation period, the number of LA- and EC- (paralegals, iCase coordinators, students) classified employees has decreased (see Table 2).

Table 1: PLS expenditures by year, 2007–12 (\$ millions)

	2007–08	2008–09	2009–10	2010–11	2011–12
Salaries	13.2	14.8	15.0	14.9	14.0
O&M	1.6	1.5	1.3	1.5	1.3
Total expenditures	14.8	16.3	16.3	16.4	15.3

Table 2: PLS human resources by year, 2007–12

FTEs	2007–08	2008–09	2009–10	2010–11	2011–12
Admin	30.5	34.1	33.3	33.2	33.9
ECs (paralegals, iCase coordinators, students)	4.3	4.9	4.4	4.6	3.9
LAs (counsel)	98.9	103.3	98.0	97.5	94.2
Totals	133.6	142.4	135.7	135.2	132.1

Source: PLS Business Administration Centre

Note: Column totals may not be sum of sub-parts due to rounding.

The budget for the PLS is composed of Justice A-Base dollars, A-Base and Net-Voting Authority (NVA) revenue allocations from Portfolios, Public Safety and Anti-terrorism funding, as well as several small amounts from various initiatives. From 2007–08 to 2011–12, the sources of funding remained fairly constant, with about three quarters coming from Justice A-Base, one tenth from Portfolio A-Base, and the remainder from NVA.

Monies obtained through NVA are allocated according to a cost recovery formula that is based on hours and legal rates. Not all PLS sections conduct cost recovery; CAILS, HRLS, and ILAPS use cost recovery for some of their work, while JLT, OLLS, JACTPS, and IPLS do not. As Table 3 shows, the amount of funding that the Sector obtains through cost recovery has increased modestly between 2008–09 and 2011–12, from approximately \$3.3 million to over \$3.5 million, with a peak to over \$3.7 million in 2010-11.

Table 3: Adjustment from Portfolios after recoveries (costs recovered)¹

	2008–09 Actual (\$)	2009–10 Actual (\$)	2010–11 Actual (\$)	2011–12 Actual (\$)
Legal services	3,343,982	3,701,891	3,727,384	3,569,592
Disbursements (over \$200)	0	0	0	0
Total collected for legal services	3,343,982	3,701,891	3,727,384	3,569,592

¹Amounts in this table reflect the part of the Portfolio's A-Base that is paid through cost recovery to the PLS, the hourly rate charge through cost recovery, and any discount in the Memorandum of Understanding that the Portfolio has with particular clients.

Source: PLS Business Administration Centre

Effective fiscal year 2013–14, the PLS will no longer be subject to cost recovery. Instead, its costs will be incorporated into the legal rate applied to other Justice counsel (e.g., DLSUs, regional offices) that is charged to client departments and agencies. The evaluation learned about this change in cost recovery policy at the conclusion of the data gathering, analysis, and reporting phase. Therefore, while the evaluation findings incorporate information based on the financing model in existence during the evaluation period (2007–08 to 2011–12), the potential impacts of the new financing approach will be noted, as appropriate.

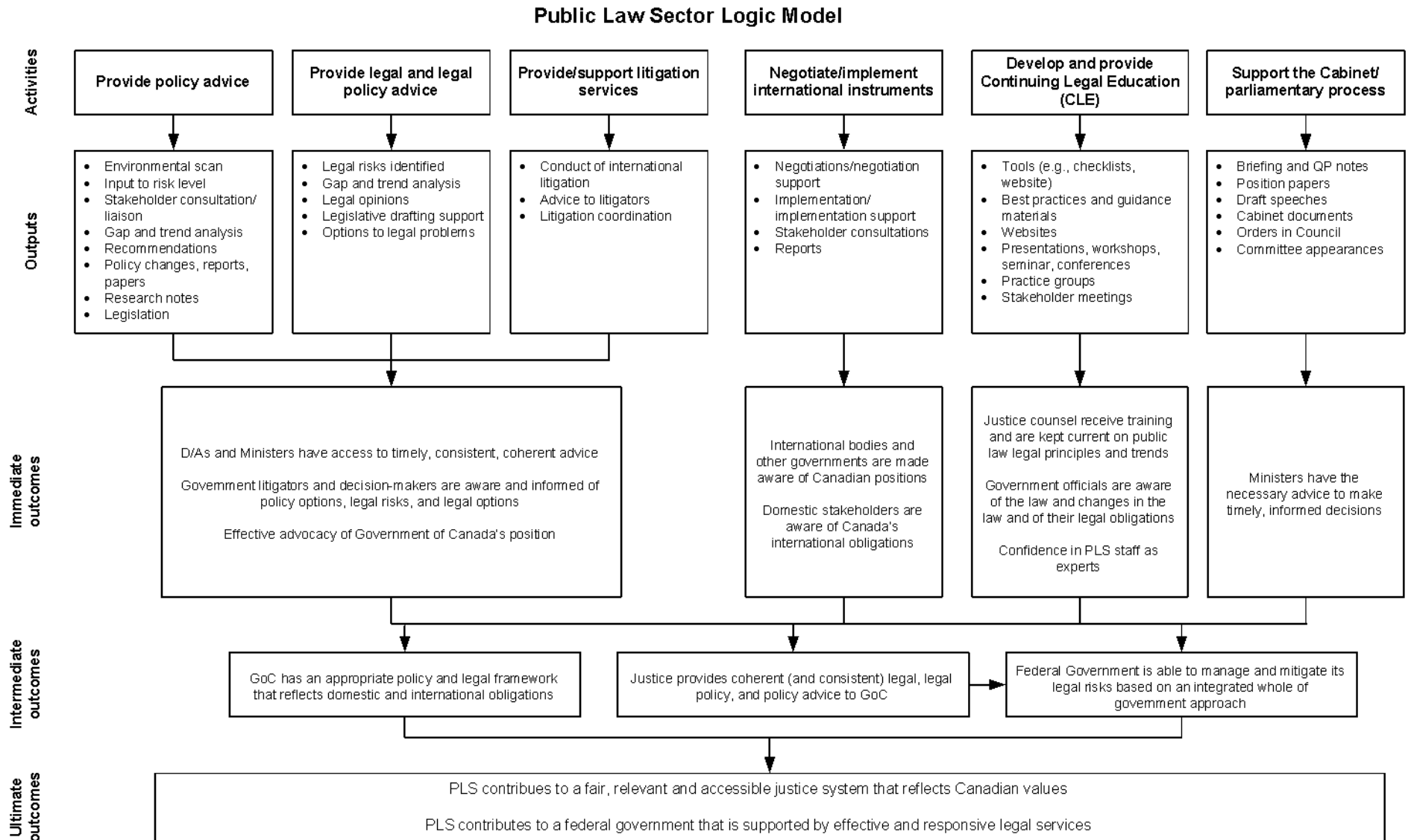
2.3. PLS Program Logic

A logic model is a systematic and visual way to illustrate the relationship between the planned activities of a program, in this case legal services, and their expected results. In other words, a logic model is a depiction of how a program or service is intended to work and what it is trying to achieve. A basic logic model has the following key elements:

- **Activities:** The processes, tools, events, and actions that are part of the implementation of the program or service. The activities should lead to the intended results.
- **Outputs:** The direct product of the identified activities.
- **Outcomes:** The impacts of the program/service. These are results/changes/benefits/consequences. They are usually presented in stages, as change is incremental over time: immediate outcomes should support and lead to the intermediate outcomes, and intermediate outcomes to long-term ones.

This section provides a logic model for the PLS, including a visual diagram (see next page) and text descriptions of the key elements. *The descriptions in this section represent the theory behind the PLS. As such, they provide an account of expected results of PLS activities. The evaluation findings in Section 4 explore whether PLS activities are being implemented as planned and whether expected outcomes are, in fact, being achieved.*

Figure 1: Logic model diagram for the PLS



2.3.1. Activities and Outputs

As illustrated in the logic model, the PLS undertakes six main activities. The first three activities relate to the provision of advice and/or support in four main areas: legal advice, legal policy advice, policy advice, and litigation.

Providing policy advice produces a broad spectrum of outputs: environmental scans, stakeholder consultations and liaison (including provincial/territorial and international stakeholders), gap and trend analysis, recommendations, policy changes, reports and papers, research notes, and legislation (or parts of legislation, as appropriate).

Legal advice and legal policy advice outputs may include gap and trend analysis, as well as the identification of legal risks, and alternatives for managing and mitigating those risks. The products or services produced as part of providing legal advice also include legal opinions, options to legal problems, and support during drafting of legislation.

In the context of litigation, PLS activities span a broader context than the provision of advice to litigators and coordinators. Some sections of the PLS are also involved in the conduct of international litigation, including HRLS, CAILS, and JLT.

Another area of international activity relates to the negotiation and implementation of international instruments. Outputs for this activity include:

- leadership of certain areas of negotiation;
- provision of a broad range of negotiation support;
- implementation and related support;
- stakeholder consultations; and
- reports resulting from work in this context.

Implementation of international instruments can involve drafting periodic reports to international bodies and communicating with international bodies and stakeholder consultations, both inside and outside government.

Continuing Legal Education (CLE) is a key activity undertaken, at least to some degree, by all PLS sections. CLE encompasses all activities related to training, assistance, and tool

development. Outputs include: tools, such as checklists and searchable information on sections' websites; best practices and guidance materials; research results; and other information, such as presentations from workshops, seminars, conferences, practice groups, and other meetings.

The PLS also plays a key role in supporting Cabinet and the parliamentary process. It does this through the preparation of briefing and Question Period notes and position papers, the drafting of speeches, the provision of input into and the preparation of Cabinet documents, Orders in Council, and occasional appearances at Parliamentary Committees.

2.3.2. Immediate Outcomes

Outcomes are the intended impacts of the activities. Their achievement is beyond the direct control of the PLS. That is, once an activity and its outputs are produced, the PLS no longer has control/influence over the outcomes. For example, the PLS generally provides legal advice to Justice counsel, but once the advice has been given, the matter passes to clients who will factor in this advice with economic, political, financial, operational, or other considerations in making their decision. Therefore, the legal advice given by the PLS contributes toward the achievement of outcomes but may not directly cause an outcome. Furthermore, direct attribution to the PLS diminishes as the outcomes become longer-term. Again, while it is reasonable to expect that the PLS influences the achievement of the immediate outcomes, other factors (besides the activities of PLS) will influence the achievement of the outcomes.

Immediate Outcomes are those that occur in the short term.

Together, the first three activity areas — legal and legal policy advice, policy advice, and litigation services/support — contribute to the achievement of three immediate outcomes. The activity of litigation support is grouped with the advisory activities, since the support that is provided was considered as an advisory function.

The first immediate outcome is: “Departments/agencies and Ministers have access to timely, consistent, coherent advice”. The characteristics of the advice, that it is timely, consistent, and coherent, are important to note and ensure that the advice is useful. Consistency applies not only to advice provided by the PLS over time, but also to advice given across the federal government. Also, at the immediate outcome stage, it is reasonable to expect that the PLS provides access to specialized advice, but does not control whether or how the advice is used.

The second immediate outcome related to the advice and support activities is: “Government litigators and decision makers are aware and informed of policy options, legal risks, and legal options”. PLS provides advice and support in order to ensure that decision makers and litigators have the information they require in their work as the Sector is consulted on major litigation cases and in regard to significant policy and legislative initiatives.

The third immediate outcome related to these three activity areas is: “Effective advocacy of the Government of Canada’s position”. Litigation involving the Government of Canada occurs in both domestic and international courts and tribunals. The PLS fulfills a central agency function by providing functional guidance to ensure consistency of approach across the country regarding litigation by or against the Crown. It contributes to the development of the legal positions to be advocated before these courts and tribunals by taking a “whole-of-government” approach that considers the overall impact and legal risks to the Government of Canada’s overall interests.

Referring now to the fourth activity area of negotiating and/or implementing international instruments, the PLS works toward the achievement of two immediate outcomes. First, “International bodies and other governments are made aware of Canadian positions”. This outcome is achieved through the conduct and support of negotiations. As well, as part of contributing to the negotiating position, broad consultations with stakeholders are undertaken to establish the Canadian position and negotiations meetings are attended where the Canadian position is expressed. The second immediate outcome related to this activity is: “Domestic stakeholders are aware of Canada’s international obligations”. Thus, just as the PLS helps to negotiate and implement international instruments in an international context, it also helps to implement and communicate the implication of these instruments domestically.

Three immediate outcomes are expected regarding the fifth activity to develop and provide CLE. As Justice counsel are one of the key target audiences for the training and tools provided by the PLS, the first immediate outcome for this activity is: “Justice counsel receive training and are kept current on public law legal principles and trends”. Providing training on public law issues to other Justice counsel is expected to reduce pressure on the PLS to provide legal services on less complex public law matters. However, considering the constant evolution and development of the law, training by PLS counsel will always be needed. This outcome occurs as a direct result of the tools and training available on the Sector’s website and through stakeholder meetings.

The second immediate outcome related to the development and provision of CLE is: “Government officials are aware of the law and changes in the law and of their legal

obligations”. This outcome occurs as it is expected that Justice counsel will inform government officials of the law, trends and the government’s legal obligations.

The third immediate outcome related to this activity is: “Confidence in PLS staff as experts”. By providing training to other Justice counsel on public law issues, PLS counsel will be considered experts in their area(s) of specialization and will be consulted when other Justice counsel and client departments and agencies encounter complex public law issues.

Lastly, one immediate outcome stems from the sixth and last activity area to support the Cabinet and/or parliamentary process: “Ministers have the necessary advice to make timely, informed decisions”.

Intermediate Outcomes logically occur after immediate outcomes. They are broader in scope and are less within the control of the PLS since other factors influence their achievement. Together, the immediate outcomes contribute to three intermediate outcomes.

The first intermediate outcome is: “The Government of Canada has an appropriate policy and legal framework that reflects domestic and international obligations”. It is expected that this outcome will result from access to the expert advice in public law that the PLS provides. PLS will inform Justice counsel, government officials, and Ministers of the legal risks, legal options, and domestic and international legal obligations that should be considered.

The second intermediate outcome is: “Justice provides coherent (and consistent) legal advice, legal policy advice and policy advice to Government of Canada”. That is, based on the Sector’s broad, government-wide knowledge and focus, the Department of Justice is in a position to provide advice that considers government-wide implications.

The third intermediate outcome is: a “Federal government is able to manage and mitigate its legal risks based on an integrated whole-of-government approach”. Again, it is expected that legal risks are mitigated when the immediate outcomes are achieved. As indicated in Figure 1, the arrow from the second outcome to the third also demonstrates that the advice Justice provides allows the government to manage its legal risks.

The **ultimate outcomes** to which the PLS contributes are also the strategic outcomes of the Department of Justice — namely: “PLS contributes to a fair, relevant and accessible justice

system that reflects Canadian values” and “PLS contributes to a federal government that is supported by effective and responsive legal services”.⁴

⁴ The PLS logic model used for the evaluation bases the ultimate outcomes on the strategic outcomes for Justice used at the time. Since then, in 2012–13, the strategic outcomes have been changed to: 1) a fair, relevant, and accessible Canadian justice system; and 2) a federal government supported by high-quality legal services.

3. METHODOLOGY

In accordance with Treasury Board evaluation policies, the Department of Justice used a risk-based approach in planning evaluations to ensure the efficient use of evaluation resources. The Department of Justice Evaluation Division assessed the risk level (low [L], medium [M], or high [H]) of planned evaluations, taking into consideration six risk factors. The risk score for the PLS for each of these factors is shown in brackets: the contingent nature of program funding (H); the complexity of the program or service (H); materiality (i.e., the level of resources involved in program delivery) (M); skills and expertise (i.e., business risks facing the Department regarding recruitment and retention, and the need for specialized skill sets) (H); time since the last evaluation (H); and information challenges (i.e., whether program information is available and accessible to fully support an evaluation) (M). The PLS was selected as one of the first legal services evaluations due to its overall high-risk rating. The methodology developed responded to the level of risk by ensuring multiple lines of evidence that would support robust findings.

The evaluation of the PLS draws on five lines of evidence: a document and data review, key informant interviews, a file review, case studies, and focus groups. Each of these methods is described more fully below. This section also includes a brief discussion of methodological challenges.

The methodology was developed with the PLS evaluation working group. The data collection methods and instruments were all reviewed and approved by the working group.

The evaluation matrix, which lists the evaluation questions, indicators, and lines of evidence, and is used to guide the study, is included in Appendix A. The data collection instruments developed to respond to the evaluation matrix are in Appendix B.

3.1. Document and Data Review

The document and data review was conducted both to inform the development of data collection instruments and to address the majority of the evaluation questions.

Documents reviewed were obtained from internal, external, and publically-available sources. Departmental documents reviewed included: Departmental Performance Reports; Reports on Plans and Priorities; internal audit reports; the results from Public Service Employee Surveys conducted in 2005, 2008, and 2011⁵; and Client Feedback Survey results from 2010.^{6,7} Internal PLS documents were also reviewed, as well as publically-available information, such as Budget speeches and Speeches from the Throne.

In addition to documents, the evaluation involved the review of iCase data from fiscal years 2007–08 to 2011–12. iCase is the Department’s integrated case management, timekeeping and billing, document management, and reporting system.

3.2. Key Informant Interviews

The key informant interviews conducted for this evaluation addressed the majority of evaluation questions, and were a key line of evidence in gathering information on the need for the PLS, as well as the effectiveness of its activities. A list of potential key informants was prepared, and interview guides tailored to each key informant group were developed in consultation with the evaluation working group. A total of 46 interviews (group and individual) were conducted with 56 key informants representing Justice counsel in DLSUs (n=19) and other areas of the Department of Justice (n=18); PLS employees (n=13); and client departments and agencies (n=6).

Potential interviewees received an invitation to participate in an interview. Key informants who agreed to participate were provided with a copy of the interview guide (in the official language

⁵ The Public Service Employee Survey is conducted every three years by Statistics Canada on behalf of the Office of the Chief Human Resources Officer. The survey had 52, 115, and 111 PLS respondents in 2005, 2008 and 2011, respectively (Statistics Canada, 2005; Statistics Canada, 2008; Statistics Canada, 2011).

⁶ The Office of Strategic Planning and Performance Measurement conducted a Client Feedback Survey in September 2010. A total of 2,339 employees with LA classification across the Department were invited to complete the survey, of whom 889 responded, providing feedback on the accessibility, utility, and timeliness of legal services provided by the PLS. Different aspects of the legal services provided by the PLS were rated on a 10-point Likert scale, with 10 indicating “completely satisfied,” and 1 indicating “not at all satisfied” (Office of Strategic Planning and Performance Measurement, 2010). Results were reported on for PLS overall and for CAILS (then CALS for Constitutional and Administrative Law Section), HRLS, OLLS, and ILAPS. Other sections did not receive sufficient responses for separate reporting, but responses from their clients are included in the overall PLS results.

⁷ Throughout this report, the word “client” is typically used to refer to the government departments with which DLSU counsel work; PLS counsel do not generally deal directly with DLSU clients. In the Client Feedback Survey, however, the word “client” applies to the DLSU counsel and litigators who work directly with the PLS.

of their choosing), prior to the interview. Each interview was conducted in the respondents' preferred official language, and key informants were assured of the confidentiality and anonymity of their responses. This evaluation included a mix of telephone and in-person interviews.

3.3. File Review

A review of a selection of closed files was conducted to allow for a more in-depth understanding of the life of a file in relation to the performance measures for the PLS. This method also allowed the evaluation to explore whether the information obtained from key informants on how the PLS conducted its work was supported by a review of selected case files.

The file review involved the examination of iCase data for 29 files, the majority of which were advisory files demonstrating the Sector's work in policy development, legal policy advice, advisory services, and litigation support (where the PLS was not the lead in litigation). Files could include more than one type of legal service. Consequently, the file review sample included files where the PLS provided legal advice (11 files); litigation support (11 files); legal policy advice (7 files); negotiation assistance (6 files); and policy advice (5 files). Two litigation files (where PLS counsel were lead litigators) were included in the file review; however, considering that the majority of PLS work is of an advisory capacity, the file review was weighted toward advisory files.

The sample of files was chosen with the input of the evaluation working group and was selected to demonstrate the broad spectrum of the work conducted by the PLS, with a particular focus on higher profile files (in terms of legal risk, complexity) involving more than one PLS section. As files were not chosen randomly, and as the sample was not large (considering the thousands of files worked on by PLS counsel during the time period covered by the evaluation), the file review sample is not a strictly representative one. Rather, the file review was intended to be illustrative of the Sector's approach to its work. All seven PLS sections were represented in the selection of files. File selection was roughly weighted according to the size/volume of work of each section, but consideration was also given to the variety/nature of work on each file. Eight CAILS files, five HRLS files, five ILAPS files, four JLT files, three OLLS files, two IPLS files, and two JACTPS files were reviewed.

To protect confidential information, as well as solicitor–client privilege, counsel from the PLS and staff from the Evaluation Division conducted the file review. To ensure that comparable

information was collected from the files, counsel completed the standard file review template developed for the study (see Appendix B). The template collected information to respond to the evaluation matrix and focussed on factual information available in the files.

3.4. Case Studies

Ten case studies were conducted to allow for an exploration of best practices and the national approach taken by the PLS.⁸ As such, cases selected were higher-profile files (i.e., those involving medium to high complexity and/or risk), and those involving a high degree of collaboration among PLS sections and/or between PLS counsel and DLSU counsel or clients representing different departments or agencies. Cases were chosen from the file review sample.

For each case study, file review templates (completed as part of the file review conducted for the evaluation) were reviewed. In addition, telephone interviews were conducted to supplement documented information, to provide context for the work, and to allow for a more in-depth assessment of how the file was handled and the effectiveness of the working relationship between the PLS and those requesting PLS services.

Twenty-five interviews were conducted with a total of 38 stakeholders. Interviews involved PLS counsel (n=20), client representatives (n=9), and other Justice counsel or DLSU lawyers (n=9) who had worked on the files chosen for the case studies. Interviewees took part in either an individual or small group interview. The approach used to schedule and conduct the interviews with case study participants was the same as the approach (described above) for scheduling and conducting the key informant interviews.

3.5. Focus Groups

Focus groups were the final line of evidence used in this evaluation. Four focus groups were conducted (one French and one English group with PLS counsel and with DLSU lawyers or litigators) after the other lines of evidence were completed. These focus groups were used to follow up on emerging findings and obtain additional details and insights about issues identified by the other lines of evidence.

⁸ Two of the ten case studies involved the same file; however, this file was explored from the perspective of two separate PLS sections that were each substantially involved in the file.

The PLS English focus group involved five participants, and the PLS French focus group involved four participants. In each group, participants represented a different PLS section. The DLSU lawyers and litigators (six in the English group and four in the French group) who took part in the other two focus groups were those familiar with different PLS sections.

All focus groups were recorded to ensure accuracy of the notes, but participants were assured of the confidentiality of their responses.

3.6. Limitations

The evaluation faced a few methodological limitations. These are listed below by line of evidence.

Document and data review: iCase limitations. The ability to use iCase to respond to evaluation questions was limited in several ways. This was primarily due to the limited information on key variables such as legal risk and complexity that is kept in iCase for advisory files. As noted in the 2008 Evaluation of LRM in the Department of Justice, attaching legal risk levels and complexity levels to advisory files has several conceptual difficulties, including whether legal risk ratings are only appropriate when there is a risk of litigation and when to assess legal risk. The Department continues to work on this, but is not yet at a point where iCase data can be relied upon for legal risk and complexity for advisory files. During the 2006–07 to 2011–12 period, less than one percent of PLS files had a complexity level assigned, and the result was the same for legal risk levels. This limits analysis of trends in the level of legal risk and complexity of advisory files, which would provide a better understanding of the nature of the demand for PLS legal services. In addition, the lack of legal risk and complexity information means that the evaluation cannot review efficiency and economy using standard law practice management measures, such as assignment of higher-risk, higher-complexity files to more senior counsel. Further discussion of issues to consider in conducting this type of analysis is in Section 4.3.3.

The use of iCase data to understand demand for legal services is also affected by the lack of a consistent approach in opening advisory files. Evaluation stakeholders indicated that the iCase data on the number of files may underestimate the advisory work of the PLS on files, since PLS counsel differ in their file-opening practices; PLS counsel may or may not open new advisory files for brief or informal advice provided. Since the decision on whether to open an advisory file is left up to individual counsel, a “file” is not a consistent unit of analysis. In addition, the number of advisory files does not accurately reflect the number of requests for PLS services,

since multiple requests can occur for a single file. The PLS currently does not employ a standard task-management method or process that captures the number of requests, and the number of files may not be a reliable measure of demand for advisory services.

iCase data regarding hours spent on files should also be interpreted with caution. At times, PLS counsel and clients agree on a maximum number of hours to be entered into iCase before PLS work is completed. Counsel also have an annual “budget” for hours (1300) and, according to stakeholders, may not track hours precisely. Therefore, iCase data on hours may not always be accurate to the amount of time actually spent by PLS counsel on files.

The evaluation has used iCase data in a few, limited ways with the understanding and the caveat that the reliability of the data cannot be assessed. The PLS might want to undertake a review of how iCase fields are completed by counsel to build in more consistency, so that the data are more useful for senior management and could potentially provide more objective information for the next evaluation of the PLS.

Interviews and focus groups. The interviews and focus groups with key informants and case study participants have the possibilities of self-reported response bias, which occurs when individuals are reporting on their own activities and so may want to portray themselves in the best light, and strategic response bias, whereby the participants answer questions with the desire to affect outcomes.

File review. In any given year during the evaluation (2007–08 to 2011–12), the PLS as a whole was consulted in excess of 14,000 files. To obtain a random sample with a reasonable error level would require reviewing hundreds of files, which was not feasible. Instead, the evaluation relied on the opinion of the working group members to select files that they believe reasonably represented the work of the PLS.

Mitigation strategy. The mitigation strategy for the above methodological limitations was to use multiple lines of evidence that seek information from the PLS and those seeking PLS services, as well as management and “front line” staff; and from a file review and more comprehensive administrative data review (iCase). The mitigation strategy also included using both quantitative and qualitative data collection methods to answer evaluation questions. By using triangulation of findings from these different sources, the evaluation was able to strengthen its conclusions.

4. KEY FINDINGS

This section combines information from all lines of evidence and presents the findings according to the broad evaluation issues of relevance and performance.

4.1. Relevance

The evaluation considered the relevance of the PLS legal services with respect to the continued need for its services given the increased demand and complexity of the legal services provided; the responsiveness of the PLS to government priorities; and the PLS support of Justice Canada's statutory obligations and strategic outcomes.

4.1.1. Continued Need for PLS Legal Services

Evidence of ongoing need for public law expertise

The evaluation found evidence of an ongoing need for public law expertise within the Government of Canada and a continued role for the PLS in providing that expertise.

Government priorities continue to signal need for PLS involvement. Throne Speeches and Budget reports identify a number of priority areas and issues related to public law. These include policy initiatives in areas of human rights, justice system enhancement, anti-discrimination, solicitor-client privilege, national security, governance, and official languages (Speech from the Throne, 2010; 2011). Internal documents indicate that the work of PLS sections responds to these priority areas. Given that the work of the PLS is driven by requests from client departments and agencies and other Justice counsel, PLS services are, in a way, responsive to the work of government departments and agencies by default. The clients and counsel consulted for this evaluation confirm that the services provided by the PLS are necessary; most stakeholders agreed that the PLS provides an essential service to the Department of Justice and the federal government.

Evaluation results show that perceptions of the need for the PLS are linked to the expertise of PLS counsel. Most key informants representing DLSUs noted that the recognized expertise of the PLS in public law issues, beyond what the DLSUs can provide, aids in gaining client approval for consulting the PLS. Multiple lines of evidence confirm that PLS staff are viewed as public law experts, and that clients and Justice counsel are confident in PLS expertise. In the 2010 Client Feedback Survey, DLSU counsel and litigators who have worked directly with the PLS gave the Sector a composite rating of 8.8 out of 10 for expertise (surpassing the departmental target of 8.0 out of 10).⁹ In addition, four independently-rated PLS sections (CAILS, HRLS, OLLS, and ILAPS) all received scores of 8.8 or higher for their expert level of knowledge (see Table 4). Most stakeholders (key informants, case study interviewees, and focus group participants) also agreed that PLS counsel are viewed as public law experts within the Government of Canada, and expressed satisfaction with PLS expertise.

Table 4: DLSU/litigator ratings regarding PLS expertise (scores out of 10)

Expertise indicator	PLS overall	CAILS		HRLS	OLLS	ILAPS
		CALS	PILS			
Composite expertise	8.8					
Expert level of knowledge		8.8	9.1	9.1	9.1	9.3
Provided a strategic perspective		8.0	8.6	8.3	8.5	8.6
Demonstrated sound legal judgment		8.6	9.0	8.9	8.9	8.9

Source: Department of Justice 2010 Client Feedback Survey.

Note: Shaded cells indicate information not available.

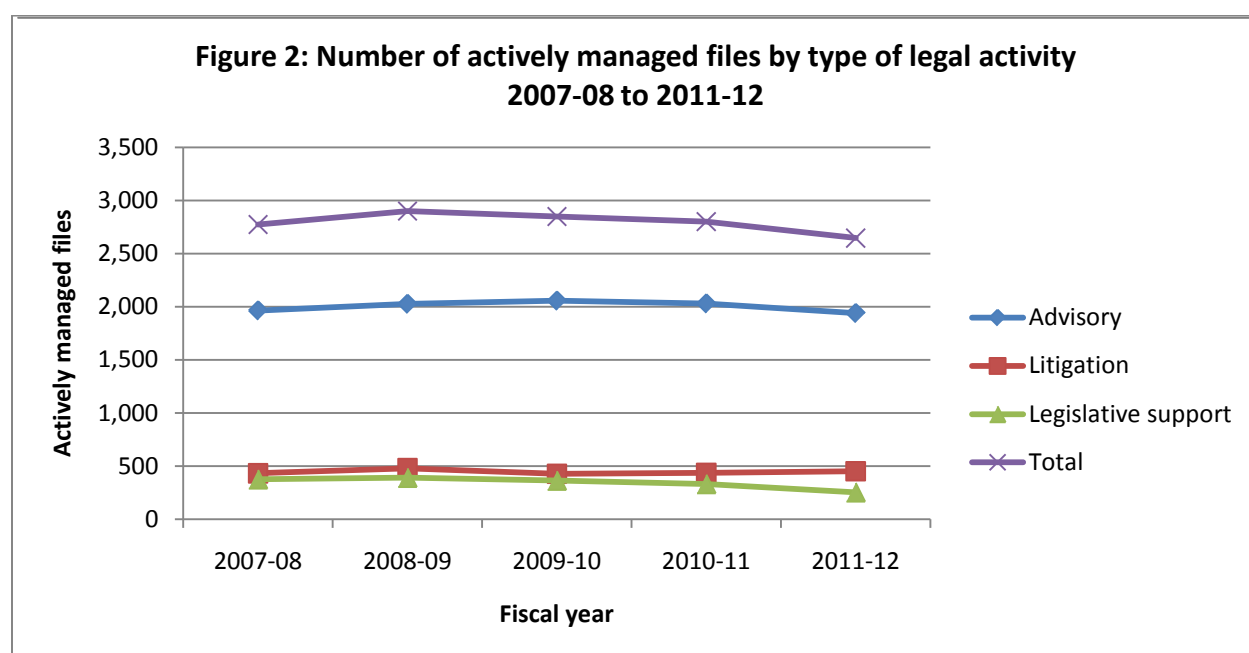
At the time of the survey, the reorganization that resulted in CALS and PILS being combined into CAILS had not yet occurred. To reflect the current structure, the results for both former sections are provided under CAILS.

According to documents and stakeholders, government priority issues are increasing in complexity and so, too, is the legal advice being sought. As stakeholders indicate that the PLS is consulted more commonly for riskier, higher-complexity files, it is not unreasonable to expect that the need for specialized public law services will rise in response to the rise in complex, high-risk issues faced by the government. According to many key informants, complexity of advice being sought from the PLS is increasing, particularly in the area of human rights. Key informants noted that human rights law involves various levels of government across Canada and requires consultation with other federal departments, such as DFAIT, Citizenship and Immigration Canada, and Public Safety. However, as risk and complexity levels were assigned in iCase for very few PLS files (less than one percent), this observation could not be objectively verified.

⁹ Expertise indicators contributing to the composite rating include expert level of knowledge in an area of practice; strategic perspective; and sound legal judgment.

Demand for PLS services, and factors affecting demand

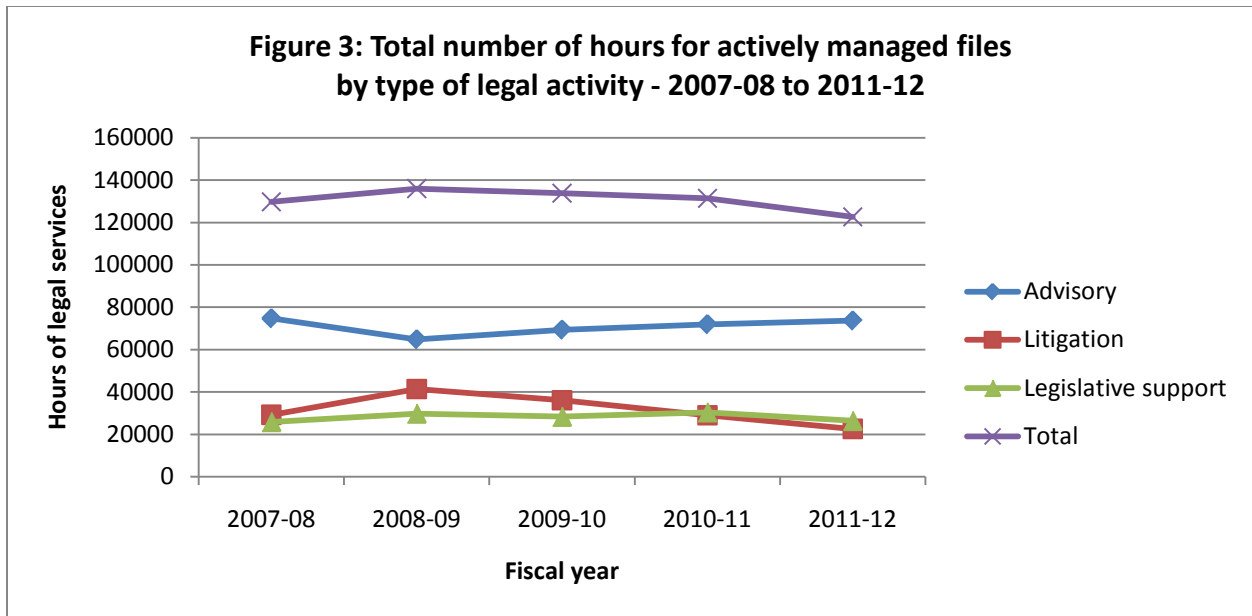
Evidence of ongoing need for PLS services comes despite an apparent decrease in the overall demand for PLS services. According to iCase data, the number of files actively managed by the PLS decreased by approximately 5% between 2007–08 and 2011–12 from 2,774 to 2,646 files (see Figure 2).¹⁰ This decrease is seen in advisory and support for legislative drafting services, while there is a slight increase in litigation files. These results must be considered with caution. As discussed in Section 3.6, PLS counsel differ in their file-opening practices for advisory files, which may mean that the number of files underestimates the demand for PLS services.



Source: iCase

Given the limitations in relying on the number of files for assessing the demand for legal services, data on the hours spent by counsel are a better indicator of demand for legal services. When considering hours spent by counsel on actively managed files, the results show a slight decline starting in 2008–09 (see Figure 3). Over the entire time period, the number of hours of legal services provided by PLS declined by 6%.

¹⁰ Files in iCase are considered “active files” once opened. Active files may or may not have time recorded to them. “Actively managed files” are files that have a minimum of five minutes recorded to them within a selected reporting period (for the evaluation, a fiscal year).



Source: iCase

Demand varied by section. For some, demand in terms of number hours spent on files remained fairly constant (HRLS, ILAPS, and JACTPS). CAILS showed a moderate increase in hours, while other sections, such as OLLS and IPLS, showed substantial increases. One section, JLT, experienced a substantial decrease in hours (see Table 5).

Table 5: Total hours for actively managed files by section — 2007–08 to 2011–12

Section	2007–08		2008–09		2009–10		2010–11		2011–12		% change 2007–08 to 2011–12	
	Files	Hours	Files	Hours	Files	Hours	Files	Hours	Files	Hours	Files	Hours
CAILS	813	22,575	931	24,603	900	26,757	906	28,024	789	25,377	-3%	12%
HRLS	718	26,925	717	27,297	675	24,969	704	26,933	723	26,228	1%	-3%
ILAPS	594	10,654	561	13,688	673	12,502	654	10,438	606	11,280	2%	6%
OLLS	142	6,328	173	7,460	148	7,768	135	9,315	130	8,628	-8%	36%
IPLS	74	4,986	98	6,833	80	6,231	74	7,766	91	8,606	23%	73%
SAS ¹	152	11,471	174	8,528	138	6,759	121	6,440	86	5,567	-43%	-51%
JACTPS	36	8,775	38	8,646	39	7,232	39	8,507	38	8,803	6%	0%
JLT	245	38,061	207	38,933	196	41,607	167	33,939	183	28,123	-25%	-26%
Total	2,774	129,775	2,899	135,989	2,849	133,826	2,800	131,362	2,646	122,613	-5%	-6%

Source: iCase

Note: Columns may not sum to total due to rounding.

¹The Special Advisory Section (SAS) was created to permit the input of timekeeping in iCase for the Law Aviation Secretariat and for counsel who are asked to provide advice and support on files of a special nature, or who work on special projects or files which are more specific to management related activities. The SAS also included the PLPS legal policy and managerial files that were kept open after the two PLPS reorganizations in 2010 and 2011, to accommodate ongoing post-reorganization work and iCase entries by the PLPS manager. The Law Aviation Secretariat has now been moved out of PLS, and the former PLPS files will eventually be concluded. As a result, this timekeeping category is phasing out, which explains the drop in hours by just over half.

While demand can sometimes be considered an indicator of need, evaluation results point to some other factors affecting the demand for PLS services — independent of (or despite) the need or desire for PLS services. Multiple lines of evidence indicate that cost recovery factors into decisions about requests for PLS services — affecting, to some extent, the overall number of requests, as well as the nature of requests for PLS services. As discussed in Section 2.2, not all PLS sections engage in cost recovery. Therefore, cost recovery will only affect the demand for legal services for CAILS, HRLS, and ILAPS.

Regarding the number of requests, the 2010 reports from the audit of Portfolios¹¹ revealed a decline in requests for PLS services due to cost recovery (Internal Audit Branch, 2010b). This is supported by evaluation stakeholders; many stakeholders engaged in the evaluation (mainly through key informant interviews and focus groups) identified cost recovery as an issue limiting the willingness of some clients to consult with the PLS or contributing to more hesitancy to consult. While most Client Feedback Survey respondents did not identify any obstacles to obtaining PLS services, of the 65 who did, the majority named cost recovery.

Evaluation stakeholders and the 2010 audit of Portfolio offices also identified some effects of cost recovery on the ways in which the PLS is engaged on files. According to these sources, for some client departments and agencies, cost recovery has resulted in:

- an increase in requests for PLS counsel to comment on legal analysis done by DLSU counsel or litigators (in place of requests for the PLS to provide the initial analysis);
- an increase in informal consultations, in effort to reduce costs; and
- the engagement of the PLS at a later stage in the file (in contrast to best practices defined by the Department).

In addition, a few key informants and focus group participants mentioned that some DLSUs have begun developing their own in-house expertise (in response to cost recovery) to lessen their need to consult the PLS. While evaluation results do not suggest that this is a common practice, it is one worth highlighting, considering the importance of the expertise of PLS counsel and the role

¹¹ Audited Portfolios included the Business and Regulatory Law Portfolio; Central Agencies; and the Public Safety, Defence and Immigration Portfolio.

of the PLS in providing independent and impartial legal services and whole-of-government perspective.¹²

It is important to note, however, that the cost recovery impacts identified by the evaluation pertain mainly to minor issues. According to most evaluation stakeholders, PLS counsel are consulted when they should be (i.e., when public law expertise is really needed), and stakeholders identified fewer barriers to consultation on major (complex, high-risk, high-profile) issues. The file review and case studies support these stakeholder perceptions, as they indicate that the PLS is involved at an early stage on high-profile, high complexity, and/or high-risk files. In the majority of files and cases, PLS counsel were engaged before the initial legal risk assessment was made, before the client made any decisions based on legal options and/or litigation strategies, or before other areas of Justice provided advice to the client on public law issues. Thus, while cost recovery may be a factor affecting the overall number of requests, it does not appear to be having a significant effect on the engagement of the PLS at appropriate times regarding significant public law issues.

As noted in Section 2.2, no PLS sections will be subject to cost recovery beginning in 2013–14. While the above discussion, therefore, may be less directly relevant, as it focuses on a situation that will soon be in the past, it does provide evidence that the decision to no longer require CAILS, HRLS, and ILAPS to engage in cost recovery is justified. It removes these potential barriers to accessing the specialized legal advice that these sections offer. These findings also allude to the potential challenge that these sections will face. Cost recovery will no longer cause other Justice counsel to take measures to manage their demand for CAILS, HRLS, and ILAPS legal services. The future challenge for these sections will be managing the potential increase in demand for their services in the coming years.

¹² In 1960, the Royal Commission on Government Organization (Glassco Commission) was established to report on the organization and operation of federal departments and agencies. This Commission found that lawyers working for specific departments often identified too closely with their departments and were less capable of providing impartial legal advice. The Commission's 1962 report recommended integrating legal services into the Department of Justice, which would allow for greater impartiality (Glassco, 1962).

4.1.2. Alignment with Federal and Departmental Priorities, Objectives, Roles, and Responsibilities

Alignment with government priorities

As mentioned in Section 4.1.1, the work of the PLS supports federal government priorities in a variety of ways. Comparisons of *Reports on Plans and Priorities* and section Operational Plans with Speeches from the Throne and annual Budget reports show that PLS work shifts to maintain alignment with Government of Canada priorities. The following are examples of this:

- HRLS work supports government priorities related to national security-related policy initiatives; proposed changes to the corrections system; criminal law proposals and legislation; immigration initiatives; census-related proposals and litigation; information-sharing between government departments, nationally and internationally; proposed changes to federal benefit regimes (such as E.I. and CPP); health-related policy developments; electoral reform proposals and legislation; and labour-law related issues.
- CAILS is involved in supporting several current government priorities, including criminal law reform proposals related to threats posed by new technologies, organized crime and terrorism, and implementation of Canada's Economic Action Plan, the National Anti-Drug Strategy, and the Supporting Families Initiative, to name a few.
- The work of the IPLS supports government objectives related to the business environment in Canada. Priorities to encourage new investment through venture capital and foreign investment in key sectors, expand investment promotion in key markets, and remove barriers to growth encountered by small businesses are supported by the work of IPLS in negotiating, implementing, and applying international instruments. IPLS work in these areas helps to increase the predictability of the international legal system and decrease barriers to international business activities and financing.

The IPLS is also instrumental in supporting Canada's role as an active member of the United Nations Commission on International Trade Law; the Hague Conference on Private International Law; the International Institute for the Unification of Private Law; and the Organization of American States' Inter American Specialized Conference on Private Law. In doing so, the Department assists the federal government in carrying out the Crown's prerogative regarding the negotiation, signing, and ratification of international agreements (Department of Justice, 2010b).

- JACTPS supports the government’s commitment to an effective criminal justice system by supporting the Minister of Justice in ensuring that the superior court judiciary is efficient, effective, and independent. Policy work undertaken by JACTPS has also supported government priorities, including amendments to the *Immigration and Refugee Protection Act*, and appointments to the Specific Claims Tribunal of Canada.
- ILAPS supports the federal government’s *Federal Accountability Act* initiative by providing support in reforming access to information (and, in the process, contributing to the government’s priority — Priority B — of improving government accountability) (Department of Justice, 2007c).
- JLT advises negotiators on future trade agreements and on amendments to existing trade agreements, as well as handling disputes under the WTO and NAFTA. In the most recent Speech from the Throne, the federal government reiterated its commitment to free trade, noting that the government signed free trade agreements with eight countries since 2006 and negotiations with 50 more were underway (Government of Canada, 2011).
- OLLS advice provided helps to ensure compliance with language-rights related obligations under the Constitution, including the Charter, the *Official Languages Act*, the *Criminal Code*, and other relevant federal legislation. The OLLS can also be called upon to provide advice on provincial and territorial language legislation.

Key informants generally agreed that PLS services support the government. In particular, key informants noted the role that PLS counsel play in the LRM process (discussed in more detail in Section 4.2.3) and in limiting future Crown liability through contributions to risk management and the defence of Canada’s laws.

Supporting the Department of Justice

Under the *Department of Justice Act*, Justice Canada has a mandate to support the roles of the Minister of Justice and Attorney General of Canada. By providing legal advice and assisting various government departments and agencies in drafting legislation and developing new services and policies to support government priorities, the PLS helps to fulfill Justice Canada’s mandate to advise federal department heads on all matters of law connected to their departments (s. 5(b)). By representing the Crown in litigation involving public law issues (domestically and internationally), the PLS fulfills the responsibilities under the *Department of Justice Act* to “conduct all litigation for or against the Crown or any department” (s. 5(d)).

As the work of PLS sections is varied, the PLS supports the Minister of Justice's legislated/statutory obligations in a number of different areas. The following are given as examples:

- ILAPS supports the Minister's obligations under the ATIA and the PA, ensuring that the positions of the Department of Justice concerning the interpretation of these Acts are coordinated, coherent, and compliant with the intent of the legislation.
- JACTPS provides legal advice to support application of the *Judges Act*.
- Advice provided by the OLLS helps to ensure compliance with language rights-related obligations under the Constitution, the Charter, the *Criminal Code*, and other relevant legislation at the federal, provincial, and territorial level.
- Similarly, HRLS helps to ensure compliance with the full range of rights under the Charter, the CHRA, and the *Canadian Bill of Rights*.
- CAILS supports the Minister's obligations under the *Constitution Acts, 1867 to 1982*.

In doing so, the PLS also assists the Minister in ensuring "that the administration of public affairs is in accordance with the law" (thus fulfilling requirements outlined in Section 4 of the *Department of Justice Act*).

Evaluation results also indicate that the PLS supports the Department of Justice in meeting its strategic outcomes. Regarding the Department's first strategic outcome (*a fair, relevant, and accessible justice system that reflects Canadian values*), it can be argued that the independent status of the PLS (i.e., its autonomy from other government departments and agencies) helps to ensure a broader, whole-of-government approach to public law issues (see Section 4.2.2). More specifically, PLS activities (in assessing the impact of human rights instruments on domestic legislation policy, negotiating international human rights instruments and international private law instruments, identifying Canada's rights and obligations related to international trade and investment law, etc.) support this outcome of a fair, relevant, and accessible justice system (Department of Justice, 2008b).

Evaluation stakeholders generally agreed that PLS services support the Department of Justice's second strategic outcome: *a federal government that is supported by effective and responsive legal services*. According to key informants, not only does the PLS provide high-quality legal services directly (see Section 4.2.1), but clients and other counsel consult the PLS so that they, in turn, can support the federal government with high-quality legal advice and services.

4.2. Performance – Achievement of Expected Outcomes (Effectiveness)

According to the 2009 Treasury Board *Policy on Evaluation*, evaluating performance involves assessing effectiveness, as well as efficiency and economy. The subsections below discuss the effectiveness of the PLS — in other words, the extent to which the PLS is achieving its expected outcomes.

4.2.1. Timely and Coherent Legal Services

The evaluation found a high level of satisfaction with PLS services. As mentioned in Section 4.1.1, the Sector counsel are perceived to be experts by clients and Justice counsel who have worked with the PLS. The Sector received a score of 8.8 out of 10 for overall satisfaction with legal advisory services from DLSU counsel and litigators who participated in the 2010 Client Feedback Survey (see Table 6). In describing their satisfaction with PLS services, evaluation stakeholders noted that:

- PLS expertise and perspectives are valued;
- PLS counsel are skilled professionals; and
- PLS counsel are responsive to clients' needs.

Table 6: DLSU/litigator ratings regarding the quality of PLS services (scores out of 10)

Quality indicator	PLS overall	CAILS		HRLS	OLLS	ILAPS
		CALS	PILS			
Overall satisfaction	8.8	8.7	8.9	8.8	8.8	8.8

Source: Department of Justice 2010 Client Feedback Survey.

Note: At the time of the survey, the reorganization that resulted in CALS and PILS being combined into CAILS had not yet occurred. To reflect the current structure, the results for both former sections are provided under CAILS.

Like all legal services within the Department of Justice, the work of the PLS is guided by departmental service standards. These service standards demonstrate the Department's commitment to delivering high-quality (i.e., timely, responsive, and useful) services to government departments and agencies. In the 2005 Public Service Employee Survey, most PLS respondents agreed that the service standards are clearly defined and regularly applied by

counsel (Statistics Canada, 2005).¹³ While more recent Public Service Employee Surveys (i.e., those conducted in 2008 and 2011) did not ask specifically about service standards, other lines of evidence indicate that, for the most part, the PLS provides high-quality, timely, and useful services.

Quality of PLS services

In addition to expressing general satisfaction with PLS services, most stakeholders (key informants, case study interviewees, and focus group participants) — particularly those representing DLSU counsel, litigators, and clients who have worked with the PLS — agreed that the work of PLS counsel is of high quality. Stakeholders pointed to the good relationships that PLS counsel build with those requesting advice and the good understanding that PLS counsel have of the issues as factors contributing to the quality of PLS services. The 2008 report from the audit of the PLS also revealed satisfaction with the quality of PLS services.

Other lines of evidence reveal the use of and/or participation in quality management or quality control processes by the PLS. These structures, tools, and processes are intended to foster high-quality legal services. Several PLS sections lead departmental Practice Groups, which are informal, voluntary communities of Justice counsel who are interested in a particular legal speciality. They serve as information-sharing fora that build on existing knowledge and, thereby, improve the quality of legal services. The Practice Groups headed by PLS sections are: Administrative Law, Constitutional Law, and International Law (CAILS); the CHRA (HRLS); language rights (OLLS) and ATIP (ILAPS). PLS sections also have internal practice groups, which either meet regularly or *ad hoc* as needed. In addition, the PLS has various tools and processes to ensure the quality of its legal services. The Sector instituted a working group that developed a best practices document on drafting legal opinions. Some examples of tools available in different sections include checklists, best practices documents, quality management frameworks, and orientation binders. These tools provide, for example, advice on communications with the client, the format for legal advice, and roles and responsibilities for quality assurance (including supervisor or peer review and mentoring). In fact, most files included in the file review provided evidence of both supervisor and peer review of written materials. For less experienced counsel, there are other quality assurance mechanisms. The

¹³ The 2005 Public Service Employee Survey was conducted by Statistics Canada on behalf of the Public Service Human Resources Management Agency of Canada. According to the results, the majority of respondents representing the PLS (66%) agreed that their work unit has clearly defined client service standards. In addition, the majority (60%) agreed that these service standards are regularly applied (36% mostly agreed and 24% strongly agreed) (Statistics Canada, 2005).

Department has a mentoring program for junior counsel, and some PLS sections also have their own mentoring programs. Taken together, these tools and processes demonstrate the PLS have mechanisms in place to provide high-quality legal services.

Timeliness of PLS services

Evaluation results show that the PLS is typically able to respond to requests in a timely manner and to meet (even tight) deadlines. In the 2010 Client Feedback Survey, the PLS received a composite score of 8.9 out of 10 for timeliness of services, and specific PLS sections (CAILS, HRLS, OLLS, and ILAPS) all received scores well above the departmental target of 8.0 for all timeliness-related indicators (i.e., factors related to the acknowledgement of requests and handling of deadlines — see Table 7).

Table 7: DLSU/litigator ratings regarding the timeliness of PLS services (scores out of 10)

Timeliness indicator	PLS overall	CAILS		HRLS	OLLS	ILAPS
		CALS	PILS			
Overall timeliness	8.9					
Acknowledged requests in a timely manner		8.7	9.1	8.8	8.9	9.0
Negotiated mutually agreed-upon deadlines		8.6	9.0	8.7	8.9	9.0
Apprised if deadline(s) needed to be extended		8.7	8.9	8.7	8.8	9.0
Met mutually agreed-upon deadline(s)		8.8	9.0	8.8	8.9	9.0

Source: Department of Justice 2010 Client Feedback Survey.

Note: Shaded cells indicate information not available.

At the time of the survey, the reorganization that resulted in CALS and PILS being combined into CAILS had not yet occurred. To reflect the current structure, the results for both former sections are provided under CAILS.

File review and case studies provide support for the Sector’s ability to provide timely services; in all files reviewed for the evaluation, the PLS missed only one client-imposed deadline due to other urgent matters and more time needed for peer review, and the two litigation files reviewed did not contain any record of missed court deadlines. This is despite the fact that the PLS received urgent requests on most files — the majority of which required responses in three days or less. Key informants and case study interviewees provided further confirmation that regular communication between PLS and DLSU counsel promotes timeliness; when PLS sections are regularly kept up-to-date on the status of files, less time is needed for PLS counsel to “catch up” on files when requests are made. Key informants also identified that, when fast turnaround is needed, PLS counsel are typically able and willing to provide preliminary advice to serve in the interim until full advice can be developed.

Despite general satisfaction with the timeliness of PLS services, evaluation results indicate some section-specific timeliness issues. JLT, in particular, appears to have greater difficulty in providing timely services than other PLS sections. Key informants and case study participants mentioned that it can take a long time to receive opinions from JLT. Stakeholders consulted for the evaluation attributed delays in receiving JLT opinions mostly to the Bureau's heavy workload. Administrative data lend support for this conclusion, as JLT legal staff (counsel and paralegals) carry the heaviest workload of all the PLS sections, which at 2,163 hours for 2011-12, also far exceeds the Justice standard of 1,300 hours. The issue of the JLT workload is discussed further in Section 4.3.2.

Coherence and usefulness of PLS services

Overall, the evaluation indicates that PLS services are coherent and useful to those requesting them. The vast majority (approximately 93%) of 2010 Client Feedback Survey respondents rated the coherence of the legal advice provided by the PLS as either "good" (32%) or "very good" (61%), and the PLS received a high composite rating of 8.7 out of 10 for overall utility and for the depth of form of its legal services (see Table 8, next page). Evaluation stakeholders provided further support for this perspective, as key informants, focus group participants, and case study interviewees generally agreed that PLS services are relevant, coherent and useful.

Evaluation results, however, indicate some potential issues regarding the practicality of PLS legal advice. Key informants and case study participants identified that, at times, PLS advice is not provided in the "best" format for the client. These stakeholders mentioned that the advice provided by CAILS and HRLS is sometimes too technical or "academic" for client departments and agencies to understand and use; at times, DLSU counsel must rewrite advice so that clients can consider it. As Table 8 shows, out of all utility indicators addressed by the 2010 Client Feedback Survey, CAILS and HRLS received their lowest scores on the degree to which they "provided practical guidance on resolving the legal issue," with CAILS receiving a score just below the departmental target of 8.0 out of 10.

Other lines of evidence, however, indicate that this observation reflects a communication issue more so than a problem with the advice itself. Focus group participants representing Justice counsel outside of the PLS pointed out the need for different types of advice to respond to different situations. In some cases (such as in the litigation work related to policy or involving the Supreme Court), an academic/technical/theory-based approach is necessary, whereas, in other situations, more practical advice that is directed to the client is needed. Focus group participants indicated that it is the responsibility of both PLS counsel and those requesting PLS

services to ensure that client needs are clearly communicated and met. On the 2010 Client Feedback Survey, CAILS and HRLS received their second-lowest utility scores with regard to the degree to which these sections “sought [their] expectations regarding the depth and form of the legal advice to be delivered” — indicating potential room for improvement in clarifying expectations prior to providing advice.

Table 8: DLSU/litigator ratings regarding the utility of PLS services (scores out of 10)

Utility indicator	PLS overall	CAILS		HRLS	OLLS	ILAPS
		CALS	PILS			
Overall utility	8.7					
Overall depth and form	8.7					
Fully understood the facts of the issue for which you received assistance		8.7	8.9	8.9	8.8	8.9
Sought your expectations regarding the depth and form of the legal advice to be delivered		8.3	8.8	8.6	8.6	8.8
Depth and form of legal advice delivered met your expectations		8.5	9.0	8.8	8.6	8.9
Provided clear legal advice		8.5	8.8	8.8	8.8	8.9
Provided practical guidance on resolving the legal issue		7.9	8.6	8.3	8.4	8.7

Source: Department of Justice 2010 Client Feedback Survey.

Note: Shaded cells indicate information not available.

At the time of the survey, the reorganization that resulted in CALS and PILS being combined into CAILS had not yet occurred. To reflect the current structure, the results for both former sections are provided under CAILS.

According to some PLS interviewees, perceptions of the purpose of PLS advice have been changing. In the past, many counsel thought that PLS advice was intended to be used by DLSU counsel, with the expectation that DLSU counsel would adapt the advice to suit the clients’ needs. However, this practice has evolved; DLSUs are increasingly providing PLS advice directly to clients (perhaps in response to budget or time pressures). The potential for different expectations and resulting inefficiencies of DLSU counsel revising PLS opinions for their clients, point to the need for better communication between PLS and DLSU counsel about needs and expectations of legal advice being provided. This includes DLSU counsel informing the PLS of any relevant information about their client’s situation so that the legal advice drafted by the PLS is practical and useful to the client. In addition, stakeholders noted that now legal opinions are much more widely distributed across the government. PLS and the Department more generally have taken steps to respond to this change in practice by producing documents on how to communicate legal risk and on best practices in drafting legal opinions.

4.2.2. Consistency of PLS Advice

The evaluation considered three basic levels of consistency: 1) internal consistency — in other words, the extent to which advice on public law issues is consistent within the PLS (or across PLS sections); 2) consistency across the Department of Justice (i.e., the degree to which the Department “speaks with one voice”); and 3) consistency across the federal government (i.e., the degree to which a “whole-of-government” perspective is achieved on legal issues). In general, the evaluation found evidence that the PLS contributes — through effective and appropriate consultations — to consistency at all three levels.

Internal consistency: consistent approach within the PLS

Evidence shows that, for the most part, PLS sections consult internally, and that these consultations are resulting in a consistent approach to public law issues across the PLS.

As mentioned in the methodology section of this report (Section 3.3), the case study files were chosen, in part, to allow for an exploration of consultations, collaborations or interactions occurring on files. Both the file review and case studies show that consultations among multiple PLS sections are occurring. In particular, the file review results show that PLS counsel consulted with other PLS sections at critical times on a majority of the files reviewed.

These consultations appear to be resulting in a consistent approach across the PLS; case study interviewees agreed that the PLS was able to maintain internal consistency on files involving multiple PLS sections. The results from the 2010 Client Feedback Survey also indicate internal consistency; 93% of respondents said that coherence across sections was either “good” or “very good” when more than one PLS section was involved in providing legal advisory services (see Table 9).

Table 9: DLSU/litigator ratings regarding the coherence of PLS advice across sections (n=142)

Coherence of legal advisory services for requests involving input of two or more PLS sections	Very good	Good	Fair	Poor	Unable to assess
Satisfaction with the coherence of legal advice provided	61%	32%	4%	1%	2%

Source: Department of Justice 2010 Client Feedback Survey.

Although consultations within the PLS appear to be working well, stakeholders consulted for the evaluation indicated some potential for even greater coordination between sections. Key informants and focus group participants (in particular, those representing DLSU counsel and litigators who have worked with the PLS) mentioned that multiple PLS sections could produce

joint opinions in more situations. At times, multiple PLS sections working on the same public law issue have produced opinions separately, although DLSU counsel said that a joint opinion would have been useful. However, it should be noted that, given the extent to which the work of the PLS varies among sections, joint opinions are not appropriate for all files requiring the input of multiple PLS sections.

According to stakeholders, a recent improvement that also contributes to the consistency of legal advice is Justipedia, the unified departmental database for legal precedents that was launched in early 2012. Stakeholders consider Justipedia to be a key tool for ensuring consistency by allowing PLS (and other Justice) counsel to access past opinions and information on the positions of PLS sections on certain matters.

Consistency within the Department of Justice: Justice “speaks with one voice”

The role of the PLS in ensuring the consistency of departmental advice was highlighted in multiple lines of evidence. Key informant and case study interviewees generally agreed that the PLS plays a coordinating role within the Department of Justice, contributing to the Department’s goal of “speaking with one voice.”¹⁴ As PLS counsel provide legal advice to multiple departments and agencies on public law issues, they are in a position to help ensure that the legal advice related to public law that client departments and agencies receive (either directly or through advice provided to DLSU counsel) is consistent.

Just as consultations among PLS sections are leading to a consistent PLS approach, evidence indicates that consultations between the PLS and other Justice counsel are leading to a consistent departmental approach to public law issues. The file review provides evidence of regular and appropriate consultations between PLS and DLSU counsel; on the majority of files reviewed, PLS counsel consulted with DLSU counsel either regularly (i.e., at least on a weekly basis) or at critical times in the file. Case studies also show more frequent consultations on higher-risk or higher-complexity files, and more consultation at critical times in files.

These consultations appear to be effectively contributing to agreement. The evaluation found very little unresolved disagreement between PLS and DLSU counsel on public law issues

¹⁴ It should be noted that the objective to “speak with one voice” applies to legal advice, rather than policy advice. According to departmental policy/guidance materials, establishing a common Justice approach to policy matters under the responsibility of other departments would be inappropriate. The Department of Justice should not seek to influence the direction of policy on policy matters beyond the Justice mandate. Therefore, coordinating the advice of Justice counsel on these matters is unnecessary and would be counterproductive to the Department’s goal of providing impartial advice.

involving the PLS. In fact, differences of opinion between the PLS and Justice counsel occurred in very few files and case studies reviewed for the evaluation. Evaluation stakeholders provided further support for the rare occurrence of disagreements between the PLS and lead counsel on files.

It is interesting to note that agreement on advisory files is typically reached without the use of formal structures available. As described in Section 2.1.1, the NLAC is to help ensure that the Department of Justice “speaks with one voice” on advisory files. Chaired by the ADM of the PLS, the committee is intended to provide a forum for senior Justice officials to discuss non-litigation legal issues on which there may be inconsistent positions.¹⁵ While it was originally conceived as a decision-making body, this has changed and the NLAC now makes recommendations to the Deputy Minister. The idea behind the NLAC was that issues could be brought to the committee by Governing Council members (ADAG/ADM and Regional Directors General) when diverging opinions on cross-portfolio or cross-sectoral issues could not be resolved through regular processes. This committee, however, has rarely been used. The NLAC has been somewhat active in the area of solicitor-client privilege and other issues that have department-wide effect; however, relatively few cases have been brought to the NLAC since its establishment. In fact, while the initial expectation was for monthly meetings, the committee has met about 6–8 times only since its inception in April 2009.

Evaluation stakeholders identified some possible reasons for its lack of use:

- Some stakeholders consulted for the evaluation said that there may be a concern among counsel that use of the committee is perceived negatively; therefore, taking issues to the NLAC is avoided, as this represents a failure in other attempts to resolve disputes.
- Some stakeholders identified that the role of the NLAC has not been clearly defined, which has led to uncertainty about how or when it should be used. The change of the committee from a decision-making body to one that makes recommendations to the Deputy Minister, may explain this lack of clarity.
- Many stakeholders were not aware of the committee, and most did not have firsthand experience with it. This lack of awareness may be partially explained by the protocol that to be placed on the NLAC agenda requires the approval of the ADAG/ADM or the Senior Regional Director with responsibility over the matter.

¹⁵ The NLAC also does not consider issues of national security, which are handled by other Department structures.

While all of these reasons may contribute to the lack of use of the NLAC, the level of usage may not be an issue for the Department. Unlike litigation, which is driven by deadlines and the need for timely resolution, advisory issues are generally less urgent. Therefore, while the National Litigation Committee is used much more than the NLAC, this may be appropriate. A few stakeholders pointed out that the committee was intended to address cross-cutting issues that affect most of the Department, so its use is not often needed. In addition, evaluation results also indicate that more informal dispute resolution processes are sufficient to address the majority of disagreements on public law issues among Justice counsel. Multiple lines of evidence (file review, case studies, key informant interviews, and focus groups) indicate that differences of opinion between the PLS and the lead counsel are resolved through informal discussions and meetings of counsel to arrive at a Justice position. Key informants and case study participants, in particular, described the respectful relationship between PLS and DLSU counsel, and noted that mutual recognition of expertise and perspectives helps to ensure that agreement can be reached.

Given its low usage, lack of clarity around when it should be used, and general lack of awareness of its existence, it may be appropriate for the Department to review the NLAC's terms of reference and clarify its role.

Consistency across the government: a “whole-of-government” perspective

By working with multiple DLSU counsel and client departments and agencies, PLS counsel are well placed to take a national perspective on legal issues. Just as the 1962 Glassco Commission report emphasized the importance of impartiality in legal advice, stakeholders identified the impartiality of the PLS and its situation centrally within the Department of Justice as a significant factor contributing to the Sector's ability to promote a national, whole-of-government perspective on public law issues. Key informants, in particular, expressed the opinion that the PLS is better positioned than DLSU counsel to provide the whole-of-government perspective because of their independence and their work with clients across the government.

Once again, evaluation results — primarily from the file review — indicate that the PLS engages in consultations with other government departments and agencies, when necessary, and that these consultations contribute to a whole-of-government approach to public law issues. PLS counsel consulted with other potentially affected government departments on most of the files reviewed for the evaluation. While key informant interviews and case studies revealed some tensions and disagreements between PLS and other government departments or agencies, these were generally addressed successfully through meetings and consultations.

The evaluation, however, did raise some questions about whose responsibility it is to identify when other departments or DLSUs will be affected by a public law issue, and to inform and engage them. The Department of Justice has identified a number of “best practices” with respect to providing legal advice. While these best practices emphasize the importance of sharing of information and consultation with Justice colleagues, the Department does not seem to provide explicit guidance on how to (or who should) involve other departments and agencies. Focus group participants generally agreed that it is the responsibility of both PLS and DLSU counsel to recognize when other sectors of government should be engaged. They identified that whether PLS or DLSU counsel would be better positioned to identify these situations depends on the file. However, it may be beneficial for the PLS to consider offering more guidance to counsel on this issue.

4.2.3. Informing Government Litigators, Decision Makers, and Senior Government Officials

According to the logic model designed for the PLS, the Sector has a role to play in informing government litigators, decision makers, and senior government officials of legal risks, legal options, and policy options. This section, therefore, discusses evidence of PLS contributions in each of these areas.

The role of the PLS in informing stakeholders of legal risks

LRM is “the process of making and carrying out decisions that reduce the frequency and severity of legal problems that prejudice the government’s ability to meet its objectives successfully” (Department of Justice, 2007b). As such, LRM involves a number of different stages and activities, including:

- identification and assessment of potential legal risks;
- communication of potential risks to stakeholders, as necessary;
- mitigation of legal risks to the extent possible by addressing policy and legal issues (such as through changes to practices or policies, or by proposing amendments to legislation and/or regulations); and
- managing legal risks that have materialized and reducing their potential costs (monetary and otherwise) (Department of Justice, 2007b).

The LRM process also involves reassessment of legal risks, as necessary, as issues develop over time.

The evaluation found that the PLS plays an important role in the LRM process — although this role varies, depending on the file. While evidence indicates that PLS counsel have been involved in all LRM stages (from identification and assessment, to communication, to the development of strategies or options to deal with risk), they may not be involved in all stages in every file.

Although the role is not the same on every file, the evaluation indicates that PLS counsel make some contributions to LRM in most files, and that these contributions are valued. PLS counsel contributed to discussions of legal risk in the majority of files reviewed for the evaluation. The file review provided evidence of PLS contributions to opinions on assigned risk levels and reports on high-impact litigation. Those who have worked with the PLS counsel value their contributions to LRM. Key informants and case study interviewees expressed high levels of satisfaction with the involvement of PLS counsel in matters associated with legal risk, and the PLS received high scores (surpassing the departmental target of 8.0 out of 10) for its performance related to legal risk in the 2010 Client Feedback Survey (see Table 10).

Table 10: DLSU/litigator ratings of PLS performance related to legal risk (scores out of 10)

Legal risk indicator	PLS overall	CAILS		HRLS	ILAPS	OLLS
		CALS	PILS			
Composite rating on performance related to legal risk	8.6					
Conducted a thorough assessment of legal risk pertaining to the issue for which advice was received		8.4	8.8	8.8	8.8	8.6
Recommended strategies to mitigate identified legal risks pertaining to the issue for which advice was received		8.1	8.8	8.5	8.7	8.5

Source: Department of Justice 2010 Client Feedback Survey.

Note: Shaded cells indicate information not available.

At the time of the survey, the reorganization that resulted in CALS and PILS being combined into CAILS had not yet occurred. To reflect the current structure, the results for both former sections are provided under CAILS.

The role of the PLS in informing stakeholders of legal or policy options

Evaluation results indicate that the PLS is somewhat less involved in the development of policy options and litigation strategies than in the development of legal options. The file review showed that PLS services included legal options and discussions of legal risk in the majority of files; however, services related to policy options and litigation strategies were provided on less than half of the files reviewed. Evaluation participants provided support for these findings, as both key informant and case study interviewees raised the perspective that the role of the PLS is more

to advise on the legal risks associated with policy options than to directly advise about policy options. Furthermore, while some sections contribute to policy development more than others, it is typically a joint process between the PLS and DLSU counsel or litigators. PLS counsel do not take the lead on advising on policy development, as they are less familiar with the needs and capabilities of clients than DLSU counsel. Nevertheless, key informants expressed general satisfaction with the involvement of PLS counsel in the development of options and in contingency planning when these contributions have been made.

The role of the PLS in informing senior Justice officials

The file review and key informant interviews indicate that the PLS plays a role in informing senior officials of public law issues and associated legal risks. Almost all of the files reviewed for the evaluation were brought to the attention of senior Justice officials or structures, primarily through briefing notes and risk assessment documentation.

Key informants identified some limitations to the briefing process, including:

- delays in the briefing process, compared to five years ago (due to the many levels of scrutiny, numerous revisions, and the lengthy process for approval that briefing notes must go through before they are submitted); and
- the nature of the briefing process — in which Justice responds to Minister/Deputy Minister briefing requests, rather than initiating briefing.

Nevertheless, many key informants agreed that the briefing process works well. The PLS has developed other processes to brief senior officials when they have the lead on files. For example, there are regular bilateral meetings between the ADM of PLS and the individual section directors, as well as bi-weekly directors' meetings to brief the ADM, who in turn briefs up at the Deputy Minister Week Ahead meeting. In addition, the ADM of PLS distributes information on relevant files, recent court decisions, or pertinent public law issues to Executive Committee members and Portfolio Heads to keep them informed.

4.2.4. Advocacy of the Government of Canada's Position

The PLS is expected to contribute to effective advocacy of the Government of Canada's position both domestically and internationally. Domestically, the PLS should contribute to the development of consistent legal positions and a whole-of-government approach to legal issues

advocated before courts and tribunals in litigation by or against the Crown. Internationally, the PLS is expected to assist in advocating Canada's position in international negotiations, before international courts, and at meetings of international bodies. Stakeholder consultations assist in formulating Canada's position.

Advocating the Government of Canada's position domestically

Evaluation results indicate that PLS sections do, indeed, play a role in communicating the Government of Canada's position domestically. As discussed in Section 4.2.2, the document review, interviews, and case studies provide evidence that PLS counsel are generally consulting with domestic stakeholders when appropriate. For example, the majority of the eleven files involving international issues that were reviewed provided written evidence of PLS efforts to make domestic stakeholders outside of the federal government aware of the Government of Canada's rights and obligations under international instruments, and just over half showed evidence of PLS efforts to make other federal officials aware.

Moreover, the evaluation found that the PLS' role in communicating to domestic stakeholders outside of the federal government varies and may be limited in some situations. Stakeholders involved in the evaluation identified that it is not always necessary or appropriate for the PLS to consult directly with stakeholders outside of the federal government; in some cases, broader stakeholder consultation is the client department's responsibility rather than that of the PLS. The file review seems to provide further support for the observation that the PLS is not always involved in communicating with domestic stakeholders; it has contributed to the development of communications products for domestic use (e.g., briefing notes, Q&As/talking points, media lines) in under half of the files reviewed. Stakeholders also identified that, while striving for transparency, the PLS must respect solicitor-client privilege and confidentiality laws, which again may limit the extent to which PLS counsel communicate with external domestic stakeholders.

Advocating Canada's position internationally

IPLS, JLT, HRLS and CAILS¹⁶ are the main PLS sections that are involved in meetings of international bodies and in the work of international organizations. The document review, key informant interviews, file review, and case studies provide examples of the ways in which these sections are involved in communicating Canada's position internationally; the work of these sections involves conducting litigation (arbitration), engaging in comprehensive stakeholder

¹⁶ The role of CAILS in international public law issues began when the former PILS was incorporated into CAILS.

consultations, providing ongoing legal advice to policy clients responsible for negotiations, drafting written submissions, treaty body reporting, handling complaints against Canada before international mechanisms, and various other international human rights matters.

There was limited information regarding the role of the PLS in advocating Canada's position internationally. Eleven files included in the file review involved international issues. The PLS was involved in the preparation of written communications products (for use internationally to communicate Government of Canada's position) in less than half of these files, but the reasons for this are unclear. While information on the achievement of this expected outcome is limited and the findings are not clear, available information (primarily from case studies) suggests that the PLS is well respected internationally. In addition, consultations led by PLS counsel prior to conferences with domestic stakeholders (at the federal, provincial, and territorial level) have allowed the PLS to bring a whole-of-government approach to international meetings.

4.2.5. Training of Justice Counsel

Training provided to Justice counsel by the PLS

As the PLS logic model identifies, the PLS is expected to develop and provide training to Justice counsel on public law legal principles and trends. In doing so, the PLS will contribute to the professional development, or CLE, requirements of Justice counsel; furthermore, the training itself is expected to reduce pressures on the PLS to provide services to these counsel.

The evaluation confirms that the PLS is actively carrying out its role in providing training to Justice counsel. The number of training events offered by PLS counsel through the Professional Development Directorate (PDD) has increased over the evaluation period, from 24 events offered in 2007–08 to over 50 events in 2010–11 and 2011–12. The majority of these events were offered by CAILS and HRLS (see Table 11). These sessions cover a range of topics and subject areas (including access to information and privacy, constitutional and administrative law, human rights law and the Charter, international law, official languages, legal practice, legal skills, etc.), and take the form of seminars, workshops, and annual conferences. A total of

3,642 participants took part in these events over two fiscal years (2010-11 – 2011-12), indicating the level of demand for these sessions.¹⁷

Table 11: Number of PDD training/professional development events offered by PLS counsel per fiscal year – 2007–08 to 2011–12¹

Fiscal year	CALs/ CAILS	HRLS	JLT	PILS	ILAPS		OLLS	Not specified	Total
					Alone	w/CAILS ²			
2007–08	9	5	3	1	6	0	0	0	24
2008–09	15	10	0	1	6	0	1	2	35
2009–10	20	14	2	2	1	0	5	0	44
2010–11	26	11	2	3	8	3	3	0	56
2011–12	27	16	0	0	3	2	2	2	52
Total	97	56	7	7	24	5	11	4	211

Source: PDD with data supplemented by sections, as needed.

NOTES:

- (1) These events were offered through the PLS PDD and were available to Justice counsel both within and outside of the PLS. Most information for this table was obtained from event evaluation reports. In addition, counsel offer training outside of PDD, which is not captured in this table.
- (2) ILAPS conducted some events jointly with CAILS, which are reflected in this grey-shaded column. These sessions were already included in the CAILS column, so are not counted in the overall totals.

In addition to PDD sessions, counsel offer training directly to DLSUs or Portfolios, when requested. This training outside of PDD can be for formal events such as special training days or on an *ad hoc* basis. Several sections provided information on these training activities, which sometimes exceeded the number of PDD sessions offered. As these non-PDD events constitute a significant amount of PLS training, the PLS may want to track and evaluate these sessions more systematically. Information provided to the evaluation differed by section and did not always include information on the participants (number or location within government) or the subject of the training. Based on the information provided, the training outside of PDD was varied and included subjects such as the *Official Languages Act* in the workplace (by OLLS), presentations on particular court decisions (by OLLS and HRLS), and legal principles in specialized settings such as the Supreme Court (HRLS). Documents and key informants also identified contributions made by the PLS to training through practice groups; the development of educational tools and materials (including case briefs, annotated statutes, and checklists such as the Charter Checklist) for use by Justice counsel; and in response to specific requests for training from government departments and agencies.

¹⁷ Data on the number of participants were not available for 2007–08, 2008–09, or 2009–10, which meant that the evaluation could not consider trends in participation over time. In addition, the attendance data are incomplete, as sections provided information on additional sessions for which attendance was not always available.

Stakeholders consulted for the evaluation (including key informant, case study, and focus group participants) expressed satisfaction with the training sessions, conferences, and tools and materials made available to Justice counsel by the PLS. Stakeholders identified few training gaps, overall. Focus group participants, in particular, mentioned the role of training offered by the PLS to other Justice counsel and other government departments in promoting awareness of PLS services, describing ongoing training as “important” and “critical” to ensuring that new DLSU or department/agency staff members are aware of the current law and public law issues about which PLS can be consulted.

With the training data currently available, it is not possible to assess trends in the availability of, or demand for, the variety of training offered by the PLS. Although stakeholders representing the PLS mentioned that PLS sections meet with the PDD to discuss training, the type of data gathered on training events that have taken place makes it difficult to discern whether the training provided by the PLS is meeting needs or whether any gaps exist.

Training available to PLS counsel

In addition to the training offered by PLS counsel, it is important to consider training and skill development opportunities available to PLS counsel. Overall, the evaluation found some room for improvement in this area.

Evaluation results suggest that satisfaction with the training and skill development opportunities available to the PLS has decreased over the evaluation period. While the majority of PLS respondents to the Public Service Employee Surveys in 2005, 2008, and 2011 said that they receive the training they need to do their job, and that they have opportunities to develop and apply the skills to advance their careers, results of these surveys suggest a decrease in satisfaction (and an increase in dissatisfaction) with training and career enhancement opportunities over time (see Table 12 and Table 13). The decline of levels of satisfaction is greater for PLS than for the Department as a whole, and the results show that PLS counsel have gone from higher levels of satisfaction when compared to the Department to lower levels of satisfaction for both training and the opportunity to develop and apply skills to advance their careers.

Table 12: PLS and Justice respondents' opinions on training required to do their work*I get the training I need to do my job.*

Survey year	Agree		Neither agree nor disagree		Disagree		Don't know or N/A	
	PLS	Justice	PLS	Justice	PLS	Justice	PLS	Justice
2005	88%	79%			8%	20%	4%	2%
2008	76%	72%	11%	11%	12%	16%	2%	1%
2011	72%	75%	11%	10%	16%	14%	1%	1%

*Source: Public Service Employee Surveys for 2005, 2008, and 2011**Note: Summation of percent values for rows may not equal 100% due to rounding.*

Shaded cells indicate data not available in the survey reports. The 2005 survey used a slightly different scale from the 2008 and 2011 surveys. In 2005, respondents could select "strongly agree, mostly agree, mostly disagree, strongly disagree, don't know, or not applicable". In 2008 and 2011, respondents could select "strongly agree, somewhat agree, neither agree nor disagree, somewhat disagree, strongly disagree, don't know, or not applicable".

Table 13: PLS and Justice respondents' opinions on career enhancement/development opportunities

*I have the opportunities to develop and apply the skills I need to enhance my career (2005 and 2008); or
My department or agency does a good job of supporting career development (2011).*

Survey year	Agree		Neither agree nor disagree		Disagree		Don't know or N/A	
	PLS	Justice	PLS	Justice	PLS	Justice	PLS	Justice
2005	76%	69%			16%	28%	8%	3%
2008	64%	56%	16%	17%	16%	25%	3%	2%
2011	57%	61%	14%	13%	28%	24%	2%	1%

*Source: Public Service Employee Surveys for 2005, 2008, and 2011**Note: Summation of percent values for rows may not equal 100% due to rounding.*

Shaded cells indicate data not available in the survey reports. The 2005 survey used a slightly different scale from the 2008 and 2011 surveys. In 2005, respondents could select "strongly agree, mostly agree, mostly disagree, strongly disagree, don't know, or not applicable." In 2008 and 2011, respondents could select "strongly agree, somewhat agree, neither agree nor disagree, somewhat disagree, strongly disagree, don't know, or not applicable."

Other lines of evidence (mainly key informant interviews and focus groups) pointed to several potential factors contributing to this apparent decline in satisfaction with training.

- First, budgetary restrictions have imposed limitations on both the availability of training opportunities and the ability of PLS counsel to take part in them. Stakeholders consulted for the evaluation mentioned that budget cutbacks have limited the ability for PLS counsel to register for, and travel to, training events, and have decreased access to certain library services.

- Second, training opportunities may not be available to meet the needs of expert PLS counsel. Stakeholders identified that budget pressures, combined with mandatory CLE requirements put in place by the provincial law societies, have meant that training opportunities have focussed more on general workforce and practice management, and that fewer courses are offered on highly specialized legal issues.

Stakeholders provided further support for the Public Service Employee Survey results regarding opportunities for career development. Some noted that few opportunities for upward movement or career enhancement currently exist within the PLS; some highly qualified PLS counsel remain at more junior-level positions because the Sector is not able to offer higher-level positions.

4.2.6. Consideration of PLS Legal Advice

It should be noted that the evaluation intentionally focused on the consideration of PLS advice, rather than the degree to which clients make decisions that match the advice. This is in recognition of the fact that PLS advice is not the only factor that affects decision making. Departmental policy on the provision of legal and policy advice to government departments emphasizes that counsel should respect the choices made by clients, even if they do not agree with the choices. It is essential that PLS counsel retain their impartial status and refrain from advocacy of a particular position. The degree to which clients make decisions based on PLS advice is not an indicator of PLS performance; more important is the extent to which counsel provide independent, neutral legal and legal policy advice.

The evaluation found that PLS advice is considered to a large extent by DLSUs and clients. As identified in Section 4.1.1, PLS counsel are widely considered as public law experts within the government and their perspectives are, therefore, generally respected and valued. The majority of stakeholders consulted (key informants, case study interviewees, and focus group participants) mentioned the importance of PLS advice and the contributions of the Sector to the consideration of legal risk in decision making. In addition, case studies, file review, and key informant interview results indicate that the PLS is generally consulted relatively early in the life of a file; in the majority of reviewed files, the PLS was engaged before the initial risk assessment was made and before clients made decisions regarding legal options or litigation strategies. According to stakeholders, the earlier the PLS is involved in a file, the easier and more likely it will be for client departments and agencies to factor PLS advice into decision making.

Based on case studies, focus groups, and key informant interviews, the evaluation found that DLSU counsel routinely consider PLS advice. File review results support this, as most of the files reviewed provided evidence that PLS advice was considered by DLSU counsel in the development of legal strategies and in the provision of advice to clients. In addition, evaluation results provide some evidence that PLS advice has led to positive outcomes. One case study, in particular, provided an example of how following PLS advice led to a successful outcome in a shorter amount of time than if the client had continued to pursue its original strategy.

Case study, key informant, and focus group participants identified that not all clients are aware of the PLS or to what extent the legal advice they receive from their DLSU counsel comes from consultations with the PLS. However, evaluation results indicate that clients do, generally, consider PLS legal advice before making decisions; most of the files reviewed provided written evidence that the client considered PLS advice in decision making.

4.3. Performance – Demonstration of Efficiency and Economy

The Treasury Board’s 2009 *Policy on Evaluation* defines efficiency as production of “a greater level of output ... with the same level of input or, a lower level of input with the same level of output,” and economy as the achievement of expected outcomes using the minimum amount of resources required (Treasury Board of Canada Secretariat, 2009). Applying these definitions to the PLS, an analysis of its efficiency and economy considers the ability of the PLS to manage the demand for legal services and the degree to which the legal services provided are cost efficient.

4.3.1. Trends in Expenditures, Resources, and Resource Use

During the period covered by the evaluation, the PLS appears to have successfully managed its expenditures. As discussed in Section 2.2, while PLS expenditures rose between 2007–08 and 2008–09, since then they have decreased by \$1 million. Between 2007–08 and 2011–12, the PLS expenditures rose by just over 3% (see Table 14). Trends in expenditures differ, however, depending on the section. Expenditures for JLT showed a decrease between 2007–08 and 2011–12, while CAILS, HRLS, and (to a lesser extent) IPLS expenditures increased (Table 14).

Table 14: Total expenditures by section, by year, 2008–12 (\$ millions)

	2007–08	2008–09	2009–10	2010–11	2011–12
CAILS (see note)	2.8	2.6	3.2	3.3	3.6
HRLS (see note)	2.8	2.8	3.1	3.1	3.1

	2007–08	2008–09	2009–10	2010–11	2011–12
JLT	1.7	2.8	2.1	1.6	1.6
ILAPS (see note)	1.2	1.1	1.1	1.5	1.6
Business Administration Centre	0.6	0.6	0.9	1.3	1.2
IPLS	0.9	0.9	1.0	1.0	1.1
OLLS	0.8	0.8	1.1	1.0	1.0
JACTPS	0.9	0.9	0.8	0.9	0.9
Business Administration Centre Policy	0.3	0.6	0.5	0.5	0.5
ADMO	1.0	0.5	0.5	0.5	0.4
IALS (transferred to Transport DLSU)	0.2	0.8	0.2	0.2	0.2
PILS (amalgamated with CAILS in June 2011)	0.6	0.6	0.7	0.6	0.1
PLPS (see note)	1.2	1.2	1.2	1.0	-
Total	14.8	16.3	16.3	16.4	15.3

Note: Part of PLPS was amalgamated with ILAPS in 2010–11. The rest of PLPS was then divided between CAILS and HRLS in 2011–12.

The section expenditures do not sum to the total due to rounding.

After a rise from the previous year in 2008–09, total human resources have also decreased annually between 2008–09 and 2011–12, which is mostly attributable to a decrease in LA FTEs. FTE trends differ from section to section, with JLT experiencing the most pronounced decrease and CAILS the most pronounced increase, the latter due largely to the PLS reorganization (see Table 15).

Table 15: Human resources (FTEs) by section, by year, 2008–12

	2007–08	2008–09	2009–10	2010–11	2011–12
CAILS (see note)	25.2	26.4	27.4	28.7	31.8
HRLS (see note)	27.5	27.9	27.3	28.1	29.2
JLT	17.6	21.8	17.0	15.0	16.6
ILAPS (see note)	11.3	9.6	8.9	12.4	13.7
OLLS	7.9	8.4	10.0	9.1	9.1
JACTPS	8.3	8.7	7.9	7.5	8.9
IPLS	4.9	6.4	6.1	6.7	7.7
Business Administration Centre	4.3	3.8	5.1	6.9	6.8
ADMO	4.2	4.0	4.0	3.6	4.3
IALS (transferred to Transport DLSU)	1.5	3.0	2.0	2.0	2.0
Business Administration Centre Policy	2.9	3.4	3.1	1.5	1.2
PILS (amalgamated with CAILS in June 2011)	5.6	6.0	5.4	5.0	0.8
PLPS (see note)	12.3	13.0	11.4	8.8	-
Total	133.6	142.4	135.7	135.2	132.1

Note: Part of PLPS was amalgamated to ILAPS in 2010–11. The rest of PLPS was then divided between CAILS and HRLS in 2011–12.

The section FTEs do not sum to the total due to rounding.

As with expenditures and human resources, the trends on resource use, as reflected in the number of hours spent on actively managed files, has varied by section between 2007–08 and 2011–12. While one section experienced a slight decline (3% for HRLS),¹⁸ most sections have had workload increases ranging from 6% for ILAPS to 73% for IPLS (see Table 5 on page 31). JLT experienced a substantial decline in hours (26%) along with a decline in staffing and expenditures, but this does not capture the pressures on JLT. As discussed in the following section, a challenge for the PLS will be to maintain its expenditures in the face of workload pressures, to address the unique situation of JLT, and to manage the potential effects of the upcoming move away from cost recovery.

4.3.2. Managing Demand for PLS Services

Sufficiency of resources

Demand management, to a large degree, is affected by the sufficiency of resources available. The evaluation found that, in general, the materials, equipment, and technological resources available to PLS counsel are sufficient; overall, PLS counsel are able to respond to requests and produce high-quality work with current resources. The vast majority of PLS counsel who responded to Public Service Employee Surveys in 2005, 2008, and 2011 agree that they have the materials and equipment they need to do their work (in all three years, close to 90% of PLS respondents agreed or strongly agreed), and that material and tools provided (including software and other automated tools) are available in the official language of their choice (in all three years, almost all PLS respondents agreed and close to three quarters strongly agreed — see Table 16 and Table 17). Other lines of evidence support this. Key informants representing the PLS generally agreed that they have sufficient resources to manage their work, and DLSU and other Justice counsel pointed out that, for the most part, resource issues are not preventing PLS counsel from being able to respond to requests in a timely manner or be responsive to clients' needs. As discussed in Section 4.2.1, multiple lines of evidence show that PLS counsel respond even to urgent requests in a timely manner, suggesting that the demand for PLS services is being managed appropriately.

¹⁸ SAS is not considered in this discussion as it is a timekeeping category that is phasing out, as described in the note to Table 5.

Table 16: PLS respondents' opinions on materials and equipment

I have the materials and equipment I need to do my job.

Survey year	Agree	Neither agree nor disagree	Disagree	Don't know or N/A
2005	96%		4%	0%
2008	93%	0%	6%	1%
2011	91%	3%	7%	0%

Source: Public Service Employee Surveys for 2005, 2008, and 2011

Note: Summation of percent values for rows may not equal 100% due to rounding.

Shaded cells indicate data not available in the survey reports. The 2005 survey used a slightly different scale from the 2008 and 2011 surveys. In 2005, respondents could select "strongly agree, mostly agree, mostly disagree, strongly disagree, don't know, or not applicable." In 2008 and 2011, respondents could select "strongly agree, somewhat agree, neither agree nor disagree, somewhat disagree, strongly disagree, don't know, or not applicable."

Table 17: PLS respondents' opinions on language availability of materials and tools

The materials and tools provided for my work ... are available in the official language of my choice.

Survey year	Agree	Neither agree nor disagree	Disagree	Don't know or N/A
2005	96%		4%	0%
2008	93%	3%	4%	1%
2011	94%	2%	3%	2%

Source: Public Service Employee Surveys for 2005, 2008, and 2011

Note: Summation of percent values for rows may not equal 100% due to rounding.

Shaded cells indicate data not available in the survey reports. The 2005 survey used a slightly different scale from the 2008 and 2011 surveys. In 2005, respondents could select "strongly agree, mostly agree, mostly disagree, strongly disagree, don't know, or not applicable." In 2008 and 2011, respondents could select "strongly agree, somewhat agree, neither agree nor disagree, somewhat disagree, strongly disagree, don't know, or not applicable."

Although resources for the Sector overall appear to be sufficient, the evaluation results raised some section-specific concerns. While most sections do not seem to be experiencing major resource issues, evidence indicates that JLT is experiencing unique resource challenges. As discussed in Sections 4.2.1 and 4.3.1, unlike other PLS sections, JLT has experienced a substantial rise in the number of hours spent on actively managed files over the evaluation period. In addition, JLT has experienced the most pronounced decrease, particularly during the last four years, in both expenditures (by 41%) and FTEs (by 24%) (see Table 14 and Table 15). As JLT does not use cost recovery, the effects of decreases in A-Base funding and cuts to DFAIT (JLT's partner organization) have been particularly noticeable.

A comparison of JLT to other PLS sections based on hours spent on actively managed files demonstrates the magnitude of the resource challenges facing JLT. As Table 18 shows, hours per

staff member (counsel and paralegals) for JLT is approximately two times more than several PLS sections.

Table 18: Hours spent on actively managed files per staff by section, 2011–12

	Total number of staff (counsel and paralegals)	Total hours	Hours per staff member (counsel and paralegals)
JLT	13	28,123	2,163
IPLS	5.8	8,606	1,484
JACTPS	6.6	8,803	1,334
OLLS	7.2	8,628	1,198
HRLS	23.6	26,228	1,111
ILAPS	11.8	11,280	956
CAILS	25.8	25,377	984

The unique pressures on JLT are supported by multiple lines of evidence. Documents and interviews (both with key informants and case study participants) identified resource limitations experienced by the Section. It appears that resource issues are having an impact on JLT’s ability to manage the demand for its services. According to evaluation stakeholders, clients and DLSUs can experience long waits for JLT advice. Although there is no evidence to suggest that JLT is not being consulted when needed, evaluation participants mentioned, on occasion, trying to avoid the need to consult with JLT.

The potential impact of upcoming changes to financing and billing procedures

In January 2013, along with changes to legal services rates for 2013–14, the Department of Justice announced that, in the upcoming year, the PLS will no longer charge for services on a per-usage basis; instead, the costs associated with the provision of all PLS services will be included in the legal service rates. This upcoming move away from cost recovery for the PLS is expected to have implications for efficiency (see Section 4.3.3); however, it may also have implications for the Sector’s ability to manage the demand for services.

Part of the reason for the move away from cost recovery is to ensure that clients’ decisions about whether to consult with the PLS will not be affected by their willingness or ability to pay. As the evaluation results have shown, cost recovery has, to some extent, affected decisions about when to engage PLS services. It is unclear what impacts incorporating PLS services into legal service rates will have on the demand for services. Considering the complexity of the cost recovery system for the PLS (where some sections charge and some do not, and some clients are charged while others are not), eliminating cost recovery for the PLS will, presumably, make it easier for

sections to manage finances; however, potential impacts on requests for services may create other demand-management challenges.

4.3.3. Cost-Efficient Provision of PLS Services

The Law Practice Model

The time period for this evaluation follows the Strategic Review of programs and expenditures conducted by the Department of Justice in 2008. Based on the recommendations of this review, the 2009 Budget review resulted in a commitment to achieving a savings of \$12.5 million by 2011–12 through Treasury Board reductions to the Department’s A-Base funding. These cost savings were to be realized, in large part, through implementation of the Law Practice Model (LPM), a strategy that emphasizes matching counsel to the risk and complexity level of files in order to achieve efficiencies in legal operations.

The evaluation revealed some concerns about the appropriateness of the LPM for the PLS, considering the expert nature of PLS services. The Strategic Review found potential within the Department overall for junior counsel to take on more of the work that senior counsel were doing. Therefore, throughout the Department, implementation of the LPM focused recruitment and hiring of more junior (LA1) level counsel, and initiated a temporary pause on staffing at higher levels. As the expert nature of PLS work limits the potential for increased assignment of work to more junior counsel or entry-level staff, evaluation stakeholders raised concerns about pressures for more PLS work to be undertaken by less experienced counsel.

In general, stakeholders consulted for the evaluation indicated that the assignment of PLS counsel to files is appropriate. However, due to limited data, the evaluation could not assess the extent to which the LPM is affecting the PLS, and could not substantiate either perceptions of the appropriate assignment of counsel to files or concerns raised about the LPM. In theory, the appropriateness of file assignment can be measured, to some extent, by comparing the level of counsel assigned to files with the files’ level of risk and/or complexity. However, in iCase, very few PLS files were assigned a risk or complexity level, and a relatively large proportion of files did not specify the level of lawyers assigned to work on them. The lack of availability of this data means that, currently, no objective indicators related to file assignment are available. Some stakeholders pointed out that PLS files are assigned based more on urgency than either risk or complexity, as a simple request that requires a fast turnaround may need to be completed by senior counsel. The urgency of requests, however, is also not currently tracked or captured in

iCase (which tracks files, not requests). Some sections are tracking more detailed data on requests, but the PLS does not have sector-wide information. Future evaluations would benefit from the development and implementation of performance indicators related to file assignment that are appropriate to the PLS.

The cost efficiency of PLS services

Evaluation results indicate that the PLS operates in a cost-efficient manner. Evaluation stakeholders strongly perceive PLS services to be cost efficient, and believe that the PLS counsel conduct their work efficiently. Key informants, case study interviewees, and focus group participants pointed out that engaging experts is a cost-effective practice. PLS counsel, with their in-depth knowledge of specific areas of public law, can prepare opinions on complex matters of public law using less time and resources than DLSU lawyers or litigators who are less familiar with these issues. Training sessions, practice groups, publications issued by specific sections, and Justipedia were all identified as beneficial information-sharing tools or structures that help to improve efficiency by reducing duplication of work and providing Justice counsel with access to information needed to work effectively with the PLS.¹⁹ Some stakeholders specifically described PLS services as “good value for money.”

These opinions are supported by documented evidence of measures taken by the PLS to improve the efficiency of services, as described in Section 2.1. This reorganization was designed to better serve the needs of the Department and to improve efficiency by providing a single point of contact for matters that were previously overlapping between sections. Furthermore, the approaching move away from the cost recovery model for PLS services (mentioned in Section 4.3.2) is expected to simplify billing processes and allow for streamlining of some supporting internal operations.

It should be noted that, while the usefulness of Justipedia was highlighted by stakeholders, some do not feel that Justipedia is used as much as it could be — particularly by Justice counsel outside of the PLS. Contrary to this impression, however, data on Justipedia usage (both contribution to the database and use of the information within the database) show widespread use. PLS is not the primary contributor or user. Several portfolios (Tax Law Services; Public Safety, Defence, and Immigration; and Business and Regulatory Law) make substantial

¹⁹ Through information-sharing tools, Justice counsel have access to information on past legal advice prepared by the PLS, which reduces multiple requests concerning the same issue. Greater access to information and advice also allows Justice counsel to be more knowledgeable of public law issues and better able to define and prepare requests for services.

contributions to Justipedia. In addition, the regional offices and portfolios all indicate significant use of the database.

This department-wide use of Justipedia is important for the PLS, as its use by other counsel is considered a way to help manage demand for PLS legal services; counsel can review previous PLS opinions on related issues before determining whether there is a further need to consult PLS, or to assist them in focusing the legal issue they need PLS to address. PLS counsel generally found Justipedia to be very useful and an improvement over the Legal Opinions and Precedence On-line Retrieval System that preceded it. However, some limitations and potential improvements were mentioned (e.g., lack of access to secret documents; a potential need for more frequent and systematic contributions).

The role of clients in the efficiency and economy of legal services

Managing the demand for legal services and improving the efficiency and economy of the delivery of those services are joint responsibilities of the PLS and the Justice counsel and clients with whom PLS counsel work. Consequently, the evaluation explored areas where the PLS and Justice counsel and clients could work together to improve the efficiency and economy of legal services.

One important factor influencing the efficiency of PLS services is the extent to which the PLS is engaged by clients or DLSU counsel early in files. When PLS counsel are engaged at an early stage, they are able to identify the potential for legal risks and help to mitigate these risks (and their associated costs). In addition, early engagement allows PLS counsel to respond more quickly to requests that occur at later stages in the file — particularly when the same PLS counsel are involved throughout the life of a file. As mentioned in Section 4.2.1, file review and case study results show relatively early engagement of the PLS (in general, before decision making occurs); however, stakeholders (primarily key informants and case study participants) identified that where engagement of the PLS in files has been delayed (due to cost recovery or other factors), this has had an impact on efficiency. Although cost recovery soon will not apply to the PLS, it may be necessary to ensure that other cost-reduction initiatives do not result in unanticipated pressures to delay engagement of specialized legal services. In addition, and probably more likely, the removal of cost recovery may result in increased demand for PLS legal services. The Sector will need to track and manage any increase carefully to ensure that the quality and timeliness of its legal services are not affected.

Another client- or DLSU-driven factor affecting the efficiency of PLS services is the quality of requests for services. Generally, the more comprehensive and specific the request for PLS services, the more quickly and effectively PLS counsel can respond to requests and produce advice that meets client expectations. By contrast, incomplete or ambiguous requests require more consultations and discussion to ensure that the needs of clients are effectively communicated and understood and that misunderstandings about the type or comprehensiveness of advice required are avoided.

Evaluation stakeholders (focus group participants, in particular) mentioned that the quality of legal requests has been improving. Not only has the increased availability of information through resources such as Justipedia allowed Justice counsel to prepare more detailed and informed legal service requests, but the cost recovery model has caused some DLSU counsel and litigators to conduct more background and policy analysis upfront in an effort to save costs.²⁰ However, despite these observations, stakeholder consultations and the file review indicate that requests still vary in quality and comprehensiveness; requests were overly broad or not in line with PLS roles and responsibilities in several of the files included in the file review.

²⁰ Once again, the impending move away from the cost recovery model for the PLS may have efficiency implications.

5. CONCLUSIONS

This final section of the report presents conclusions based on the findings presented in the previous sections. The information is structured along the main evaluation issues and questions.

Relevance

Is there a continued need for PLS services?

Government priorities continue to signal need for PLS legal services. Throne Speeches and Budget reports identify a number of priority areas and issues related to public law. These include policy initiatives in areas of human rights, justice system enhancement, anti-discrimination, solicitor-client privilege, national security, governance, and official languages. The evaluation found that clients and other Justice counsel who use PLS legal services consider the PLS sections to provide public law expertise and “whole-of-government” advice on public law issues that is important, particularly for riskier, high complexity files, and is not otherwise available. The demand for PLS legal services has declined between 2008–09 and 2011–12, which was attributed, in part, to cost recovery for legal services obtained from CAILS, HRLS, and ILAPS, and efforts by other Justice counsel to reduce legal costs for clients, although the evaluation did not find that this had affected consultation with the PLS on higher-profile matters. As cost recovery will no longer be used for any PLS legal services, the demand for its services may increase. The evaluation results can, therefore, provide a baseline for assessing the changes in demand for its services.

To what extent do the objectives and activities of the PLS align with the priorities and objectives of the Department of Justice and the Government of Canada overall?

The evaluation found ample evidence of the PLS supporting the federal government’s legislative and policy agendas. The PLS is consulted on these federal priority areas because they inevitably involve public law issues. A comparison of Speeches from the Throne and Budget speeches with PLS operational plans and departmental *Reports on Plans and Priorities* demonstrates this alignment. PLS sections have been involved in supporting government priorities as varied as national security policy initiatives, criminal law proposals, the implementation of Canada’s

Economic Action Plan, trade and investments agreements, and the Roadmap for Canada's Linguistic Duality, to name a few.

Evaluation results demonstrate that the PLS supports the Department of Justice in meeting its strategic outcomes. The PLS provides an independent, objective review of the impacts of federal legislation and policies for potential constitutional and human rights issues, which supports the first strategic outcome of a *fair, relevant, and accessible justice system that reflects Canadian values*. The work of the PLS also supports the Department of Justice in achieving its second strategic outcome: the high quality of PLS legal services and the PLS's alignment with government priorities help to ensure that the federal government is supported by *effective and responsive legal services*.

To what extent are the legal services provided by the PLS consistent with federal roles and responsibilities?

Under the *Department of Justice Act*, Justice Canada has a mandate to support the roles of the Minister of Justice and Attorney General of Canada. By providing legal advice and assisting various government departments and agencies in drafting legislation and developing new services and policies to support government priorities, the PLS helps to fulfill Justice Canada's mandate to advise federal department heads on all matters of law connected to their departments. By representing the Crown in litigation involving public law issues (domestically and internationally), the PLS fulfills the responsibilities under the *Department of Justice Act* to "conduct all litigation for or against the Crown or any department."

Effectiveness

To what extent is the PLS achieving its expected outcomes?

Timely and coherent advice: Based on multiple lines of evidence, the evaluation found that PLS clients (primarily DLSU and regional counsel) consider the legal services received from the PLS to be timely and coherent. The Sector scored highly on timeliness on the Client Feedback Survey, despite the often urgent nature of the requests received. Interviews and file review results showed that many requests for legal services are urgent, with responses required within days. Satisfaction with timeliness was consistent across the PLS with the exception of JLT, which has experienced unique pressures during the time period covered by the evaluation. JLT has experienced a fairly substantial increase in workload, while simultaneously encountering a decline in the number of FTEs for legal counsel. Interviewees noted that they had experienced

delays in receiving responses to requests from JLT. Therefore, any efforts to improve timely service could focus on JLT and its possible resource constraints.

Overall the evaluation found that PLS services are coherent and useful to those requesting them. The vast majority of PLS clients rated the coherence of the legal advice provided as either “very good” or “good”. The evaluation did find a few areas of potential improvement. Some DLSU counsel perceived the advice of a few sections, namely CAILS and HRLS, as occasionally too technical or academic for the client departments or agencies without the advice being rewritten by DLSU counsel. Client Feedback Survey results also reflected that CAILS and HRLS had lower scores than other sections on providing a strategic perspective. This opinion, however, needs to be placed in the context of the changing practice environment of the PLS, where its legal advice now is shared directly with the client departments/agencies and more widely across the federal government. This was not the practice several years ago. The PLS has responded by developing best practices for legal opinions, and individual sections have best practices and quality management frameworks that provide guidance on such issues as how to communicate legal advice to clients. Given these results, the PLS may want to consider other ways to respond to this change in its legal practice and how best to work with counsel requesting the advice so that the purpose and use of the advice, including its audience, are clearly defined.

Consistent advice: The provision of consistent advice is both an immediate (to departments/agencies) and intermediate (to the Government of Canada) outcome. Because the provision of consistent advice to immediate clients with appropriate consultations for cross-cutting issues across departments/agencies will result in consistent advice to the Government of Canada, these outcomes are considered together.

The evaluation considered three basic levels of consistency: 1) internal consistency — in other words, the extent to which advice on public law issues is consistent within the PLS (or across PLS sections); 2) consistency across the Department of Justice (i.e., the degree to which the Department “speaks with one voice”); and 3) consistency across the federal government (i.e., the degree to which a “whole-of-government” perspective is achieved on legal issues). In all three areas, multiple lines of evidence confirm that the PLS is providing consistent legal advice. Consultations within the PLS, between the PLS and other Justice counsel, and between Justice counsel (including the PLS) and other affected departments and agencies are occurring when appropriate. PLS and other Justice counsel reported that when there are disagreements, which were considered to be rare, they could resolve them informally through consultations/meetings between PLS counsel and DLSU or regional counsel. A few areas of potential improvement were noted. While joint opinions from PLS sections are not always appropriate when more than one

PLS section is involved on a legal issue, some stakeholders noted that the PLS sections could produce joint opinions more often than they currently are. The evaluation also found that the NLAC, the one formal Justice structure for ensuring consistency for legal advice, was not often used. Many potential reasons were identified for its low usage, including the perceived lack of clarity as to the NLAC's role and a general lack of awareness of the committee. As a result, it may be appropriate to review the NLAC's terms of reference and clarify its role in the Department.

All lines of evidence showed that the PLS is performing its duties to inform government litigators, decision makers, and senior government officials of legal risks, legal options, and policy options, when appropriate. While PLS counsel are not involved in all stages of LRM (identification, assessment, mitigation, and management), as the level and stage of involvement depends on the file, those stakeholders who have worked with PLS reported valuing the PLS contributions to LRM. Stakeholders also pointed out that the PLS has somewhat lesser involvement in informing stakeholders of policy options and litigation strategies, as the DLSU and litigation counsel, respectively, are seen as having that role. Nevertheless, key informants were satisfied with the level and quality of PLS involvement. The briefing process was considered generally effective in informing senior government officials of public law issues and legal risks, but some concerns were expressed regarding the lengthy process for the approval of briefing notes, which can create delays, and the nature of the briefing process, where the PLS responds to requests for briefing rather than also determining whether to brief senior officials. However, the PLS has developed other processes to brief senior officials when they have the lead on files.

Effective advocacy of the Government of Canada's position: Effective advocacy includes communicating the government's legal position domestically, as well as internationally. Domestically, the PLS contributes to the development of consistent legal positions and a whole-of-government approach to legal issues advocated before courts and tribunals. The PLS' role in communicating the federal government's position to domestic stakeholders was considered more limited, as this was considered to be mainly the client department/agency's role. The evaluation had limited evidence about the effectiveness of the PLS in advocating the government's position internationally, although based on the examples provided in documents and by stakeholders, the PLS is well respected internationally, and its work contributes to the effective communication of Canada's legal positions before both international tribunals and other international fora.

Justice counsel receive training on public law principles and trends: The evaluation confirmed that the PLS is actively carrying out its role in providing training to Justice counsel. Combined,

its sections have offered over 200 events to over 3,600 participants through the Department's PDD. These numbers under-represent the training offered by the PLS, as sections provide additional training outside of the PDD. These non-PDD training sessions constitute a significant amount of training. The evaluation found several gaps or other issues with the information collected on PLS training: the PDD information required correction from some sections; the non-PDD training was not consistently tracked by all sections; relevant information was lacking (e.g., number and type of participants, subject matter of training); and sections are not evaluating their non-PDD training sessions. Given the importance of PLS training in promoting the Sector and in informing other counsel about public law issues, the PLS may want to conduct more systematic reviews of its training at the Sector and/or section-level to ensure that training is meeting needs. PLS training provided to other Justice counsel may become even more important once cost recovery is no longer applied to HRLS, CAILS, and ILAPS. The training may assist in the quality and clarity of legal requests and preliminary or partial drafts of legal advice; in other words, training may become an even more important mechanism for managing demand and reducing the cost of PLS legal services.

In terms of training for PLS counsel, the evaluation results suggest that satisfaction with the training and skill development opportunities available to the PLS has decreased over the evaluation period. Potential reasons for this identified by PLS counsel included the need for training that is appropriate for subject matter experts, which was seen as limited by budgetary restrictions on travel and registration for training offered by third parties. In addition, there has been a move to more basic training to meet mandatory CLE requirements of provincial law societies.

Confidence in PLS counsel as experts: All lines of evidence indicated that PLS counsel are considered public law experts. The Client Feedback Survey resulted in a high overall rating for expertise, including the perception that the PLS has an expert level of knowledge. DLSU counsel noted that this expertise enables them to gain client approval for consulting with the PLS. Other Justice counsel generally recognized that the PLS held expertise beyond what the DLSU could offer on public law matters.

Legal advice is considered so that the Government of Canada has an appropriate policy and legal framework that reflects domestic and international obligations. The PLS' role is to provide legal advice, which the client can factor into its decision making but can decide not to follow. Because the ultimate decision rests with the client, the PLS outcome is to provide legal advice that is considered in developing the policy and legal framework. The evaluation found that PLS advice

is routinely considered by DLSUs and clients and is considered to be influential on decision making due to their public law expertise.

Efficiency and economy

To what extent is the PLS able to manage the demand for legal and policy services?

The PLS was generally found to have sufficient resources (human, technological, materials/equipment, financial) to manage the demand for its services. Counsel generally believe that they have the tools necessary to do their jobs. The one section that appears to have a resource deficit is JLT, as counsel carry a workload that far exceeds other PLS sections and departmental standards for the number of hours per counsel in a fiscal year. The PLS may want to focus efforts on determining whether JLT will have sufficient resources to meet projected demands, particularly given government priorities to negotiate more agreements on international trade and investment.

After data collection was completed for the evaluation, it was learned that cost recovery would no longer apply to any PLS sections. The implications of this on the ability of the Sector to manage demand and maintain its responsiveness, quality, and efficiency in service delivery are unknown, although the evaluation indicated that cost recovery may have reduced demand for PLS services on lower profile (lower risk and complexity) files. The evaluation findings can provide a baseline for the PLS to assess the effects of the new funding approach on demand and efficiency. The PLS may want to consider a review of the effects of the new funding approach on demand levels, service delivery, and administrative efficiencies after the 2013–14 fiscal year.

To what extent are PLS services provided in a cost-efficient manner?

The LPM was instituted to achieve cost savings in legal services, and one method was through matching counsel to the risk and complexity of files in order to achieve efficiencies in legal operations. The idea was that junior counsel would be assigned to lower risk and complexity files. The appropriateness of the model to a specialized, expert unit like the PLS was questioned by stakeholders. The scope of the role of junior counsel within the PLS, which has central responsibilities for a whole-of-government approach to public law issues and must respond to often tight timelines, was considered limited. While stakeholders believe that the assignment of counsel to files under the LPM is appropriate, the ability to confirm this perception is not currently available. Data on legal risk and complexity levels are not available on approximately 99% of PLS files. Even if these data were available, the unit of analysis (a file) may not be appropriate, as the urgency of legal requests (and one file can contain multiple requests) is often

what creates the need for senior counsel involvement. In addition, because PLS counsel consider their work generally to be complex, they questioned the applicability of the LPM to the PLS practice environment. To assist with management of the Sector and demonstrate compliance with the spirit of the LPM, the PLS may want to develop performance indicators related to work assignment (file, legal requests) that are appropriate to the PLS and can be tracked.

Generally, the PLS was considered to provide cost-efficient legal services. In fact, during the period covered by the evaluation, the PLS expenditures increased modestly by just over 3%. One area of potential improvement identified by the evaluation was the quality of requests for legal services, which still vary in clarity and completeness. Unclear requests or misunderstood expectations of what the client needs can lead to unnecessary additional work. Training and improved communications between PLS and other Justice counsel should enhance the quality of legal requests. In addition, Justipedia is considered a key tool for improving efficiencies for PLS counsel, as well as for other Justice counsel who can use Justipedia to determine if legal opinions have already been provided on particular questions of law.

6. RECOMMENDATIONS AND MANAGEMENT RESPONSE

This section presents the recommendations and management response relative to the main evaluation issues.

Issue 1: Clarifying Expectations for PLS Legal Advice

Overall the evaluation found that PLS services are coherent and useful to those requesting them. The evaluation did identify some areas of potential improvement. Some Justice counsel perceive the advice from some sections as occasionally too technical or academic to be shared directly with client departments without the advice being rewritten by DLSU counsel. While PLS has responded by developing best practices for legal opinions, it may want to consider other ways to respond to the expectations and practice of DLSU counsel so that the purpose and use of the advice are clearly defined.

The evaluation also identified that although consultations within the PLS are working well, where more than one PLS section is involved in a legal matter, where appropriate, PLS could produce more joint opinions.

Another way to clarify expectations is to improve the quality of requests. The evaluation found that unclear and duplicative requests or misunderstood expectations of what the client needs can lead to unnecessary additional work by the PLS.

Recommendation 1:

That the PLS consult with Justice DLSUs on the proper use of PLS services in order to manage clients' needs and expectations.

Management Response:

Agreed. It is important for PLS to clarify the expectations of DLSUs/clients on an ongoing basis to identify and manage client's legal services needs and expectations.

Also, it is important for PLS to work on a collaborative basis with the DLSUs/clients to manage PLS' resources. Ways to reduce strain on PLS resources include the provision of joint opinions, where warranted, and ensuring

that requests for legal services are managed in a way that avoids unnecessary or duplicative efforts.

Issue 2: Clarifying the Role of PLS

By working with multiple DLSU counsel, litigators and client departments and agencies, PLS counsel are well placed to take a national perspective on legal issues. PLS counsel consulted with other potentially affected government departments on most of the files reviewed for the evaluation. However, the evaluation did raise some questions about whose responsibility it is to identify when other departments or DLSUs will be affected by a public law issue and to inform and engage them.

While the Department has identified ‘best practices’ in providing legal advice including the sharing of information with Justice colleagues, there is no explicit guidance on who is responsible to do so. Focus group participants generally agreed that this is a responsibility of both PLS and DLSU counsel.

Recommendation 2:

That the PLS identify, where appropriate, departments with which the DLSUs or client departments should consult.

Management Response:

Agreed. The primary responsibility for consulting other affected departments rests with the DLSU or client department that has initiated the request for PLS legal services.

However, PLS recognizes its value in bringing a cross-cutting or whole-of-government approach on public law issues. The primary responsibility of the DLSUs is also consistent with Phase II of Legal Risk Management that places responsibility of managing legal risk with the DLSUs.

Issue 3: Managing Demand for Services

As of April 2013, the PLS will no longer cost recover for its services. The evaluation concluded that cost recovery had to some extent affected decisions about when to consult PLS. The evaluation indicated that cost recovery may have reduced the demand for PLS services particularly on lower profile (lower risk and complexity) files. It is anticipated that the demand for PLS services may now increase, particularly for CAILS, HRLS and ILAPS.

Recommendation 3:

That the PLS take steps to monitor and manage the demand for their services in the absence of cost recovery.

Management Response:

Agreed. PLS assesses client demand for legal services on an ongoing basis as part of its annual business and financial planning exercise.

PLS will take steps to assess the resource impact of the ILAP Centre of Expertise.

Issue 4: Timeliness and Resource Issues

Based on multiple lines of evidence, the evaluation found that PLS clients consider the legal services from PLS to be timely, coherent and useful, despite the challenging environment with many urgent requests. The exception was with JLT, which has a heavier workload in terms of hours spent on files than any other PLS section. JLT has experienced a substantial increase in workload while simultaneously encountering a decline in the number of legal counsel. The unique pressures on JLT were supported by multiple lines of evidence and resource issues appear to have an impact on JLT's ability to manage the demand for its services.

Recommendation 4:

That the PLS work with DFAIT to assess how to address workload issues.

Management Response:

Agreed. JLT is experiencing unique resource challenges due to heavy client demand. An increase in resources to meet client demand would likely improve JLT's timeliness.

Issue 5: Training of Justice Counsel

The evaluation confirmed that PLS is actively carrying out its role in providing training to Justice counsel. Its sections have offered over 200 events to over 3600 participants through the Department's Professional Development Directorate (PDD) as well as a significant number of training courses outside of PDD.

The training data currently available varied by section and often did not include information on the participants or subject of the training. Given the importance of PLS training in informing counsel about public law issues, the PLS may want to conduct more systematic reviews of its training to ensure that training is meeting needs.

Recommendation 5:

That the PLS systematically collect information about the training it provides to Justice legal counsel and clients including information about the quality and usefulness of the training.

Management Response:

Agreed. Training outside PDD is provided to Justice counsel and clients upon request and is tailored to meet specific and stated client needs. Information about its usefulness could provide insights as to how the training responds to increased demand for legal services (supra #3 and 4).

Ways to acquire such information should take into account the various contexts in which training is provided. PLS training offered through PDD is, and will continue to be, evaluated by PDD.

Issue 6: Training for Senior Public Law Counsel

As for the training available to PLS counsel, the evaluation found a decline in satisfaction with training over the evaluation period. Due to a variety of reasons, training that is appropriate for subject matter experts is not readily available.

Recommendation 6:

That the PLS examine the training needs of more senior counsel working the Sector, and develop training opportunities to meet these needs.

Management Response:

Agreed, subject however to available resources and necessary approvals that are required to be sought at the departmental level for training opportunities for senior counsel.

PLS is committed to fostering an environment that favours and facilitates continuous learning and professional development for all lawyers, including training and opportunities to develop management capacity in the Department.

Issue 7: iCase Data

The ability to use iCase to respond to evaluation questions was limited. During the evaluation period, less than 1% of PLS files had a complexity level assigned and similarly for legal risk levels. This limited the analysis of trends on the nature of demand for PLS legal services and also limited the ability to assess law practice management measures such as assignment of higher risk, higher complexity files to more senior counsel.

Although the Department has not yet standardized a Legal Risk Management (LRM) grid for advisory files, it would be useful for the PLS to record legal risk assessments and re-assessments on appropriate advisory files. PLS may want to develop performance indicators related to work assignment (file, legal requests) that are appropriate to the PLS and can be tracked.

Recommendation 7:

That the PLS record and track legal risk and complexity in iCase on appropriate legal advisory files using available LRM tools once this has been launched by the Department.

Management Response:

Agreed. PLS currently applies sectoral legal risk management standards and has participated actively in the development of the new proposed legal risk assessment tool for advisory services. The Department will soon implement its new legal risk grid, which can then be introduced to PLS.

Issue 8: Consistent Approach to Opening Files

The use of iCase data was also affected by the lack of a consistent approach in opening advisory files across PLS sections. A ‘file’ may not be a consistent unit of analysis in that the number of requests for legal services does not necessarily equate with the number of files opened.

Recommendation 8:

That the PLS apply a more standardized process to opening advisory files such that it is possible to measure and compare requests for legal services and analyze trends over time.

Management Response:

Agreed. A more standardized process in opening advisory files across PLS sections could assist PLS to compare client demands for legal services among sections.

It will be necessary as well to take into account Justice’s progress on process optimization and Single File Initiatives, which will also affect how advisory files are opened and what data is collected for subsequent analysis.

Issue 9: Role of National Legal Advisory Committee (NLAC)

The NLAC, which is chaired by the ADM of the PLS, is intended to provide a forum for senior Justice officials to discuss non-litigation issues and ensure that the Department ‘speaks with one voice’ on advisory issues. The evaluation found that the NLAC has not often been used. Many potential reasons were identified for its low usage, including the perceived lack of clarity as to the NLAC’s role and a general lack of awareness of this committee.

Multiple lines of evidence indicate that differences of opinion between PLS and lead counsel on files are resolved through informal discussions and meetings of counsel to arrive at a Justice position. Given the low use of the NLAC, it may be appropriate for the Department to review the NLAC’s terms of reference and to clarify its role in the Department.

Recommendation 9:

That the PLS bring the findings of this evaluation related to the NLAC to the attention of the Executive Committee to discuss and clarify its role in the Department.

Management Response:

Agreed. In anticipation of this recommendation, PLS ADM brought this matter to the attention of the Executive Committee. Senior management is currently considering options with respect to NLAC’s role and structure.

Appendix A:
Evaluation Matrix

Evaluation Matrix for the Public Law Sector

Evaluation Issues and Questions	Indicators	Methods and Data Sources
Relevance		
<p>1. Is there a continuing need for Public Law Sector (PLS) services?</p> <p>a. To what extent has the demand for PLS services changed, or is expected to change?</p>	<ul style="list-style-type: none"> • Level of demand for PLS legal services • Changes in demand for PLS legal services 	<ul style="list-style-type: none"> • Document review: <ul style="list-style-type: none"> ○ Government of Canada , Justice, PLS and Section documents ○ iCase reports ○ Justice Canada Client Feedback Survey • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Focus groups with clients
<p>2. To what extent do the objectives and activities of the PLS align with the priorities and objectives of the Department of Justice and the Government of Canada overall?</p>	<ul style="list-style-type: none"> • Degree of alignment of PLS services with Department of Justice mandate and Government of Canada priorities 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Government of Canada, Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Policy/program staff at Justice
<p>3. To what extent are the legal services provided by PLS consistent with federal roles and responsibilities?</p>	<ul style="list-style-type: none"> • Consistency of the role of the PLS with federal roles and responsibilities when working with other levels of government, international governments and stakeholders 	<ul style="list-style-type: none"> • Documents <ul style="list-style-type: none"> ○ Government of Canada, Justice, PLS and Section documents
Performance		
<p>4. To what extent are PLS outputs being achieved?</p>	<ul style="list-style-type: none"> • Evidence of the achievement of outputs for the following activities: <ul style="list-style-type: none"> ○ policy advice ○ legal and legal policy advice ○ litigation services ○ negotiation of international instruments ○ continuing legal education/training ○ support of the Cabinet and parliamentary process 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents ○ iCase reports

Evaluation Issues and Questions	Indicators	Methods and Data Sources
<p>5. To what extent are PLS services/support meeting the needs of Departmental Legal Services Units (DLSUs)? Other clients?</p> <p>a. Are there areas for improvement?</p> <p>b. Are there other departments or agencies that require PLS services but are not accessing them? If so, what are the implications of this?</p>	<ul style="list-style-type: none"> • Extent to which PLS is consulted by other Justice counsel and/or District Attorneys • Quality/usefulness/timeliness of legal and policy services provided • Factors affecting the decision to use PLS services among clients and other Justice counsel • Potential risks of not seeking PLS services on Justice’s ability to deliver legal services and on the Government of Canada to achieve its goals • Evidence where not seeking PLS advice has had an impact – either positive or negative - on Justice, a client department, or the government as a whole 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents ○ Justice Canada Client Feedback Survey • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Focus groups with clients • Case studies
<p>6. To what extent is PLS achieving its expected outcomes?</p>	<p>Q6A. (Immediate: Departments/agencies and Ministers have access to timely, consistent, coherent advice)</p> <ul style="list-style-type: none"> • Extent to which clients indicate that advice is timely and coherent • Extent to which advice provided by Justice is consistent across the federal government 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents ○ Justice Canada Client Feedback Survey • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials • Case studies • Focus groups with clients
	<p>Q6B. (Immediate: Government litigators and decision-makers are aware and informed of policy options, legal risks, and legal options)</p> <ul style="list-style-type: none"> • Extent to which PLS is consulted on major litigation and policies/legislative initiatives • Extent to which decision-makers are aware of policy options, legal risks, and legal options 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials • Case studies • Focus groups with clients

Evaluation Issues and Questions	Indicators	Methods and Data Sources
	<p>Q6C. (Immediate: Effective advocacy of Government of Canada's position)</p> <ul style="list-style-type: none"> • Evidence of consultations, including PLS, to develop whole-of-government approach to legal and policy issues • Extent to which the Government of Canada's position is consistently communicated in domestic and international contexts, including courts 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials • Case studies • File review
	<p>Q6D. (Immediate: International bodies and other governments are made aware of Canadian positions)</p> <ul style="list-style-type: none"> • Level and nature of involvement of PLS counsel in multi-lateral/bilateral meetings where the Government of Canada has an interest 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials
	<p>Q6E. (Immediate: Domestic stakeholders are aware of Canada's international obligations)</p> <ul style="list-style-type: none"> • Extent to which PLS has made domestic stakeholders aware of the Government of Canada's rights and obligations under international instruments (e-mails, meeting minutes, documents, legal opinions etc.) 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Government of Canada, Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Case studies
	<p>Q6F. (Immediate: Justice counsel receive training and are kept current on public law principles and trends)</p> <ul style="list-style-type: none"> • Level of training provided by PLS • Extent to which PLS training activities (training, conferences, tools) have met trainees' needs • Extent to which clients are able to identify legal/policy contexts in which PLS advice is advisable • Extent to which tools/websites meet the needs of Justice counsel 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents ○ CLE evaluation forms ○ Justice Canada Client Feedback Survey • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel • Focus groups with clients

Evaluation Issues and Questions	Indicators	Methods and Data Sources
	<p>Q6G. (Immediate: Government officials are aware of the law and of their legal obligations)</p> <ul style="list-style-type: none"> • Extent to which government officials know when to consult DLSU counsel on public law issues • Extent to which DLSU counsel consult with PLS before providing legal advice 	<ul style="list-style-type: none"> • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Case studies • Focus groups with clients
	<p>Q6H. (Immediate: Confidence in PLS staff as experts)</p> <ul style="list-style-type: none"> • Level of client rating on ‘expert level of knowledge’ (measure on Client Satisfaction Survey) • Level of satisfaction among Justice counsel regarding PLS services • Extent to which PLS counsel are invited to participate in meetings, conferences, seminars 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Client Satisfaction Survey • Interviews <ul style="list-style-type: none"> ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Focus groups with clients
	<p>Q6I. (Immediate: Ministers have the necessary advice to make timely informed decisions)</p> <ul style="list-style-type: none"> • PLS briefs Minister in preparation for Parliamentary Committees • Level of satisfaction with PLS services 	<ul style="list-style-type: none"> • Interviews <ul style="list-style-type: none"> ○ Justice counsel ○ Senior government officials
	<p>Q6J. (Intermediate: The Government of Canada has an appropriate policy and legal framework that reflects domestic and international obligations)</p> <ul style="list-style-type: none"> • Extent to which PLS is able to provide advice to ensure that Canada’s laws and policies are consistent with domestic and international obligations 	<ul style="list-style-type: none"> • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Justice policy/program staff
	<p>Q6K. (Intermediate: Justice provides coherent [and consistent] legal, legal policy and policy advice to the Government of Canada)</p> <ul style="list-style-type: none"> • Extent to which Justice “speaks with one voice” • Extent to which legal, legal policy and policy advice is considered by decision-makers • Evidence of consultations, including PLS, to develop whole-of-government approach to legal, legal policy and policy issues 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Case studies • Focus groups with clients • File Review

Evaluation Issues and Questions	Indicators	Methods and Data Sources
	<p>Q6L. (Intermediate: The federal government is able to manage and mitigate its legal risks based on an integrated whole-of-government approach)</p> <ul style="list-style-type: none"> • Extent to which PLS counsel contribute to the assessment of legal risk and the development of options • Extent to which that District Attorneys (DAs) involve Justice counsel, including PLS, at an early stage in the assessment of risk and development mitigation strategies 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Government of Canada, Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Case studies • Focus groups with clients
<p>7. To what extent is PLS able to manage the demand for legal and policy services?</p> <p>a. To what extent does PLS have sufficient and appropriate resources to meet the demand?</p> <p>b. To what extent are DAs sharing in this responsibility?</p> <p>c. Are there any other factors that have an impact on the delivery of PLS services?</p> <p>d. To what extent does the PLS role as a central agency impact its ability to manage the demand for services?</p>	<ul style="list-style-type: none"> • Sufficiency of resources (human, financial, technical, competencies, training) to meet demand for services • Extent to which DAs plan/budget for the use of PLS services • Other factors that have an impact on the delivery of legal services by PLS • Impact of non-funded work done by PLS for Justice 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel • Case studies • Focus groups with clients • File review
<p>8. To what extent are PLS services provided in a cost-efficient manner?</p>	<ul style="list-style-type: none"> • Evidence that PLS makes use of best/promising practices • Extent to which PLS shares information with Justice counsel (for example, through practice groups/website tools) • Extent to which PLS has made efforts to reduce the costs of providing services • Evidence of strategies to reduce costs (for example, knowledge management) 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Government of Canada, Justice, PLS and Section documents • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Policy/program staff at Justice • Focus groups with clients • File review
<p>9. Are the appropriate management structures and processes in place to support the effective delivery of services?</p>	<ul style="list-style-type: none"> • Appropriateness of governance structure to support the delivery of PLS services (including role of the National Legal Advisory Committee) 	<ul style="list-style-type: none"> • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Policy/program staff at Justice

Evaluation Issues and Questions	Indicators	Methods and Data Sources
10. Are there better or alternative ways of achieving the same results?	<ul style="list-style-type: none"> • Evidence of alternative models for the delivery of public law services in other national governments 	<ul style="list-style-type: none"> • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Policy/program staff at Justice • Focus groups with clients
11. To what extent are PLS roles and responsibilities clearly defined, communicated and understood by Justice counsel?	<ul style="list-style-type: none"> • Evidence that roles and responsibilities are clearly defined and communicated • Extent to which requests are consistent with PLS roles and responsibilities • Evidence that PLS counsel are involved in activities that are outside the role of PLS • Degree to which Justice counsel understand the roles and responsibilities of PLS 	<ul style="list-style-type: none"> • Document review <ul style="list-style-type: none"> ○ Justice, PLS and Section documents ○ Client Satisfaction Survey • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Senior government officials ○ Policy/program staff at Justice • Focus groups with clients • File review
12. Are there any best practices or lessons learned in the delivery of PLS services/supports?	<ul style="list-style-type: none"> • Evidence of best practices and lessons learned 	<ul style="list-style-type: none"> • Interviews <ul style="list-style-type: none"> ○ PLS management/counsel ○ Justice counsel ○ Policy/program staff at Justice • Case studies • Focus groups with clients

Appendix B:
Data collection instruments

Evaluation of the Public Law Sector Key Informant Interview Guide for Public Law Sector Counsel and Management

The Department of Justice has hired PRA Inc. to conduct an evaluation of the Public Law Sector (PLS). The evaluation includes interviews with those working within the PLS, with representatives of the Department of Justice, and with representatives of other government departments who are familiar with the work of the PLS.

The information we gather through this interview will be summarized in aggregate form. Interview notes will not be shared outside of PRA and the Department of Justice Evaluation Division. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

****The following questions refer to the PLS, but we understand that you may not have direct knowledge of the PLS as a whole. If that is the case, please respond for your section within the PLS.****

****For brevity's sake, the questions refer to PLS legal services or advice. Please respond based on the work you do for the PLS, including litigation, litigation support, legal advice, policy and legal policy advice, and negotiations.****

In addition, some questions may not be applicable to the work you do. Please let us know and we will skip that question.

The evaluation focuses on 2007-2011, so please consider your experiences during those years in your responses.

Introduction

1. Please describe briefly your current roles and responsibilities within the PLS. Will you be responding to the following questions for PLS as a whole or for your section only?

Relevance

2. Over the last five years, have you observed any changes in the demand for PLS services? In your response, please consider the volume, type of legal issues, complexity, legal risk level, and any other characteristics of your work. How has the PLS responded to these trends?
[MATRIX Q1]

3. How does the work of the PLS align with the strategic outcomes of the Department of Justice? [MATRIX Q2]
4. How do PLS services align with the priorities of the federal government? [MATRIX Q2]

Performance — Effectiveness

5. Based on your experience, is the PLS generally consulted by client departments or other areas of Justice (Departmental Legal Services Units, regional offices, etc.) when it should be? In your response, please consider the extent to which the PLS is consulted on major public law issues that affect the areas in which you work, and whether the request for assistance from the PLS is timely and appropriate. [MATRIX Q5 and Q6B, Q6G]
6. How effective are consultations among the PLS, Justice, and other federal departments and agencies in ensuring a consistent legal position across government and developing a whole-of-government approach to public law issues? What, if anything, could be improved, and how might the PLS support any improvements? [MATRIX Q6C and Q6K]
7. What factors affect the willingness or ability to consult with the PLS among clients and/or other areas of Justice (e.g., cost, awareness/understanding of when it would be advisable to consult the PLS, perception of usefulness/desirability of obtaining PLS advice)? What are the potential risks to client departments, the Department of Justice, and the Government of Canada when the PLS is not consulted? [MATRIX Q5 and Q6G]
8. One of the outcomes identified for the PLS is that client departments/agencies and Ministers have access to timely, consistent, and coherent advice. To what extent is the PLS able to achieve this outcome? What, if any factors, affect the PLS's ability to provide timely, consistent, and coherent advice? [MATRIX Q6A]
9. When situations arise where the PLS advice differs from the advice of lead counsel on a file, how is that usually resolved? What structures are in place within PLS and Justice generally to promote consistency in its advice? How well do these structures work? [MATRIX Q6A]
10. Please describe how/if the PLS and Justice counsel work together to identify and assess legal risks, and how/if they work together to develop legal and/or policy options to manage or mitigate those risks. In your opinion, how effective is this collaboration? [MATRIX Q6B and Q6L]

11. Please describe the level and nature of the PLS's involvement in multilateral/bilateral meetings of international bodies. Based on your experience, how effective is Canada at communicating a consistent position and making international bodies and other governments aware of Canada's position? What, if anything, could be improved and how might the PLS support any improvements? [MATRIX Q6C and Q6D]
12. What is the PLS's role in ensuring that domestic stakeholders are aware of Canada's rights and obligations under international instruments? In your opinion, are these efforts successful? Why or why not? [MATRIX Q6E]
13. What is your opinion of the current training and other resources (e.g., tools, website, conferences) provided to Justice counsel and other clients on public law principles and trends? To what extent are training needs being met? Are there any gaps? [MATRIX Q6F]
14. In your opinion, is the PLS recognized within Justice and by other departments and agencies as the public law experts within the Government of Canada? What is the basis for your opinion? [MATRIX Q6H]
15. In your view, how well does the briefing process work (e.g., in terms of providing senior managers, the Deputy Minister, and the Minister with the necessary advice to make timely, informed decisions)? Please explain. [MATRIX Q6I]
16. In your experience, to what extent is the advice provided by the PLS considered by other Justice counsel when developing legal strategies and legal advice given to clients? [MATRIX Q6K]
17. To what extent does the advice appear to inform decisions made by Ministers and client departments/agencies? [MATRIX Q6K]
18. Are there any barriers to PLS advice being considered by client departments or agencies in the decision-making process? What factors make it more or less likely that PLS advice will be considered? [MATRIX Q6K]

Performance — Efficiency and economy

19. Does the PLS have adequate resources (e.g., human, financial, technological) in place to support its work? How does the PLS manage resource challenges? [MATRIX Q7]

20. In your opinion, what role do client departments/agencies play in improving the effectiveness, efficiency, and economy of the PLS legal services? To what extent are they fulfilling this role? [MATRIX Q7]
21. In your view, what factors affect the ability of PLS to manage the demand and/or cost of its legal services? In your response, please consider:
- any PLS efforts to adopt or implement best practices;
 - any strategies undertaken to reduce overall costs (such as knowledge management strategies, etc.) and/or the costs of providing legal services;
 - efficiencies achieved through PLS information-sharing activities (such as practice groups, online tools, etc.);
 - any non-funded work done by the PLS for Justice. [MATRIX Q7 and Q8]
22. What factors contribute to or constrain the PLS’s ability to provide timely, high quality, cost effective legal services? How might these factors be addressed? [MATRIX Q10]
23. In your view, does the current governance structure within Justice (e.g., the National Legal Advisory Committee) adequately support the PLS in its delivery of services? What, if any, barriers to service delivery have the PLS encountered? [MATRIX Q9]
24. In your experience, are requests for PLS services typically in line with PLS roles and responsibilities? Are you aware of any requests made to the PLS for services that go beyond the Sector’s mandate? If so, how were these requests addressed? Are there ways in which the PLS could communicate its roles and responsibilities more clearly to Justice and other clients? [MATRIX Q11]
25. In your view, what (if any) best practices or lessons learned have emerged from the delivery of PLS services and supports over the past five years? [MATRIX Q12]
26. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Public Law Sector

Key Informant Interview Guide for Justice Counsel (outside of the Public Law Sector)

The Department of Justice has hired PRA Inc. to conduct an evaluation of the Public Law Sector (PLS). The PLS is comprised of seven specialized legal advisory/policy and policy sections and one secretariat. The sections are: Constitutional, Administrative and International Law Section; Human Rights Law Section; Information Law and Privacy Section; Judicial Affairs, Courts, and Tribunal Policy Section; Trade Law Bureau; International Private Law Section; and Official Languages Law Section. In addition, PLS includes the International Aviation Law Secretariat.

The evaluation includes interviews with those working within the PLS, with representatives of the Department of Justice, and with representatives of other government departments who are familiar with the work of the PLS.

The information we gather through this interview will be summarized in aggregate form. Interview notes will not be shared outside of PRA and the Department of Justice Evaluation Division. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

****The following questions refer to the Department of Justice and the PLS, but we understand that you may not have direct knowledge of the Department of Justice or the PLS as a whole. If that is the case, please respond for your section within Justice and the PLS section(s) with which you have worked. ****

****For brevity's sake, the questions refer to PLS legal services or advice. Please respond based on the type of assistance you receive from the PLS, including litigation, litigation support, legal advice, policy and legal policy advice, and negotiations. ****

In addition, some questions may not be applicable to the work you do. Please let us know and we will skip that question.

The evaluation focuses on 2007-2011, so please consider your experiences during those years in your responses.

Introduction

1. Describe the level and nature of your involvement with the PLS. Which PLS section(s) have you worked with the most?

If you have worked with more than one section and any of your responses depends on one specific PLS section, please specify to which section you are referring in your answer.

Relevance

2. Over the last five years, have you observed any changes in the Department of Justice's demand for, and use of, PLS services? In your response, please consider the volume, type of legal issues, complexity, legal risk level, and any other characteristics. How has the PLS responded to these changes? [MATRIX Q1]
3. Based on your experience working with the PLS, how do PLS services support the Department of Justice's strategic outcomes? [MATRIX Q2]
4. How do PLS services align with the priorities of the federal government? [MATRIX Q2]

Performance — Effectiveness

5. When do you/your area of Justice consult with the PLS? Based on your experience, is the PLS consulted when it should be? In your response, please consider the extent to which the PLS is consulted on major public law issues that affect the areas in which you work. [MATRIX Q5 and Q6B, 6G]
6. Have you experienced any situations that limited your ability to use PLS legal services when you thought it was appropriate (e.g., client refusal, budgetary constraints)? If yes, please describe your experiences. In your opinion, what, if any, impact did this have on the progress or outcome of the file? [MATRIX Q5 and Q6B, Q6G]
7. How effective are consultations among the PLS, Justice, and other federal departments and agencies in ensuring a consistent legal position across government and developing a whole-of-government approach to public law issues? How effectively are differences in legal opinions resolved and through what process? What, if anything, could be improved, and how might the PLS support any improvements? [MATRIX Q6C and Q6K]

8. What factors affect your area's willingness or ability to consult with the PLS (e.g., cost, awareness/understanding of when it would be advisable to consult the PLS, perception of usefulness/desirability of obtaining PLS advice)? What are the potential risks to client departments, the Department of Justice, and the Government of Canada when the PLS is not consulted? [MATRIX Q5 and Q6G]
9. One of the outcomes identified for the PLS is that client departments/agencies and Ministers have access to timely, consistent, and coherent advice. To what extent is the PLS able to achieve this outcome? What, if any factors, affect the PLS's ability to provide timely, consistent, and coherent advice? [MATRIX Q6A]
10. What structures are in place within PLS and Justice generally to promote consistency in advice? How well do these structures work? [MATRIX Q6A]
11. Please describe how/if the PLS and Justice counsel work together to identify and assess legal risks, and how/if they work together to develop legal and/or policy options to manage or mitigate those risks. In your opinion, how effective is this collaboration? [MATRIX Q6B and Q6L]
12. Please describe the level and nature of the PLS's involvement in multilateral/bilateral meetings of international bodies. Based on your experience, how effective is Canada at communicating a consistent position and making international bodies and other governments aware of Canada's position? What, if anything, could be improved, and how might the PLS support any improvements? [MATRIX Q6C and Q6D]
13. What is the PLS's role in ensuring that domestic stakeholders are aware of Canada's rights and obligations under international instruments? In your opinion, are these efforts successful? Why or why not? [MATRIX Q6E]
14. What is your opinion of the current training and other resources (e.g., tools, website, conferences) provided to Justice counsel and (if you are aware) client departments/agencies on public law principles and legal and judicial trends? To what extent are training needs being met? Are there any gaps? [MATRIX Q6F]
15. In your opinion, is the PLS recognized within Justice and (if you are aware) by other departments and agencies as the public law experts within the Government of Canada? What is the basis for your opinion? [MATRIX Q6H]

16. In your view, how well does the briefing process work (e.g., in terms of providing the Minister, Deputy Minister, and Associate Deputy Minister with the necessary advice to make timely, informed decisions)? Please explain. [MATRIX Q6I]
17. In your experience, to what extent is the advice provided by the PLS considered in the legal strategies pursued and decisions made by Ministers, Justice counsel, and client departments/agencies? Are there any barriers to advice being considered in the decision-making process? What factors make it more or less likely that advice will be considered? [MATRIX Q6K]

Performance — Efficiency and economy

18. Based on your experience, does the PLS have adequate resources (e.g., human, financial, technological) in place to support its work? How does the PLS manage resource challenges? [MATRIX Q7]
19. In your opinion, what role do client departments/agencies or other areas in Justice that use the PLS play in improving the effectiveness and efficiency of the PLS legal services? Does your area of Justice have any processes to ensure that PLS services are used efficiently, such as prioritizing requests or ensuring that duplication of legal requests is avoided? [MATRIX Q7]
20. In your view, is the provision of PLS services cost-efficient? Why or why not? [MATRIX Q8]
21. Does your area of Justice obtain legal services from the PLS that are not subject to cost recovery? Please describe that work in terms of the nature and extent of the legal services being requested that are not cost-recovered. [MATRIX Q7]
22. What, if any, suggestions do you have for improving the efficiency or cost-effectiveness of legal services provided by the PLS? [MATRIX Q10]
23. In your view, does the current governance structure within Justice (e.g., the National Legal Advisory Committee) adequately support the PLS in its delivery of services? What, if any, barriers to service delivery have the PLS encountered? [MATRIX Q9]
24. In your experience, have the roles and responsibilities of the PLS been clearly defined and communicated to Justice counsel like yourself and (if you are aware) to client

departments/agencies? Are these client groups aware when they should consult with the PLS? Are there ways in which the PLS could communicate its roles and responsibilities more clearly to Justice and other clients? [MATRIX Q11]

25. Based on your experience working with the PLS, what would you identify as best practices or lessons learned in the delivery of PLS services? [MATRIX Q12]

26. In general, how satisfied are you with the services you have received from the PLS? [MATRIX Q6H]

27. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Public Law Sector Key Informant Interview Guide for Client Departments

The Department of Justice has hired PRA Inc. to conduct an evaluation of the Public Law Sector (PLS). The PLS is comprised of seven specialized legal advisory/policy and policy sections and one secretariat. The sections are: Constitutional, Administrative and International Law Section; Human Rights Law Section; Information Law and Privacy Section; Judicial Affairs, Courts, and Tribunal Policy Section; Trade Law Bureau; International Private Law Section; and Official Languages Law Section. In addition, PLS includes the International Aviation Law Secretariat.

The evaluation includes interviews with those working within the PLS, with representatives of the Department of Justice, and with representatives of other government departments who are familiar with the work of the PLS.

The information we gather through this interview will be summarized in aggregate form. Interview notes will not be shared outside of PRA and the Department of Justice Evaluation Division. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

****The following questions refer to the PLS, but we understand that you may not have direct knowledge of the PLS as a whole. If that is the case, please respond for the PLS section(s) with which you have worked.****

In addition, some questions may not be applicable to the work you do. Please let us know and we will skip that question.

The evaluation focuses on 2007-2011, so please consider your experiences during those years in your responses.

Introduction

1. The PLS provides litigation, litigation support, legal advice, policy and legal policy advice, and support for international negotiations. Please describe the level and nature of your involvement with the PLS. Which PLS section(s) have you worked with the most?

Please base your responses to the following questions on your experiences with these PLS sections. If you have worked with more than one PLS section and any of your responses

depends on one specific PLS section, please specify to which section you are referring in your answer.

Relevance

2. Over the last five years, have you observed any changes in your department or agency's demand for, and use of, PLS services? In your response, please consider the volume, type of legal issues, complexity, legal risk level, and any other characteristics. How has the PLS responded to these changes? Has your department or agency tried to reduce or manage the level of demand for PLS legal services and, if so, how? [MATRIX Q1 and Q7]

Performance — Effectiveness

3. When does your department or agency consult with the PLS? Generally, do you consult directly with the PLS or through your Departmental Legal Services Unit? [MATRIX Q5 and Q6B, 6G]
4. Based on your experience, is the PLS consulted when it should be? What situations, if any, have limited the use of the PLS legal services (e.g., cost, lack of awareness/understanding of when it would be advisable to consult the PLS, perception of usefulness/desirability of obtaining PLS advice)? In your opinion, what, if any, impact did this have on the progress or outcome of the file? [MATRIX Q5 and Q6B, 6G]
5. How effective are consultations among the PLS, your representatives, other Justice counsel representing your department or agency, and (as applicable) other relevant government departments in ensuring a consistent legal position across government and developing a whole-of-government approach to public law issues? What, if anything, could be improved? How might the PLS support any improvements? [MATRIX Q6C and 6K]
6. What factors affect your department or agency's willingness or ability to consult with the PLS (e.g., cost, awareness/understanding of when it would be advisable to consult the PLS, perception of usefulness/desirability of obtaining PLS advice)? What are the potential risks to your department or agency and the Government of Canada if the PLS is not appropriately consulted? [MATRIX Q5 and Q6G]
7. One of the outcomes identified for the PLS is that client departments/agencies have access to timely, consistent, and coherent advice. To what extent is the PLS able to achieve this

outcome? What, if any factors, affect the PLS's ability to provide timely, consistent, and coherent advice? [MATRIX Q6A]

8. Please describe any involvement the PLS has in helping your department or agency identify and assess legal risks, and develop legal and/or policy options to manage or mitigate those risks. In your opinion, how effective is this involvement of the PLS? [MATRIX Q6B and Q6L]
9. Please describe any work that your department or agency does with the PLS concerning multilateral/bilateral meetings of international bodies. Based on your experience, how effective is Canada at communicating a consistent position and making international bodies and other governments aware of Canada's position? What, if anything, could be improved and how might the PLS support any improvements? [MATRIX Q6C and Q6D]
10. Please describe any work that your department or agency does with the PLS in ensuring that domestic stakeholders are aware of Canada's rights and obligations under international instruments? In your opinion, are these efforts successful? What, if anything, could be improved and how might the PLS support any improvements? [MATRIX Q6E]
11. Has the PLS provided your department or agency with any training on public law principles and trends and/or on how to identify situations where the PLS should be consulted? How satisfied are you with any training received? To what extent are training needs being met? Are there any gaps? [MATRIX Q6F]
12. In your opinion, is the PLS recognized by your department or agency as the public law experts within the Government of Canada? Why or why not? [MATRIX Q6H]
13. In your experience, to what extent is the advice provided by the PLS considered in the legal strategies pursued and decisions made by your department or agency? Are there any barriers to advice being considered in the decision-making process? What factors make it more or less likely that advice will be considered? [MATRIX Q6K]

Performance — Efficiency and economy

14. In your opinion, what role do client departments/agencies have in improving the effectiveness, efficiency, and economy of the PLS legal services that they use? [MATRIX Q7]

15. In your view, is the provision of PLS services cost-efficient? Why or why not?
[MATRIX Q8]
16. What, if any, suggestions do you have for improving the efficiency or cost-effectiveness of legal services provided by the PLS? [MATRIX Q10]
17. Is your department or agency aware when it should consult with the PLS? Are there ways in which the PLS could communicate its roles and responsibilities more clearly to clients?
[MATRIX Q11]
18. Based on your experience working with the PLS, what would you identify as best practices or lessons learned in the delivery of PLS services? [MATRIX Q12]
19. In general, how satisfied are you with the services you have received from the PLS?
[MATRIX Q6H]
20. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Public Law Sector Case Study Guide for the PLS

The Department of Justice has hired PRA Inc. to conduct an evaluation of the Public Law Sector (PLS). One aspect of the study is an in-depth review of ten files to provide detailed information on the broad spectrum of services provided by the PLS. Each case study includes interviews with key PLS staff and client representatives (which may be representatives of the client department/agency and/or of the Departmental Legal Services Unit), as well as a review of the file, which is conducted by a PLS counsel.

The information we gather through this interview will be summarized in aggregate form. Interview notes will not be shared outside of PRA and the Department of Justice Evaluation Division. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

****For brevity's sake, the questions refer to PLS legal services or advice. Please respond based on the type of work conducted by your section, including litigation, litigation support, legal advice, policy and legal policy advice, and negotiations.****

In addition, some questions may not be applicable to the work you do. Please let us know and we will skip that question.

The evaluation focuses on 2007–2011, so please consider your experiences during those years in your responses.

1. What legal services did your section provide on this file and what was your role? [MATRIX Q4]
2. If you are aware of it, please describe the events leading up to and the process used to engage your section in this file. In your opinion, were services requested and engaged in a timely manner? Why or why not? [MATRIX Q5, Q6L, and Q6G]
3. How often and for what purpose was your section consulted on the file? Did you consult directly with client departments/agencies or with other areas of Justice (e.g., regional or Departmental Legal Services Unit counsel)? [MATRIX Q5, Q6B, and Q6G]
4. Did any situations arise where the advice provided by your section differed from the advice of the lead counsel? How was that resolved? [MATRIX Q6A]

5. To what extent was the advice provided on this file by your section considered in the development of the legal strategies and the advice given to the client? To what extent did your section's advice on this file inform the decisions made by the client? In your opinion, what factors affected whether the advice was considered? [MATRIX Q6G and Q6K]
6. In your opinion, how effective were these consultations in ensuring a consistent legal position across government and developing a whole-of-government approach to public law issues? [MATRIX Q6C and Q6K]
7. Were you involved in the identification, assessment, and communication of legal risk on the file? Please describe your involvement, including whether other Justice counsel were involved. Were you satisfied with the level of your involvement and how legal risk was assessed and communicated to the client? [MATRIX Q6B and Q6L]
8. Please describe your involvement in developing legal and policy options to manage or mitigate legal risks. Did you collaborate/consult with other Justice counsel and/or the client department/agency? Were you satisfied with the level of your involvement and how/whether your advice on managing legal risk was used? [MATRIX Q6B, Q6L, and Q6K]
9. Were you involved in the briefing process as part of this file? How well does that process work? [MATRIX Q6I]
10. In general, do you think the federal government's legal position was clearly and consistently communicated to the necessary stakeholder groups within government as well as to external stakeholders (i.e., international bodies, provincial or territorial governments, private sector, academic legal community)? Why or why not? What role did your section have in communicating the government's legal position? [MATRIX Q6C, Q6D, and Q6E]
11. In your opinion, were the services on this file provided by your section in a timely, coherent, and consistent manner? Why or why not? [MATRIX Q6A]
12. In your view, were sufficient resources available within your section to meet the demand for services on this file? Were you aware of any other resources challenges (human, financial, technical, competency, training) in your work on this file? How were these challenges managed? [MATRIX Q7]
13. Are there any other factors that affected your ability to deliver legal services? [MATRIX Q7]

14. In your opinion, was this file handled in a cost-effective manner? What, if anything, could have been done differently by your section, the PLS, Justice, and/or other stakeholders to improve timeliness or to reduce costs? [MATRIX Q8]
15. In your view, what, if anything, could have been done differently to better serve clients' needs? [MATRIX Q5]
16. Were any "lessons learned" from work on this file? Can you identify any best practices that emerged from the delivery of services and supports in relation to this file? Please explain. [MATRIX Q12]

Conclusion

17. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Public Law Sector Case Study Guide for the Justice Counsel (outside the Public Law Sector)

The Department of Justice has hired PRA Inc. to conduct an evaluation of the Public Law Sector (PLS). One aspect of the study is an in-depth review of ten files to provide detailed information on the broad spectrum of services provided by the PLS. Each case study includes interviews with key PLS staff and client representatives (which may be representatives of the client department/agency and/or of a Departmental Legal Services Unit), as well as a review of the file, which is conducted by a PLS counsel.

The information we gather through this interview will be summarized in aggregate form. Interview notes will not be shared outside of PRA and the Department of Justice Evaluation Division. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

The following questions refer to the PLS, but we understand that you may not have direct knowledge of the PLS as a whole. If that is the case, please respond for the PLS section(s) with which you have worked. In addition, some questions may not be applicable to the work you do. Please let us know and we will skip that question.

The evaluation focuses on 2007–2011, so please consider your experiences during those years in your responses.

1. With which section of the PLS did you work on this file?

Please base your responses to the following questions on your experiences with this PLS section.

2. Please describe the nature of the services that the PLS provided on this file. What was your role? [MATRIX Q4]
3. If you are aware of it, please describe the events leading up to and the process used to engage the PLS in this file. In your opinion, were PLS services requested and engaged in a timely manner? Why or why not? [MATRIX Q5, Q6L, and Q6G]
4. How often and for what purpose was the PLS consulted on the file? Did the PLS primarily consult within Justice, or did it also consult directly with the client? [MATRIX Q5, Q6B, and Q6G]

5. Did any situations arise where the PLS advice differed from the advice of the lead counsel? How was that resolved? [MATRIX Q6A]
6. To what extent was the PLS advice provided on this file considered in the development of the legal strategies and the advice given to the client? To what extent did the PLS advice provided on this file inform the decisions made by the client? In your opinion, what factors affected whether the PLS advice was considered? [MATRIX Q6G and Q6K]
7. In your opinion, how effective were the consultations with the PLS in ensuring a consistent legal position across government and developing a whole-of-government approach to public law issues? [MATRIX Q6C and Q6K]
8. Was the PLS involved in the identification, assessment, and communication of legal risk on the file? Please describe its involvement. Were you satisfied with the level of its involvement and its advice on assessing and communicating legal risk to the client? [MATRIX Q6B and Q6L]
9. To what extent was the PLS involved in developing legal and policy options to manage or mitigate legal risks? Were you satisfied with its level of involvement and its advice on legal and policy options to manage or mitigate legal risk? [MATRIX Q6B, Q6L, and Q6K]
10. Did the PLS assist with the briefing process as part of this file? If yes, were you satisfied with the PLS support that you received? [MATRIX Q6I]
11. In general, do you think the federal government's legal position was clearly and consistently communicated to the necessary stakeholder groups within government as well as to external stakeholders (i.e., international bodies, provincial or territorial governments, private sector, academic legal community)? Why or why not? What role did the PLS have in communicating the government's legal position? [MATRIX Q6C, Q6D, and Q6E]
12. In your opinion, were PLS services on this file provided by the PLS in a timely, coherent, and consistent manner? Why or why not? [MATRIX Q6A]
13. In your opinion, were appropriate PLS counsel assigned to this file (considering the years of experience of the counsel and the level of complexity of the file)? Did the PLS assign adequate resources to undertake the work required? Please explain any capacity issues you encountered. [MATRIX Q7]

14. In your opinion, was this file handled in a cost-effective manner? What, if anything, could have been done differently by PLS, Justice, and/or the client department/agency to improve timeliness or to reduce costs? [MATRIX Q8]
15. In your view, what, if anything, could the PLS have been done differently to better serve your needs or the clients' needs? [MATRIX Q5]
16. Were any "lessons learned" from work on this file? Can you identify any best practices that emerged from the delivery of PLS services and supports in relation to this file? Please explain. [MATRIX Q12]

Conclusion

17. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Public Law Sector Case Study Guide for Client Departments/Agencies

The Department of Justice has hired PRA Inc. to conduct an evaluation of the Public Law Sector (PLS). The PLS is comprised of seven specialized legal advisory/policy and policy sections and one secretariat. The sections are: Constitutional, Administrative and International Law Section; Human Rights Law Section; Information Law and Privacy Section; Judicial Affairs, Courts, and Tribunal Policy Section; Trade Law Bureau; International Private Law Section; and Official Languages Law Section. In addition, PLS includes the International Aviation Law Secretariat.

One aspect of the study is an in-depth review of ten files to provide detailed information on the broad spectrum of services provided by the PLS. Each case study includes interviews with key PLS staff and client representatives (which may be representatives of the client department/agency and/or representatives of a Departmental Legal Services unit), as well as a review of the file, which is conducted by a PLS counsel.

The information we gather through this interview will be summarized in aggregate form. Interview notes will not be shared outside of PRA and the Department of Justice Evaluation Division. You will have an opportunity to review our written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip that question.

The evaluation focuses on 2007–2011, so please consider your experiences during those years in your responses.

1. With which section of the PLS did you work on this file?

Please base your responses to the following questions on your experiences with this PLS section.

2. The PLS provides litigation, litigation support, legal advice, policy and legal policy advice, and support for international negotiations. Please describe the nature of the services that the PLS provided on this file and what was your role? [MATRIX Q4]
3. If you are aware of it, please describe the events leading up to and the process used to engage the PLS in this file. In your opinion, were PLS services requested and engaged in a timely manner? Why or why not? [MATRIX Q5, Q6L, and Q6G]

4. How often and for what purpose was the PLS consulted on the file? Did the PLS primarily consult within Justice, or did it also consult directly with your department/agency? [MATRIX Q5, Q6B, and Q6G]
5. Are you aware of any situations where the PLS advice differed from the advice of the lead counsel? If yes, how were the conflicts resolved? How comfortable were you with the advice you were ultimately given in these situations? [MATRIX Q6A]
6. To what extent did the PLS advice provided on this file inform the decisions made by your department/agency? In your opinion, what factors affected whether the PLS advice was considered? If you cannot respond specifically for the PLS, please respond generally for the advice you received from Justice. [MATRIX Q6G and Q6K]
7. In your opinion, how effective were the consultations with PLS in ensuring a consistent legal position across government and developing a whole-of-government approach to public law issues? [MATRIX Q6C and Q6K]
8. Were you satisfied with the risk assessments you received and how legal risk was communicated to your department/agency? Why or why not? To your knowledge, what role did the PLS have in identifying, assessing, and communicating legal risk? [MATRIX Q6B and Q6L]
9. Were you satisfied with the advice on legal and policy options to manage or mitigate legal risk provided to your department/agency? Why or why not? To your knowledge, what role did the PLS have in developing options and suggesting strategies for managing or mitigating legal risks? [MATRIX Q6B, Q6L, and Q6K]
10. To your knowledge, what, if any, briefing or reporting was done on this file? If none occurred, please explain why. If briefing occurred, did the PLS support the briefing process within your department/agency? Were senior managers/officials in your department/agency made sufficiently aware of this file? Please explain. [MATRIX Q6I]
11. In general, do you think the federal government's legal position was clearly and consistently communicated to the necessary stakeholder groups within government as well as to external stakeholders (i.e., international bodies, provincial or territorial governments, private sector, academic legal community)? Why or why not? What role did the PLS have in communicating the federal government's legal position? [MATRIX Q6C, Q6D, and Q6E]

12. In your opinion, were PLS services on this file provided by the PLS in a timely, coherent, and consistent manner? Why or why not? [MATRIX Q6A]
13. In your opinion, were appropriate PLS counsel assigned to this file (considering the years of experience of the counsel and the level of complexity of the file)? Did the PLS assign adequate resources to undertake the work required? Please explain any capacity issues you encountered. [MATRIX Q7]
14. In your opinion, was this file handled in a cost-effective manner? What, if anything, could have been done differently by PLS, Justice, and/or your department/agency to improve timeliness or to reduce costs? [MATRIX Q8]
15. In your view, what, if anything, could the PLS have been done differently to better serve your department's/agency's needs? [MATRIX Q5]
16. Were any "lessons learned" from work on this file? Can you identify any best practices that emerged from the delivery of PLS services and supports in relation to this file? Please explain. [MATRIX Q12]

Conclusion

17. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Public Law Sector File Review

Note: We are using the term “file” broadly. Some of you will be reviewing an entire file, while others will be reviewing discrete portions of files (e.g., a particular legal issue, round of negotiations). This decision should have been made and communicated to you in advance. Please contact your section’s member of the Evaluation Working Group (or, if she or he is unavailable, Joan Remsu) if you have any questions about the scope of the review you should be conducting for a particular file.

Time required to complete template (hours): _____

Overview [File characteristics and Matrix Q4]

Respond to this section for the file or, if applicable, the portion of the file you are reviewing with the possible exception of Q7. If you are reviewing a portion of the file, please describe in Q7 the nature of the file as a whole and then the section of the file that has been chosen to be the subject of the file review.

1. Assigned File Code Number: _____
2. Date file opened/work started: _____ Date file closed/work ended: _____
(mm/dd/yy) (mm/dd/yy)
3. Public Law Sector (PLS) Section (choose one):
___1 CAILS ___2 HRLS ___3 ILAPS ___4 JLT ___5 IPLS ___6 OLLS ___7 JACTPS ___8 IALS
4. Lead counsel
___01 PLS ___02 Regional office ___03 DLSU
___66 Other _____
5. Case type: ___1 Litigation ___2 Litigation support (i.e., PLS is not lead) ___3 Legal advice
___4 Policy advice ___5 Legal policy advice ___6 Negotiation
6. Client: ___1 Justice ___2 Other government department/agency
6A. Which area of Justice? _____
6B. Which other government department/agency? _____

7. Legal issue and brief description of the nature of the file and the selection within the file that is being used for the file review. Do not reference any information that would waive solicitor-client privilege. In your description, please include any cross-cutting issues (across PLS and/or the Department of Justice) and what factors make the file complex or high risk.

7A. How would you describe the complexity level of the file? (choose one):

- _1 Low _2 Medium _3 High _8 Unable to assess

Engagement of the PLS [Matrix Q5, Q6G, Q6L]

▼▼ QUESTION 8 IS FOR LITIGATION FILES ONLY ▼▼

8. When was the PLS first engaged on this file? (Check all that apply)

- _01 Before other areas of Justice (e.g., DLSU, regional office) provided advice to client on public law issues
- _02 Before initial legal risk assessment was made
- _03 Before client made any decisions based on legal options and/or litigation strategies
- _04 After the Claim or Action was commenced
- _05 Before a Defence or Response was filed on behalf of the Crown
- _66 Before other critical moment in file. Please specify _____
- _____
- _77 PLS was not engaged until late in the file. Please explain. _____
- _____
- _____
- _88 Don't know/can't tell

▼▼ QUESTION 9 IS FOR LITIGATION SUPPORT AND ADVISORY FILES. ▼▼

9. When was the PLS first engaged on this file/the request for advice received? (Check all that apply)

- _01 Before other areas of Justice (e.g., DLSU, regional office litigators, or Legislative Services) provided legal advice/services on public law issues
- _02 Before initial legal risk assessment was made
- _03 Before client made any decisions based on legal options and/or litigation strategies

___66 Before other critical moment in file. Please specify _____

___77 PLS was not engaged until late in the file. Please explain. _____

___88 Don't know/can't tell

▼▼ QUESTION 10 IS FOR POLICY AND LEGAL POLICY FILES. ▼▼

10. How was the PLS first engaged on this file/the request for advice received? (Check all that apply)

- ___01 From regular or routine work in a particular subject matter
- ___02 In anticipation of a court decision
- ___03 Following a court decision
- ___04 At the request of the Justice Minister
- ___05 At the request of a client (central agency, DLSU, client department)
- ___06 At the request of a Justice or PLS colleague as part of an ongoing file
- ___07 At the request of Legislative Services Branch in drafting legislation or regulations
- ___08 As a member of a committee, practice group, or working group in Justice
- ___09 As a member of a committee or working group in a client department
- ___10 From stakeholder or media pressure
- ___66 Other — please explain. _____

___88 Don't know/can't tell

Information from file [Answer the following questions based on documents in the file]

11. What was the seniority level of the initial lead PLS counsel:

- ___1 LA0 ___2 LA1 ___3 LA2A ___4 LA2B ___5 LA3A ___6 LA3B

12. Did the lead counsel change? ___1 Yes – GO TO Q13 ___0 No – GO TO Q14

13. What was the seniority level of the final PLS counsel:

- ___1 LA0 ___2 LA1 ___3 LA2A ___4 LA2B ___5 LA3A ___6 LA3B ___7 LA3C ___8 Can't tell

14. Was the PLS given a financial limit for fulfilling the request for legal services? [Matrix Q7]

- ___1 Yes ___0 No ___8 Unable to assess ___7 Not applicable, non-funded work for Justice

15. Did the PLS miss any client-imposed deadlines? [Matrix Q6A] ___1 Yes ___0 No ___8 Unable to assess

16. (If yes to Q15) How many times? _____ [Matrix Q6A]

17. (If yes to Q15) For what reason(s) were client deadlines missed (please include if an explanation to the client is available in the file and note if extensions were always or usually requested prior to missing deadlines)? [Matrix Q6A]

Litigation files only

18. Did the PLS miss any court deadlines? [Matrix Q6A]

___1 Yes ___0 No ___8 Unable to assess

19. (If yes to Q18) How many times? _____ [Matrix Q6A]

20. (If yes to Q18) Were additional court procedures required (e.g., motions)? [Matrix Q6A]

___1 Yes ___0 No ___8 Unable to assess

21. Did the PLS counsel consult with the Departmental Legal Services Unit? Consultations can include oral/written updates or oral/written discussions of legal risk or possible strategies, options, and approaches to the file. [Matrix Q5, Q6B, Q6G]

___1 Yes ___0 No - GO TO Q25 ___8 Unable to assess - GO TO Q25

22. Approximately how often did the PLS consult with the Departmental Legal Services Unit? (please check the most appropriate choice):

___1 At least weekly ___2 Bi-weekly ___3 Monthly ___4 Less than monthly ___5 Only at critical times in the file ___8 Unable to assess

23. Is there documentation in the file that shows what the consultations with the Departmental Legal Services Unit were about? (Check all that apply. If none apply, GO TO Q25.) [Matrix Q5, Q6B, Q6C, Q6G]

- | | | |
|--|--|--|
| ___01 Identifying and assessing legal risk | ___02 The potential impact of legal risk | ___03 Ensuring consistent approach across government |
| ___04 Potential legal options | ___05 Potential litigation strategies | ___06 Seeking policy direction |
| ___07 Sharing information | ___66 Other _____ | |
| ___88 Unable to assess | | |

24. (If you have identified any categories listed in Q23) What evidence is there in the files?

25. Did the PLS counsel consult directly with the client department/agency? Consultations can include oral/written updates or oral/written discussions of legal risk or possible strategies, options, and approaches to the file. [Matrix Q5, Q6B, Q6G]

_1 Yes _0 No - GO TO Q29 _8 Unable to assess – GO TO Q29

26. Approximately how often did the PLS consult directly with the client department/agency? Consultations can include oral/written updates or oral/written discussions of possible strategies, options, approaches to the file (please check the most appropriate choice): [Matrix Q5, Q6B, Q6G]

_1 At least weekly _2 Bi-weekly _3 Monthly _4 Less than monthly _5 Only at critical times in the file _8 Unable to assess

27. Is there documentation in the file that shows what the consultations with the client were about? (Check all that apply. If none apply, GO TO Q29.) [Matrix Q5, Q6B, Q6C, Q6G]

_01 Identifying and assessing legal risk _02 The potential impact of legal risk _03 Ensuring consistent approach across government
_04 Potential legal options _05 Potential litigation strategies _06 Seeking policy direction
_07 Sharing information _66 Other _____
_88 Unable to assess

28. (If you have identified any categories listed in Q27) What evidence is there in the file?

29. Did the PLS counsel consult with any of the groups listed below? Consultations can include oral/written updates or oral/written discussions of legal risk or possible strategies, options, and approaches to the file. [Matrix Q5, Q6B, Q6G]

_01 Regional office within Justice _02 Other section in PLS _03 Other potentially affected government departments/agencies
_04 Provincial/territorial representatives _05 Canadian judiciary _06 Other countries' representatives/counsel
_88 Unable to assess
_66 Other _____

30. Approximately, how often did counsel consult with other PLS sections? (please check the most appropriate choice):

_0 No consultations with other PLS sections – GO TO Q33 [Matrix Q5, Q6B, Q6G]

_1 At least weekly _2 Bi-weekly _3 Monthly _4 Less than monthly _5 Only at critical times in the file _8 Unable to assess

31. Is there documentation in the file that shows what the consultations were about? (Check all that apply. If none apply, GO TO Q33.) [Matrix Q5, Q6B, Q6C, Q6G]

_01 Identifying and assessing legal risk _02 The potential impact of legal risk _03 Ensuring consistent approach across government

_04 Potential legal options _05 Potential litigation strategies _06 Seeking policy direction

_07 Sharing information _66 Other _____

_88 Unable to assess

32. (If you have identified any categories listed in Q31) What evidence is there in the file?

33. Did the PLS receive urgent requests for its services (i.e., requests needed within a short period of time)?

_1 Yes _0 No _8 Unable to assess [Matrix Q6A]

34. On average, how long were you given to respond to the requests? [Matrix Q6A]

_1 Same day _2 1 day _3 2–3 days _4 4–10 days _5 11–20 days
_6 21–30 days _7 More than 30 days _8 Unable to assess

35. Based on the documentation in the file, were there **any** requests for PLS services that were inconsistent with PLS roles and responsibilities? [Matrix Q11]

_1 Yes _0 No _8 Unable to assess

36. (If yes to Q35) Who made the requests that were outside of the PLS roles and responsibilities? (Check all that apply) Matrix Q11]

_01 Other Justice counsel _02 Other government department/ agency

_66 Other _____

37. Based on the documentation in the file, were any requests for PLS services overly broad? [Matrix Q11]

_1 Yes _0 No _8 Unable to assess

37A. If yes, please explain. _____

38. (If yes to Q37) Who made the requests that were overly broad? (Check all that apply) [Matrix Q11]
 ___01 Other Justice counsel ___02 Other government department/ agency
 ___66 Other _____
39. Based on the documentation in the file, did PLS counsel identify issues that should be referred to other areas within PLS and/or within Justice? [Matrix Q11]
 ___1 Yes ___0 No ___8 Unable to assess
40. (If yes to Q39) Did PLS counsel bring those issues to the attention of the client/DLSU. [Matrix Q11]
 ___1 Yes ___0 No ___8 Unable to assess
41. (If yes to Q39) Were the issues referred to the other areas within PLS and/or within Justice? [Matrix Q11]
 ___1 Yes, always ___2 Yes, sometimes ___0 No ___8 Unable to assess
42. Did the PLS services include any of the following? (Check all that apply). [Matrix Q6A, Q6B, Q6C]
 ___1 Explanation of law ___2 Discussion of legal risks ___3 Potential impact to client ___4 Potential impact to Government of Canada
 ___5 Policy options ___6 Legal options ___7 Litigation strategies ___8 Unable to assess
43. What quality control processes are evident in the file documentation? (Check all that apply). [Matrix Q6A]
 ___01 Peer review of written materials ___02 Use of practice directives ___03 Use of templates ___04 Mentoring
 ___05 Supervisor review of written materials ___66 Other _____
 ___88 Unable to assess
44. At what level was the advice approved? [Matrix Q6A]
 ___01 Section head ___02 Assistant Deputy Minister ___03 Associate Deputy Minister ___04 Deputy Minister
 ___05 Director ___06 Deputy Director
 ___66 Other _____
 ___88 Unable to assess
45. Who received the advice? [Matrix Q6B]
 ___01 Minister ___02 Deputy Minister ___03 Associate Deputy Minister ___04 Assistant Deputy Minister
 ___05 Other portfolios ___06 Regional offices ___07 Privy Council Office ___88 Unable to assess
 ___66 Other _____
46. Based on the documentation in the file, was the advice provided by the PLS considered by other Justice counsel when developing the legal strategies and giving advice to the client? [Matrix Q6G, Q6K]
 ___1 Yes, always ___2 Yes, sometimes ___0 No ___7 Not applicable to this file ___8 Unable to assess

47. (If yes to Q46) What evidence is there in the file? [Matrix Q6G, Q6K]

48. Based on the documentation in the file, was the advice provided by the PLS considered by the client in its decision making? [Matrix Q6G, Q6K]

_1 Yes, always _2 Yes, sometimes _0 No _8 Unable to assess

49. (If yes to Q48) What evidence is there in the file? [Matrix Q6G, 6K]

50. Based on the documentation in the file, did any situations arise where the PLS advice differed from the advice of the lead counsel? [Matrix Q6A]

_1 Yes _0 No _7 Not applicable to this file _8 Unable to assess

51. (If yes to Q50) Based on the documentation in the file, how were these situations resolved? (Check all that apply) [Matrix Q6A]

_01 PLS advice provided to client _02 Lead counsel advice provided to client _03 Client provided both positions
_04 Meeting of counsel was held to arrive at Justice position _05 Issue taken to the National Legal Advisory Committee for discussion _06 National Litigation Committee
_66 Other _____
_88 Unable to assess

52. Was the file brought to the attention of senior Justice officials/structures? [Matrix Q6I]

_1 Yes _0 No _8 Unable to assess

53. (If yes to Q52) Which ones? (Check all that apply.) [Matrix Q6I]

_01 Minister/Deputy Minister _02 Portfolio ADMs _03 Regional Litigation Committees
_04 Regional Director Generals _05 National Litigation Committee _06 Team leader
_07 National Legal Advisory Committee _08 Policy Committee
_66 Other _____

54. Is there documentation in the file that shows that any of the following were used/prepared? [Matrix Q6I]

_01 Risk assessment document _02 Contingency plan _03 Communication plan (should be part of contingency plan, but check to ensure it is)
_04 Briefing notes _05 Early Warning Note for file

55. Was the file included in any of the following? [Matrix Q6I]

- _01 Early Warning Reports _02 Top 100 High Impact Report _03 Radar Screen _04 Scanning News
_05 Justice Practice Group discussion

56. Is there evidence in the file of PLS reviewing or helping to prepare communication products for use domestically to communicate the Government of Canada's position? [Matrix Q6C, Q6E]

- _1 Yes _0 No _8 Unable to assess _7 Not applicable

57. (If yes to Q56) Which of the below products are in the file? [Matrix Q6C, Q6E]

- _01 Q&As/Talking points _02 Briefing Notes _03 Press release _04 Backgrounder
_05 Media lines _06 QP note
_66 Other _____

▼▼ QUESTIONS 58–63 ARE FOR FILES INVOLVING INTERNATIONAL ISSUES ▼▼

58. Is there evidence in the file of PLS reviewing or helping to prepare communication products for use internationally to communicate the Government of Canada's position? [Matrix Q6C, Q6E]

- _1 Yes _0 No _8 Unable to assess _7 Not applicable

59. (If yes to Q58) Which of the products listed below are in the file? [Matrix Q6C, Q6E]

- _01 Q&As/Talking points _02 Briefing Notes _03 Press release _04 Backgrounder
_05 Media lines _06 QP note
_66 Other _____

60. What international fora did the PLS attend? [Matrix Q6D]

- _7 Not applicable – GO TO Q62

61. (If applicable) What was the nature of the PLS's involvement in these fora? [Matrix Q6D]

62. Is there evidence in the file of efforts made by PLS counsel to make:

- a. domestic stakeholders outside of the federal government aware of the Government of Canada's rights and obligations under international instruments? [Matrix Q6E]

- _1 Yes _0 No _8 Unable to assess _7 Not applicable

b. other federal officials aware of the Government of Canada's rights and obligations under international instruments? [Matrix Q6E]

_1 Yes _0 No _8 Unable to assess _7 Not applicable

63. (If yes to Q62) What evidence is there in the files? [Matrix Q6E]

Risk assessment [Matrix Q6A]

64. PLS was not involved in assessing legal risk.

_7 Not applicable (GO TO Q75)

65. Potential client impact:

- | | | |
|--|---|---|
| <input type="checkbox"/> _01 Affects administration of justice/public confidence | <input type="checkbox"/> _02 Affects federal, provincial, or international relations, treaties, or agreements | <input type="checkbox"/> _03 Legal issues or events that may be controversial, attract significant national media attention, or involve Cabinet Ministers or prominent public figures |
| <input type="checkbox"/> _04 Limitations of federal jurisdiction | <input type="checkbox"/> _05 Major effect on fiscal resources of client or government | <input type="checkbox"/> _06 Major effect on human rights, personnel, access and privacy, gender, or diversity issues |
| <input type="checkbox"/> _07 Major effect on law/regulations of client or government | <input type="checkbox"/> _08 Major effect on programs/policies/initiatives of client or government | <input type="checkbox"/> _09 Major effect on relations with Aboriginal people, Métis |
| <input type="checkbox"/> _10 Major effect on the Charter or Constitution | <input type="checkbox"/> _11 Matter of national interest | <input type="checkbox"/> _77 Not applicable <input type="checkbox"/> _88 Unable to assess |
| <input type="checkbox"/> _66 Other _____ | | |

66. Does the file include a discussion/indication of risk level with respect to the file as a whole or specific aspects of the file?

_1 Yes _0 No (GO TO Q75)

67. Were equivalent levels of risk described consistently throughout the file?

_1 Yes _0 No _8 Unable to assess

68. (If no to Q67) What language was used to describe the level of legal risk to clients? Please give verbatim examples that show the range of language used.

69. Based on your review of the file, was the highest legal risk level for this file:

- _1 Low
 _2 Medium
 _3 High
 _8 Can't tell

Litigation files only

70. At what stage in the case was the **initial (or only)** risk assessment done?

- _01 Post-pleadings
 _02 Post-discovery
 _03 Pre-scheduled trial date
 _04 After decision
_05 After appeal filed
 _88 Can't tell
_66 Other, please specify _____

71. Was the level of legal risk **reassessed**?

- _1 Yes
_0 No (GO TO Q75)
_8 Can't determine (GO TO Q75)

72. Why was the level of legal risk **reassessed**?

- _01 Further information provided by client
_02 Further consultation with stakeholders
_03 Evolution in jurisprudence
_04 Policy modifications
_05 Evolution of government priorities
_88 Can't tell
_66 Other, please specify _____

73. If case was **reassessed** to a higher risk level, did any of the following occur after the reassessment?

- _01 Increased number of counsel on file
_02 Assignment of senior counsel to file
_03 (Litigation only) Consideration of dispute resolution process
_04 (Litigation only) Use of dispute resolution process
_05 Increased consultations
_06 Increased reporting
_88 Can't tell
_66 Other, please specify _____

Litigation files only

74. At what stage in the case was the risk **reassessed**?

- _01 Post-pleadings _02 Post-discovery _03 Pre-scheduled trial date _04 After decision
_05 After appeal filed _88 Can't tell
_66 Other, please specify _____

iCase information –Matrix Q7 and Q8]

75. How many hours did lead PLS counsel spend on the file? _____ hours

76. Indicate the number of additional PLS counsel on the file by seniority level and indicate the number of hours spent on the file:

For JLT: Please reflect counsel in DFAIT positions at the roughly equivalent LA level (e.g., FS-03 and CO-3s are equivalent to LA-2As; CO-2s are equivalent to LA-01).

Type	# of counsel	Hours for each counsel
<input type="checkbox"/> _01 LA0	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
<input type="checkbox"/> _02 LA1	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
<input type="checkbox"/> _03 LA2A	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
<input type="checkbox"/> _04 LA2B	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
<input type="checkbox"/> _05 LA3A	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
<input type="checkbox"/> _06 LA3B	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
<input type="checkbox"/> _07 LA3C	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
<input type="checkbox"/> _66 Other	_____	Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____

77. Indicate the number of paralegals on the file and indicate the number of hours spent on the file by each paralegal:

_____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____

Any additional comments (indicate applicable question, if appropriate):
