

**Legal Services Board of Nunavut**  
**Annual Report**  
**2011-2012**  
*(Twelfth Annual Report)*

## INTRODUCTION

The Legal Services Board of Nunavut (LSB) was incorporated in July 2000, pursuant to section 3(1) of the *Legal Services Act, R.S.N.W.T. 1988, c-14*. As the territory's legal aid plan, LSB is responsible for providing legal services to financially eligible Nunavummiut in the areas of criminal, family and civil law. In addition to providing legal counsel, LSB is also mandated to deliver public legal education and information in the territory and to develop and support the Inuit courtworkers program at the local level. LSB programs also include an After Hours Law Line for citizens seeking legal advice on arrest outside of business hours, a Family Law Line offering general family law information, and a Civil/Poverty Law Line offering general civil law information.

LSB is governed by a territorial Board of Directors comprised of a Government of Nunavut representative, a Law Society of Nunavut representative, three regional representatives, and two members-at-large. The GN Minister of Justice appoints all LSB Board members. Legal services are provided through three regional clinics, each of whom has a regional board of directors. Although LSB is publicly funded it is not a government department - it is an arms' length public agency that is independently run.

The administrative offices of LSB are located in Gjoa Haven. Accounts payable and receivable are handled by the Gjoa Haven office, along with client intake, application assessments, and most of the financial eligibility analysis.

LSB's regional legal aid clinics are located in Cambridge Bay (Kitikmeot Law Centre), Rankin Inlet (Keewatin Legal Services Centre), and Iqaluit (Maliiganik Tukisiiniakvik). Each clinic is staffed by a complement of family and criminal lawyers, administrative support, and court workers. Courtworkers are based both within the clinics and in the communities. In Iqaluit, there is also a civil lawyer on staff who handles the approved civil/poverty files for the territory.

The current Chief Executive Officer is located in Rankin Inlet and is supported by an Executive Assistant and a Comptroller.

In addition to its staff lawyers, LSB continues to rely on private counsel (non-staff lawyers) to meet the demands of clients, conflicts, the Court, and a growing circuit schedule. At first instance, all Nunavummiut who are criminally charged are presumptively entitled to legal aid counsel for their first Court appearance. Legal representation for subsequent appearances will only be approved by LSB if a client has satisfied the financial eligibility criteria. Similarly, family and civil law applicants must also meet financial eligibility prerequisites, and assignment of legal aid counsel will be made following the assessment of a legal opinion.

This is the Nunavut Legal Services Board's twelfth full year of operation.

## MESSAGE FROM THE CHAIR OF THE BOARD

On behalf of the Board of Directors of the Legal Services Board of Nunavut, it is my pleasure to present the 2011-12 Annual Report.

For the 2011-12 fiscal year, LSB focused on stabilizing and strengthening the organization, both internally and externally to deliver high quality legal representation for Nunavut communities and our clients. The Board worked closely with our management team as they carried out this work with determination, patience, hard work and resourcefulness. We are encouraged by the commitment and concern demonstrated by all staff as they helped clients in their time of need.

The enclosed report demonstrates LSB's commitment to providing Nunavummiut in need of legal services with a range of quality legal aid programs. We are seeing the positive results of LSB's continued effort to stabilize the organization. Key activities for 2011-12 strengthened LSB's financial management with the hiring of its first financial comptroller, along with the development and deployment of new financial processes that greatly enhanced financial accountability, both internally and externally. LSB contracted a consulting firm to undertake a Structural/Organizational Review to assess where the organization can improve efficiencies and increase effectiveness with respect to its operations and delivery of programs and services to Nunavummiut. LSB and the regional legal aid clinics continue to grow in response to the increased demand for our services.

We thank our staff and partners for supporting our vision to be a leader amongst legal aid organizations. We are dedicated to providing quality services and improving access to justice for Nunavummiut.

Thank you,  
***Madeleine Redfern***  
***LSB Chair***

## MANDATE

LSB's mandate is outlined in section 7 of the *Legal Services Act*. Essentially the organization is to provide legal representation for eligible applicants and to deliver public legal education and information for Nunavummiut.

*s.7 The objects of the Board are*

- (a) to ensure the provision of legal services to all eligible persons;*
- (b) to ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and*
- (c) to develop and co-ordinate territorial or local programs aimed at*
  - (i) reducing and preventing the occurrence of legal problems, and*
  - (ii) increasing knowledge of the law, legal processes and the administration of justice;*
  - (iii) providing public education and outreach with respect to human rights.*

As in previous years the demand for legal aid has grown, as evidenced by growing numbers of criminal, family, and civil applicants. Two additional Judicial appointments this year have increased the Court's capacity to schedule additional circuit and more trial Courts. Additional funding for Public Prosecutions has grown their ability to attend and manage the extra workload. Without a proportional funding increase, LSB struggled this year to stretch financial and legal resources to keep pace with the supplementary circuits, the increase in serious criminal charges, and increasingly serious criminal cases. Nonetheless, legal aid managed to meet its mandate evidenced by our increased participation on Court circuits, growing staff numbers, and an increasing number of complex litigations.

As Nunavummiut have become more aware of their civil and Constitutional rights, they have demanded increased services to protect those rights. LSB's legal team has risen to that challenge with integrity, dedication, and vigor.

## THE YEAR IN REVIEW: 2011 – 2012

LSB reports another busy year of legal representation, administrative development and positive growth within the organization. The demand for legal aid services continues to grow and LSB has again risen to the challenge of stretching internal resources to meet that need. Nunavut is a vast geographical territory, and providing service to clients in each of our remote communities creates considerable costs and challenges. The growing Court schedule, handling an increasing number of criminal charges and responding to more serious legal matters requires more legal, administrative and operational support. The Board of Directors continues to be proactive and fully engaged ensuring that on-going business is addressed and emerging issues are given direction. In addition, the LSB directors continue to proactively work on policy development, internal process development, program review and long term planning. On the front line, LSB's outstanding staff continue to provide quality legal services to Nunavummiut across the territory.

- In 2011-12 the LSB legal team was made up of 11 criminal lawyers, 7 family lawyers, 1 civil lawyer, and the CEO in accordance with legislation. Staff lawyers were assigned to the Cambridge Bay, Rankin Inlet and Iqaluit regional clinics. Legal services are provided through a blended model, which means LSB utilizes private lawyer panels to supplement and support staff lawyers handling client files and litigation. LSB's private criminal lawyer panel sat at 15, while the private family lawyer panel had only 1 lawyer. In order to cover family file conflicts, LSB entered into an agreement with NWT Legal Aid whereby one family lawyer in each organization was designated as the reciprocal lawyer for the other territory. In conflict situations, the legal aid plans are able to assign the conflicted party to the reciprocal lawyer in the other territory. In 2011-12 the legal aid team attended 115 circuits, a total of 235 Court weeks, and managed 21 instances of simultaneous regional circuit Courts.
- In May 2011, Keewatin Legal Services Centre in Rankin Inlet moved to its new location in the Aurora Northern Professional Centre at 18-4 Avinngaq Street. This move was much welcomed and the result of many, many months of work for the regional team and LSB Directors. This fall, LSB received notice that Maliiganik Tukisiiniakvik in Iqaluit will have to secure new office space by December 2012, and work is already underway to assess potential locations. Similarly, the Kitikmeot Law Centre will require a new location by the summer and that analysis is being done by the regional staff in Cambridge Bay.
- Following an external competition in the winter of 2011, LSB hired Jim Leschuk as the Comptroller (Finance Manager) for LSB in April. This addition enabled LSB to develop and implement fundamental financial processes to ensure adequate internal oversight. In addition, through the Comptroller's office, LSB has improved and built upon internal coding to ensure that the most accurate and detailed information is being provided to the territorial Board for financial planning and response purposes. This year has been a landmark year for LSB's financial management and information gathering. The organization has now reached another level of capacity for financial planning, budgeting, management, and reporting.

- This past year LSB saw the appointment of a new Board member following the departure of Tommy Pigalak from Kugluktuk. Sarah Nunia Flynn of Rankin Inlet was appointed by the Minister of Justice as a member-at-large. LSB also welcomed the re-appointment of Directors Teddy Carter, Elijah Padluq, and Madeleine Redfern.
- The regional Boards of Directors for the Keewatin Legal Services Centre and the Kitikmeot Law Centre have been reinstated and have assumed their regional responsibilities. Recently appointed Clinic Director Susan Switch (Rankin Inlet) and Interim Clinic Director Clare Henderson (Cambridge Bay) have worked hard to support the regional boards and to engage them in the day-to-day regional operations.
- The GN Departments of Finance and Justice continue to oversee and control LSB's official financial records and key financial processes. LSB's enhanced financial management capacity has added to the work of our GN partners. The GN continues to process LSB's accounts payable and receivable, compensation and benefits. This past year LSB instituted an internal signing matrix, updated leave record system, and completed the procurement process for the first independent financial audits of the organization's books. These independent audits are in response to problems that arose in 2009-10 when LSB learned that the GN's financial processes didn't offer the necessary protection to ensure LSB's funds were spent with sufficient Board oversight or approval.
- As a publicly funded organization, LSB is legislated to undertake independent, annual audits of its finances. Since the organization's inception independent audits have not occurred. Historically, the GN had advised LSB that our finances were rolled into the Justice portion of the GN's financial audit process. Since 2009, this has been a primary concern for the territorial Board. LSB initiated dialogue with the GN at that time as to how independent audits of LSB could be undertaken. With the support of the GN, LSB has now engaged in this process proper and committed to ensuring the audits are done.
- In March 2012, LSB released a RFP for audit services and expect that auditors will be appointed early next fiscal. This is an exciting and challenging opportunity for LSB as it will greatly enhance our financial accountability and be instrumental in identifying potential risks in our financial operations. The challenge will be in determining how an audit will unfold as LSB's finances are substantively controlled by the GN and the level of co-mingling of accounts will need to be determined. Also, as LSB has been in operation since 1999, assessing how far back these audits should begin and how opening balances and financial statements can be produced will also need to be decided.
- LSB's internal coding system continues to be a valuable financial planning tool for legal aid. The GN system allows for only 8 line items: Salary & Benefits, Contract Employees, Professional Fees, Ongoing Contributions, Travel & Transportation, Materials & Supplies, Purchased Services, and IT & Other Expenses. These categories do not provide a sufficient level of information for the Board and senior management to adequately know, plan and respond to LSB's operational needs. For the first time, LSB's internal system now allows LSB to track important expenditure trends, on-going budget pressures, and emerging issues for the organization, including by service areas: criminal

law, family law, civil law, clinics, administration, governance, etc. This past year, LSB notes its resource allocation as follows: 61% to the legal practices; 17% to the governance and administration of LSB; and 22% to the regional clinics. Of the monies allocated to the legal practices, 65% went to the criminal practice, 31% went to the family practice, and 4% went to the civil/poverty practice area.

- This winter, several external factors challenged LSB's ability to continue to deliver programs and services at their current level within our approved financial budget. These included additional Judicial appointments, increased Public Prosecutions resources and Crown prosecutor hires, increased circuit and trial weeks, and increased rental costs for the Iqaluit clinic's new office space. Each and every incremental increase results in additional costs for LSB. Going forward LSB recognizes that our current financial appropriation will not support the costs of service delivery at its current level and a business case for a proposed and justified budget increase is being prepared for 2012-13. Almost all of these additional costs are beyond LSB's control such as an increase in the number and severity of criminal charges, more complex litigation requiring specialized and costly resources, an increase in the number of Court weeks, and the closing of the building where Maliiganik Tukisiiniakvik rented office space at a subsidized rate.
- This fiscal year LSB processed 219 new family law legal aid applications. Of those applications, 113 were approved. These numbers are lower than last year, but deceptively so. Last year's family processes included a significant portion of the historical family application backlog that LSB struggled with in recent years. This year's numbers, while lower, present a clearer picture of current demands on the family practice. Remembering that family files typically carry over fiscal years, so too these new application numbers do not include earlier file assignments that are still current before the Court. At year end LSB had 93 family law applications pending for assessment and potential assignment. Our records indicate that 302 family files were completed and closed this year. In March 2011, a new assignment process targets an increase of 10% - 15% in the file loads of our staff family lawyers over the next calendar year. In addition, LSB is planning to implement internal mediation processes on appropriate files on a trial basis. This follows enhanced mediation training that our family lawyers received from Riverdale Mediation this past year.
- LSB criminal staff lawyers attended 115 regular Court sittings which translated into 235 lawyer weeks. As LSB sends at least two defence counsel on each circuit to address conflicts and volume, the number of lawyer weeks is always higher than the number of Court weeks. The additional Court weeks also meant that legal aid clinics addressed 21 instances of simultaneous regional circuits where regional legal aid clinics were without criminal lawyers during those periods. Leaving regional offices without criminal counsel is not a sustainable or acceptable practice as this leaves hamlets in the region without defence counsel for arrest calls and bail hearings. LSB intends to request funds for additional staff resources in next year's funding proposal to try and alleviate this problem.

- At year end LSB carried 6 active criminal appeals and 17 choice of counsel matters which are the most serious files involving murder, attempted murder, aggravated sexual assault, etc. The appointment of Justice Mahar to the Nunavut Court of Justice this winter required LSB to re-assign 11 of the choice of counsel files that he had previously carried. The re-assignment process was time and resource-consuming for LSB, but ultimately successful by year end.
- This past year our sole civil/poverty lawyer dealt with approximately 203 matters in the areas of employment, tenancies and human rights. LSB's civil lawyer successfully assisted and supported Nunavummiut before the Nunavut Court of Justice, the Nunavut Human Rights Tribunal, the Social Assistance Appeals Board, the Rental Officer and the Labour Standards Officer. Many of the 21 applicants who were denied civil legal aid coverage were provided with referrals and initial duty counsel / *amicus curiae* assistance. The absence of legal resources in the majority of Nunavut communities compounds the frustrations, risks, and rights violations created by housing shortages, lack of employment opportunities, and poverty. The demand on this practice area warrants an assessment next year to determine whether a second civil/poverty position should be created to meet the needs and demands of Nunavummiut seeking remedies for their legal rights.
- Last year, LSB submitted a proposal to amend the *Legal Services Act* with respect to legal conflicts and repealing section 40, the choice of counsel entitlement. In the time since, much work has been done by the LSB and the Department of Justice in carrying out required consultations and preparing the submission for the Standing Committee on Legislation. As of March 2012 the legislative proposal is still moving through the legislative process but it is anticipated that next year will see completion of this project.
- The Courtworker program continues to be administered through the regional legal aid clinics. Courtworkers play a critical role in the delivery of legal services as they facilitate access to legal aid as the community liaison for lawyers, clients and witnesses on circuits. Courtworkers frequently are called upon to assist counsel with interpretation and client interviews as well. At the end of this fiscal year, 16 Courtworkers were employed by the regional clinics around the territory. Much like LSB is the only organization offering a legal presence in Nunavut outside of Iqaluit, so too the Courtworkers are the only legal presence in many of the smaller hamlets where no lawyers live. Maliiganik Tukisiiniakvik employs 9 Courtworkers across the Baffin; Keewatin Legal Services Centre employs 3 Courtworkers in the Kivalliq; and the Kitikmeot Law Centre employs 4 Courtworkers across the Kitikmeot.
- The After Hours Law Line remains an important program of legal aid. This after hours' line is available via RCMP across the territory and ensures that Nunavummiut who are arrested outside of business hours are able to access their Constitutionally guaranteed legal advice 24 hours a day, 365 days a year. This year, legal aid lawyers responded to 719 calls for after hours advice, and attended at 153 show cause hearings arising from the after hours line, with 48 of those clients being young offenders under the age of 18. These statistics represent significant hours of legal work which legal aid staff lawyers assume in addition to their regular work hours and Court weeks. As the number of Court

weeks increase, so to does the demand on the 11 lawyers who serve as Nunavut's primary duty counsel. An emerging concern for LSB is whether this program will be sustainable as staff lawyers are asked to over-extend themselves and risk burn out. With respect to the other law lines supported by LSB, the Family Law Line reported approximately 120 requests for information and the Civil/Poverty Law Line estimated 350 calls this fiscal year.

- Public Legal Education and Information (PLEI) is an important part of LSB's mandate. Comprehensive PLEI initiatives are difficult to sustain when LSB's legal resources are committed to Court work and file management, nonetheless legal aid staff offered general legal information through the Family Law Line and Civil/Poverty Law Line; attending sessions at Nunavut Arctic College campuses in Iqaluit, Rankin Inlet, and Cambridge Bay; attending sessions at the Iqaluit Women's Shelter, the Baffin Correctional Centre, the Wellness Centre in Cambridge Bay, the Puulaarvik Friendship Centre in Rankin Inlet, and high schools in various communities across the territory. Courtworkers participated this year in local radio question & answer shows with counsel in attendance. The communities of Taloyoak, Kugaaruk, and Kugluktuk also hosted PLEI sessions on topics from general legal procedure to anti-bullying discussions.

LSB partnered with Canadian Lawyers Abroad and the University of Waterloo this year, and students with those programs helped LSB develop internal materials to assist in distributing legal information, a foundation for a website, and a powerpoint presentation for broadcast on local television stations. Understandably, the legal aid clinics are often the first place people will call or attend with legal questions. In addition to the toll free line requests noted above, Keewatin Legal Services responded to approximately 400 such calls this year and the Kitikmeot Law Centre answered approximately 250. With the largest staff and client volume of the three clinics, Maliiganik Tukisiiniakvik struggles to track this information, but it is reasonable to assume that this clinic would have responded to significantly higher numbers than the smaller clinics. After all, Maliiganik Tukisiiniakvik oversees 13 Baffin Communities, while Keewatin Legal Services Centre and the Kitikmeot Law Centre oversee 7 and 5 communities respectively.

- The re-development of LSB's database continues. Phase 3 completed this year, and the final planned phase is expected to finish next year. Currently the database is only available to a core group of staff who use it to track circuits, assignments, volume and application status. It provides critical information for financial planning, management, budgeting, and reporting. The database project has been successful to date, and was instrumental in assisting LSB to become current on required statistical reporting for the territorial department of justice and Justice Canada. Both the territorial and federal governments have expressed gratitude for the information LSB is now able to produce, and both governments have assisted in its development by highlighting useful information that can be built into the next phase of development.
- In 2010, the LSB territorial Board of Directors decided to undertake a Structural/Organizational Review (SORC) to evaluate the organization's governance, administrative and operational structures and procedures. The purpose is to identify

structural and operational problems and challenges with a view to improving organizational efficiency and effectiveness.

As legal aid has grown and changed significantly in its years of existence, the review will provide a framework for assessing our current status and offer suggestions to address any inefficiencies or redundancies. Through LSB's procurement process, adhering to the GN's procurement policy, Prairie Research Associates of Manitoba were the successful proponent contracted for LSB's SORC. The first stage, which has already begun, will involve comprehensive interviews of legal aid stakeholders and partners such as the Judiciary, the GN departments of Finance and Justice, Justice Canada, staff, regional legal aid Boards, territorial Board members and Courtworkers. Next fiscal, LSB anticipates the completion of the reporting phase of this project.

## THE FINANCIAL PICTURE

### *Funding Sources & Expenditures*

LSB's budget for 2011-12 was approximately \$8.3 million dollars. By year end, LSB had overspent by approximately \$200,000 which was covered by GN Justice. Uncontrollable costs included increased Court weeks and increased travel resulting from additional Judicial appointments, increased Public Prosecutions capacity, along with audit and procurement costs. Projections based on the Nunavut Court of Justice tentative schedule, travel estimates, along with anticipated increased costs for Maliiganik Tukisiiniakvik's new office space warrant a business case for a funding increase being prepared for the fiscal year 2012-13. LSB's current resources will be unable to cover the level of work indicated for next year. In the event that business case is unsuccessful, LSB will have to assess its service and program delivery and make cutbacks, which will most likely reduce Nunavummiut's current level of legal access and representation.

As in previous years, the current GN Freebalance budget line items for LSB are not designed for the specialized needs of an organization delivering legal services. Consequently, LSB developed its own internal coding structure which we've used in recent years to track expenditures to service areas, administration, and governance. The official financial record of LSB however remains that of the GN. The chart below is based on the GN Freebalance system for LSB. Disagreement and inconsistencies remain between how the GN and LSB define certain expenditures such as contract services, professional fees, etc., within the GN's limited line items. Ultimately the GN coding, sometimes without explanation or justification, over-rides what LSB submits for its financial coding and reporting but it should be noted that the LSB internal codes prevail for the territorial Board's financial planning purposes. LSB's own internal codes enable LSB to manage and report on expenditure allocations to practice areas, operational needs, and emerging trends. Without LSB's internal system LSB would not be able to know, plan, or respond to operational and service delivery issues, let alone advocate for additional resources through the GN's supplemental budget processes and requisite vigorous justifications.

In 2011-12 LSB allocated fiscal resources primarily to governance and administration (17%), legal practices (61%) and clinic operations (22%). Within the legal practices, 65% of monies were spent on criminal files, 31% was spent on family files, and 4% on civil/poverty files. This is a realistic representation of the costs running a legal aid plan in Nunavut, and a reasonable representation of the legal demand on our organization.

As indicated earlier, the groundwork has been laid to initiate the first independent financial audits of LSB, expected to get underway next year. Details of how the audit will run and what years will be covered remains to be determined, but the opportunity for an independent assessment of LSB finances will greatly underline the organization's accountability, transparency and financial management capacity.

Historically, the GN repeatedly assured LSB that its organization's financial audits were included under the Justice portion of the GN general accounts and audits.

*Financial Statement 2011-2012  
(from the GN Freebalance System; Unadjusted Report)*

Expenditures	2011 – 2012			2010 – 2011
	Budget	Actual	Variance	Actual
<b>Salary &amp; Benefits - GN employees</b>	<b>745,000</b>	<b>3,956,104</b>	<b>(3,211,104)</b>	<b>1,207,287</b>
<b>Contract employees</b>	<b>2,926,000</b>	<b>28,798</b>	<b>2,897,202</b>	<b>3,050,630</b>
<b>Professional fees</b>	<b>1,093,000</b>	<b>1,351,338</b>	<b>(258,338)</b>	<b>902,948</b>
<b>Ongoing Contributions</b>	<b>1,873,000</b>	<b>1,873,000</b>	<b>0</b>	<b>1,567,000</b>
<b>Travel and Transportation</b>	<b>1,387,000</b>	<b>1,022,217</b>	<b>364,783</b>	<b>846,700</b>
<b>Materials and Supplies</b>	<b>212,000</b>	<b>21,595</b>	<b>190,405</b>	<b>12,088</b>
<b>Purchased Services</b>	<b>64,000</b>	<b>223,549</b>	<b>(159,549)</b>	<b>172,514</b>
<b>IT and other expenses</b>	<b>7,000</b>	<b>39,078</b>	<b>(32,078)</b>	<b>17,268</b>
<b>Total</b>	<b>8,307,000</b>	<b>8,515,680</b>	<b>(208,680)</b>	<b>7,776,435</b>

Again this year, LSB had no independent financial systems that can be audited separately from that of the Department of Justice (GN) since the GN holds and issues all LSB funds on our behalf. The Office of the Auditor General of Canada (OAG) annually audits the GN financial administration, including LSB transactions. However, this should not be interpreted as the OAG having audited LSB specifically, or having given an opinion on it, unless there is a LSB-targeted OAG audit.

A summary of LSB's operating budget and actual expenses are presented above as they appear in the Public Accounts of the GN. Since all banking and accounts payable and receivable functions were handled by the GN, LSB cannot present a complete Balance Sheet or Cash Flow Statement that is useful or helpful to LSB in managing its finances, even on a daily, weekly, monthly, quarterly, or annual basis.

While LSB's current financial relationship with the GN's Department of Justice creates some confusion and challenges for LSB's financial management, GN Justice has and does offer support as well. The GN administers LSB's payroll, accounts payable, and provides a corporate credit card for LSB travel. LSB is also supported by the GN's information system for internet and email. Three GN staff are assigned exclusively to LSB and are located in a

GN building in Gjoa Haven. The Department of Justice also assists LSB with reviewing, drafting, submitting and advocating for LSB's financial submissions. These costs are not necessarily reflected in LSB's financial information. In addition, any nominal funds that are provided by client contribution agreements are payable directly to the GN and not necessarily captured in our financial records.

### ***Tariff Rates***

LSB frequently contracts with private counsel as legal aid panel lawyers to assist with Court circuit coverage. The tariff rates that are payable to LSB panel lawyers are statutorily set by Nunavut legislators and have not changed in a number of years. LSB is exploring a possible proposal to review the tariff rates. Currently LSB is researching the rates in other jurisdictions and has reached out to private counsel colleagues to canvass interest in a tariff review. Below are the rates currently in place in Nunavut.

#### *◇For resident lawyers*

<b>Tariff Item</b>	<b>Category</b>	<b>Hourly Rate</b>	<b>Daily Circuit Rate</b>
1	Student at law	\$60.00	\$348.00
2	Lawyer; less than 4 years experience	\$91.50	\$528.00
3	Lawyer; more than 4 years experience, less than 7 years experience	\$105.00	\$645.00
4	Lawyer; more than 7 years experience, less than 11 years experience	\$129.00	\$774.00
5	Lawyer; more than 11 years experience	\$153.00	\$913.00

#### *◇For non-resident lawyers*

<b>Tariff Item</b>	<b>Category</b>	<b>Hourly Rate</b>	<b>Daily Circuit Rate</b>
1	Student at law	\$46.00	\$266.80
2	Lawyer; less than 4 years experience	\$70.15	\$404.80
3	Lawyer; more than 4 years experience, less than 7 years experience	\$80.50	\$501.400
4	Lawyer; more than 7 years experience, less than 11 years experience	\$98.90	\$593.40
5	Lawyer; more than 11 years experience	\$117.30	\$700.35

### ***Financial Eligibility***

The *Legal Services Regulations* set out the current principles for financial eligibility.

- 4(1) *Subject to the Act and these regulations, an applicant is eligible to receive legal aid*
- (a) *where the applicant receives all or most of his or her income from social assistance;*
  - (b) *where the legal fees for services rendered outside the plan would reduce the applicant's income to a level whereby he or she would become eligible for social*

*assistance, in which case, he or she may be required to contribute towards the payment of the costs.*

Legal aid applicants are required to submit financial documentation such as pay stubs, receipts, and statements for expenses claimed (except for clothing, food, and transportation) to establish their financial eligibility. Applicants who receive social assistance are automatically deemed eligible without expense statements, once proof of coverage by Income Assistance is received. Last year LSB ratified a revised Family Law Coverage Financial Eligibility Policy, and work continues on similar policies for the criminal and civil practice areas. In the interim, the formula adopted in the family eligibility policy is in place for applicants in other practice areas.

LSB's presumed eligibility practice for criminal and child welfare matters also must be considered, as it provides legal aid services for all Nunavummiut appearing before the Court for the first time. If a client decides to proceed to trial, then the legal aid application is taken and the assessment is done to determine their financial eligibility. Similarly, in child welfare matters - where social services has removed a child from his or her home - a staff lawyer will be immediately assigned to deal with the first stage apprehension orders.

### ***Case Coverage***

LSB offers legal counsel for criminal, family, and a limited number of civil matters as provided for under statute and within civil program areas approved by the LSB Board of Directors.

*Criminal:* In criminal matters, all indictable offences are covered for financially eligible clients. Summary offences are covered if there is a likelihood of imprisonment or loss of livelihood for those who are financially eligible. All Crown appeals are covered if the client had been represented by legal aid in the first instance and continue to fall with the financial eligibility guidelines. If a conviction or sentence on a serious offence is to be appealed, approval will be based on a legal opinion and recommendation for representation. For youth in conflict with the law, LSB will provide legal representation on all indictable and summary offences, and meritorious appeals.

*Family:* All child welfare matters are covered to a first stage order. If the child is not immediately returned to the family, LSB will provide legal counsel for the duration of the Court proceedings for financially eligible clients. Custody and access applications are also covered for eligible clients, as are child and spousal support applications. Divorces and their corollary issues are only covered if there are children involved with custody related issues. Unreasonably protracted disputes relating to property or corollary issues may be severed as LSB's resources can not support long, drawn-out disagreements on assets or property.

LSB may also assign counsel for children if appointed by the Court or deemed necessary by counsel for child welfare or custody matters to ensure the rights and interests of the child(ren) are not aligned with that of their guardian(s) and/or the state. Contested custom adoptions, contested paternity applications, and exclusive possession of the matrimonial home applications are also

covered. Applications under the *Family Abuse Intervention Act* are not covered by LSB unless they are ancillary to approved family or criminal applications.

*Civil/Poverty Files:* The focus of the civil/poverty practice is landlord/tenant disputes, human rights complaints, employment matters and a limited number of related civil law issues. Representation for financially eligible clients is provided where a legal opinion confirms merit.

It should be noted that section 45 of the *Legal Services Act* requires that a legal opinion be prepared for all civil and family applications, except for child welfare matters.

### ***Courtworker Program***

The courtworker program is a fundamental element of the delivery of legal services in Nunavut. In addition to the much needed legal and administrative support courtworkers offer lawyers, clients and the Court, courtworkers are also a community resource and cultural bridge for Nunavummiut dealing with the justice system. Courtworkers are employed by the regional legal aid clinics - some full-time, some part-time - as demand requires. This year, 16 courtworkers were stationed around the territory. The Baffin region employed 9 courtworkers, 3 in the Kivalliq, and 4 in the Kitikmeot.

This past year, LSB undertook an internal assessment of the courtworker program which included a survey of courtworkers, staff lawyers, and senior management. The report from that assessment will be presented to the territorial Board of Directors next fiscal. As the Structural/Organizational Review will also include the operational structure of the courtworker program, it too is expected to offer recommendations on strengthening and growing the program.

## ADMINISTRATION & OPERATIONAL ISSUES

The objectives of the Board are statutorily mandated under the *Legal Services Act*.

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

LSB endeavours to meet these objectives by: hiring and situating criminal, family, and civil lawyers and courtworkers in all three regional legal aid clinics; providing funding for 3 regional legal aid offices including funds for administrative staff and community courtworkers; responding to applications for legal assistance; establishing private lawyer panels and assigning legal counsel; offering programs and services that support access to justice (e.g. law lines); building a courtworker program that is skilled and community based; offering staff resources for public legal education and information sessions; and building a team of qualified lawyers that are committed to protecting the Constitutional rights and civil liberties of our clients.

### *Legal Services Board of Directors*

The territorial Board members are volunteers who bring a well-rounded perspective to the administration of the legal aid plan. This past year our members were:

<b>Member</b>	<b>Community</b>	<b>Office</b>
<b>Mr. Elijah Padluq</b>	Kimmirut	Member at large; appointed May 2007
<b>Mr. Tommy Pigalak</b>	Kugluktuk	Member at large; appointed May 2007; <i>resigned fall 2011</i>
<b>Mr. Teddy Carter</b>	Gjoa Haven	Kitikmeot representative; appointed May 2007
<b>Ms. Madeleine Redfern, Chair</b>	Iqaluit	Baffin representative; appointed March 2008
<b>Ms. Siobhan Arnatsiaq-Murphy</b>	Iqaluit	GN representative, appointed October 2009
<b>Ms. Tara Tootoo-Fotheringham</b>	Rankin Inlet	Kivalliq representative; appointed October 2009
<b>Mr. Chris Debicki</b>	Iqaluit	Law Society of Nunavut representative; appointed August 2011
<b>Ms. Sarah Nunia Flynn</b>	Rankin Inlet	Member at large; appointed December 2011

This year, the Board of Directors bid farewell to Mr. Tommy Pigalak of Kugluktuk who served on the Board since 2007. LSB thanks him for his contributions and wishes him well with his future endeavours. Replacing Mr. Pigalak as a member at large is Ms. Sarah Nunia Flynn from Rankin Inlet who was warmly welcomed by the Board at the December 2011 meeting.

This year the territorial Board of Directors met three times and continued their work on organizational oversight, policy development, procurement of consultants for the independent financial audits, budgeting and financial analysis and reporting.

In December, the Structural/Organizational Review Committee completed the procurement process and evaluation of proponents for that project, ultimately awarding the contract to Prairie Research Associates in Manitoba. The Committee also reviewed the scope of work and provided direction on the work plan and planned interviews. Added to the scope work is an analysis on the anticipated impact that proposed Bill C-10 will have on legal aid delivery in Nunavut. The initial draft report to the Directors is expected to be ready next winter.

The Executive Committee communicated regularly by email and met twice by teleconference to attend to on-going Board business involving staff issues, signing authority approvals, policy changes, and reporting directives. The Executive Committee was comprised of Ms. Redfern, Ms. Tootoo-Fotheringham, Mr. Debicki, and Ms. Arnatsiaq-Murphy.

### ***LSB Chair***

Ms. Redfern as LSB Chair continued to be available, mostly on an as-need basis, to LSB's Board of Directors, Executive Committee, and senior management staff, in particular LSB's CEO. The Chair's responsibilities include receiving regular organizational updates, providing direction, administrative approvals (CEO travel, expenses, etc), contract signing, political and advocacy work (such as correspondence with GN Minister of Justice) and on-going/emerging issues sufficiently sensitive to require monitoring, oversight and reporting. The Chair also identifies issues that should be brought to the Executive Committee and/or the full Board and/or the GN Minister of Justice for awareness, consideration, and/or approvals. Ms. Redfern chairs all Board meetings, reports regularly regarding her activities as Chair, and she reports on the activities of the Executive Committee. Throughout the year, she also provides regional representation for the Baffin at the territorial Board level. The Chair also reviews and provides a message for LSB's annual reports on LSB's activities for the fiscal year.

### ***LSB Staff***

The number of LSB staff continues to grow. All lawyers and senior managers are directly employed by LSB. In addition, each of the regional legal aid clinics employs their own administrative staff and courtworkers.

This year LSB bid farewell to staff lawyers Paul Lesarge, Gary Magee, Ken Kinnear, Peter Harte, Leslie Moore and Karen Wilford. The Directors extend their sincere appreciation for the contributions made by these counsel and wish them well in their future endeavours.

Joining LSB this past year were lawyers Jack Squire, Kathryn Kellough, Nick Leeson, Deanna Harris and Mark Christie. Jim Leschuk also joined the team as LSB's first comptroller. LSB Directors welcome all to legal aid and look forward to working with everyone in the coming months.

Staff recruitment and retention remains an on-going concern, but LSB notes that for the first time in its history the majority of its staff lawyers have a minimum of 2 years experience with the organization. LSB, and more importantly our clients, have long recognized the benefit from the continuity and stability northern experience and historical corporate knowledge brings to the organization, its legal practice and the legal representation of clients. While each of our staff contributes their own special skills, every single member of the team has demonstrated their commitment and dedication to the provision of legal services in this territory. LSB now boasts a strong complement of senior lawyers (with over 20 years legal experience), and lawyers who have as much as 9 years of working with the organization.

Practicing law in Nunavut is very different from practicing in southern jurisdictions. Our lawyers struggle with significant travel time, running files by phone or email access only, making Court appearances by telephone, virtually no specialized legal administrative support, working in inadequate office space, a serious lack of community resources and supports for their clients (such as mental health and addictions specialists), and working to promote the principles of the Canadian common law system in a culturally appropriate manner. Each day our lawyers are asked to do more work with less resources, nonetheless most do so delivering a consistently high quality of service in very challenging environments.

### **THE LSB TEAM 2011-2012**

<b>Staff</b>	<b>Location</b>	<b>With LSB since</b>	<b>Position</b>
<b>Teena Hartman</b>	Rankin Inlet	August 2003	Chief Executive Officer, LSB
<b>Feliks Gawor</b>	Rankin Inlet	February 2010	Executive Assistant to CEO
<b>Jim Leschuk</b>	Rankin Inlet	April 2011	Comptroller, LSB
<b>Tony Akoak</b>	Gjoa Haven	February 2004	Acting Financial Supervisor; Office Manager
<b>Sara Takkiruq</b>	Gjoa Haven	February 2000	Senior Statute Administrator
<b>Hannah Qirrqut</b>	Gjoa Haven	Fall 2004	Finance & Operations Analyst; Statute Clerk
<b>Jonathan Ellsworth</b>	Iqaluit	May 2004	Clinic Director, Maliiganik Tukisiiniakvik
<b>Christian Lyons</b>	Iqaluit	October 2006	Criminal Lawyer; Lead Criminal Counsel

<b>Scott Wheildon</b>	Iqaluit	February 2009	Criminal Lawyer
<b>Naomi Wilman</b>	Iqaluit	February 2009	Family Lawyer
<b>Mandy Sammurtok</b>	Iqaluit	January 2009	Criminal Lawyer
<b>Mark Mossey</b>	Iqaluit	January 2010	Civil/Poverty Lawyer
<b>Norman Boose</b>	Iqaluit	January 2009	Criminal Lawyer
<b>Lana Saleh</b>	Iqaluit	July 2010	Criminal Lawyer
<b>Janet Rowsell</b>	Iqaluit	May 2012	Family Lawyer
<b>Jack Squire</b>	Iqaluit	June 2011	Family Lawyer
<b>Deanna Harris</b>	Iqaluit	January 2012	Criminal Lawyer
<b>Mark Christie</b>	Iqaluit	February 2012	Criminal Lawyer
<b>Glen Wilson</b>	Rankin Inlet	February 2006	Criminal Lawyer; Lead Criminal Counsel
<b>Andrea Smart</b>	Rankin Inlet	January 2011	Family Lawyer
<b>Susan Switch</b>	Rankin Inlet	March 2011	Family Lawyer; Clinic Director
<b>Kathryn Kellough</b>	Rankin Inlet	August 2011	Criminal Lawyer
<b>Tamara Fairchild</b>	Cambridge Bay	September 2010	Criminal Lawyer; Lead Criminal Counsel
<b>Diana Fan</b>	Cambridge Bay	August 2009	Family Lawyer
<b>Clare Henderson</b>	Cambridge Bay	September 2009	Criminal Lawyer; Interim Clinic Director; After Hours Law Line Coordinator
<b>Nick Leeson</b>	Cambridge Bay	December 2011	Family Lawyer

### ***Private Bar Panel***

LSB continues to deal with a diminishing number of resident criminal defence and family law lawyers in private practice in Nunavut – at year end there were only two working in the criminal law field. Fortunately, there is a complement of non-resident lawyers with a significant amount of legal and northern experience who are also available and regularly accept legal aid work.

LSB operates on a blended legal representation model which means we use a combination of staff and private lawyers for our legal aid files and circuit work. This model offers support to the staff lawyers who have very vigorous practices and it addresses concerns about conflicts of interest. Currently, for more complicated or choice of counsel matters, LSB first looks to the private lawyers with significant legal and northern experience for assignment.

Last year LSB initiated a legislative amendment proposal with the GN Department of Justice to repeal section 40 of the *Legal Services Act*. This section entitles eligible clients who are charged with the most serious offences under the *Criminal Code of Canada* and who face the possibility of a life sentence to choose their own resident lawyer. The lack of sufficient resident criminal counsel (which is beyond LSB's control) compromises LSB's ability to meet its legal obligations under the *Legal Services Act* and was further hampered by subsequent case law. Compounding

this challenge is the growing number of eligible applicants for choice of counsel. A primary consideration for LSB has always been ensuring that accused in this situation have the necessary knowledge to make a meaningful choice – very difficult to do for individuals facing substantial stress and trauma. Most other jurisdictions in Canada have already repealed similar provisions. This LSB/GN Justice proposal also included a provision to strengthen conflicts of interest protection for LSB lawyers, as the majority of cases going before the Nunavut Court of Justice are being handled by legal aid. After some delay and sharing of additional information, this proposal continues through the legislative process and LSB hopes it will be approved next year.

The *Legal Services Act* also requires LSB to maintain a list of private panel lawyers amongst whom our work is to be allocated. At year end our criminal lawyer panel held 15 private lawyers, the majority of whom live outside of the territory. The family panel had 1 member. Private lawyers interested in serving on the LSB panels are required to submit an application to the LSB Board of Directors that includes proof of their ability to practice law in Nunavut and their practice areas. LSB Directors review these applications with a view to maintaining adequate legal resources for clients and ensuring the applicant's qualifications are sound.

### ***Regional Clinics and Boards***

The *Legal Services Act* provides for each region to appoint regional bodies to oversee clinic operations. The regional board model was established to assist the clinics in the delivery of legal services. All three clinics continue to experience increased requests for legal services every year and this year was no different.

Maliiganik Tukisiiniakvik is the busiest of the three clinics as it represents the 13 communities of the Qikiqtaaluk region and is located in Iqaluit. As such, the clinic employs the largest number of courtworkers and often takes the lead on important LSB projects. The Maliiganik regional board of directors met regularly throughout the year and supported the clinic's efforts to locate new office space, prepare a budget increase request, and advocate for more administrative support. The Iqaluit clinic responded to 408 arrest calls and 189 show cause hearings unrelated to the After Hours Line. Maliiganik Tukisiiniakvik still struggles to capture statistics on cold call requests but the clinic still makes efforts to record this number. Maliiganik staff also participated in several PLEI initiatives in their region, which included information sessions at the Iqaluit Women's Shelter, a legal information program at the correctional facility, community radio sessions on general legal topics, along with the development and distribution of brochures about legal aid and child protection. Located in Iqaluit – the home of Nunavut's only Courthouse - Maliiganik was responsible for 101 Court weeks this year which includes regular sittings of the JP Court. Obtaining additional criminal staff for Maliiganik remains a priority that LSB intends to address in a budget increase request next fiscal. Maliiganik Tukisiiniakvik has also been given notice that they will need to move from their present office location by December 2012 and Maliiganik Clinic Director Jonathan Ellsworth is already working on identifying potential sites. Those potential locations and estimated costs will be reviewed by the Maliiganik regional board and brought to the LSB Board of Directors for budget approval. The Qikiqtaaluk regional team of lawyers, courtworkers, and administrative staff are skilled, committed and very busy meeting the legal needs of the clients in their region.

Keewatin Legal Services Centre in Rankin Inlet serves the 7 Kivalliq communities. Lawyers attended approximately 17 circuits in the region this year in addition to a number of discrete trials and special sittings. The Rankin Inlet clinic was thrilled to move into their new office space at 18-4 Avinngaq Street in May. At year end, the clinic was staffed with 2 criminal and 2 family lawyers, along with administrative support and 3 courtworkers. Together they responded to approximately 400 cold call requests, 128 arrest calls and 78 show cause hearings. PLEI activities have included school visits, a community session on family law in Rankin Inlet, and information sessions for local outreach and non-profit programs. The newly reconstituted regional board of directors held their first meeting in March 2012, passing new by-laws and preparing to support the clinic in their work. Interim Clinic Director duties this fiscal year were shared by lawyers Glen Wilson, Susan Switch and Andrea Smart. Following an internal competition, Ms. Switch was appointed the Clinic Director at year end. The dedicated staff of the Keewatin Legal Services Centre continue to offer exceptional legal services to the people of their region.

The Kitikmeot Law Centre in Cambridge Bay also faces infrastructure issues. With the impending loss of their current office space, the regional staff and board of directors are working to identify potential alternatives. This year, the Kitikmeot Law Centre covered 17 circuits in addition to a number of discrete trials and special sittings. Staff responded to 130 arrest calls and attended 97 show cause hearings, independent of the after hours line. In addition to responding to approximately 250 requests for general legal information, the KLC staff participated in a number of PLEI initiatives on legal aid, criminal law, anti-bullying, and family law. These initiatives were held in Taloyoak, Kugluktuk, Kugaaruk, and Cambridge Bay. At year end, the Kitikmeot Law Centre was led by Interim Clinic Director Clare Henderson in providing the high caliber of legal services that region has benefitted from.

### ***Head Office***

Pursuant to statute, LSB's head office is located in Gjoa Haven. It is staffed by 3 full-time employees, all of whom are employed by the GN but work for and report directly to LSB's Chief Executive Officer.

Head office is responsible for the review and processing of accounts payable and their entry into the GN's freebalance system for payment. Invoices and expense claims are reviewed, sent for appropriate authorization and then entered into the GN system for payment. In addition criminal, family and civil legal aid applications are processed for eligibility at head office, along with counsel assignment for eligible applicants.

With the creation of the comptroller position, the Gjoa Haven staff now fall under his supervision and direction. The new internal financial oversight procedures and reporting mechanisms have become a core responsibility of the head office regime and they provide essential support to LSB's developing financial capacity.

## APPLICATIONS & APPROVALS

Statistical information with respect to client applications, duty counsel services, file assignments and areas of practice are collected and maintained in LSB's database system. The final phase of this database is near completion and it will be available to all LSB staff next fiscal. Currently the database system is being used by a core group of staff to track and report much of the information presented below.

This information is a reliable indication of the services LSB and the regional legal aid clinics have provided this year. It should be noted however that the numbers do not reflect the total number of persons and clients who requested and/or accessed legal aid criminal or family law assistance. The presumed eligibility protocol allows Nunavummiut to access representation for their first appearances in all criminal and child welfare Court matters. In future, these statistics will also be recorded in the database. Legal aid applications are only taken if the matter is not resolved at the first appearance stage. This is significant for our youth applications, as a high number of these do not proceed beyond first appearances.

- LSB staff lawyers (and LSB approved private panel counsel) attended 115 regular scheduled Court sittings in 2011 and this translates into 235 lawyer weeks. LSB also attended a number of special Court sittings including 8 jury trials and a number of Judge alone trials.
- LSB processed 197 applications for criminal representation of which 168 were approved by March 31<sup>st</sup>. 9 applications were denied and 20 were pending at year-end.
- LSB processed 6 youth applications for criminal representation this fiscal and all were approved.
- As of March 2011 LSB had 6 active criminal appeals.
- As of March 2011 LSB had 17 active choice of counsel matters (serious charges that carry a possibility of a life sentence).
- LSB processed 219 family law applications this year of which 113 were approved. There were 13 denials and 93 pending applications at year end.
- LSB handled approximately 60 civil/poverty applications this year and denied 21. These numbers do not reflect the 203 additional matters for which assistance was provided outside of a Court process.

*For those unfamiliar with legal processes, please note that these numbers do not reflect actual caseloads. Many matters (both family and criminal) carry over from fiscal year to fiscal year – particularly the more complicated and time-consuming litigations.*

## **ONGOING PROJECTS**

### ***After Hours In Custody Law Line***

This toll free line has been in operation since December 2003. Nunavummiut, like all Canadians, have a Constitutional right to speak with a lawyer when they have been detained or arrested. Prior to 2003, if an arrest happened outside of business hours it was often difficult for an accused or the RCMP to contact a lawyer to satisfy this person's Constitutional rights. LSB's law line has been an excellent tool to fulfill the legal requirements, plus simplifying and speeding up the process of connecting an accused with a lawyer. The after hours lawyer also performs any necessary bail hearings that occur outside of regular clinic hours.

This fiscal year, LSB lawyers responded to 719 after hours arrest calls, conducted 153 after hours show cause hearings, and assisted 48 young offenders through the law line. None of these services require a legal aid application and this work is in addition to the regularly scheduled file and Court work staff lawyers are responsible for.

The After Hours Law Line is active 24 hours a day, 365 days a year.

### ***Family Law Line***

LSB's toll free line had been largely inactive since 2008, due to operational challenges. Its purpose was to offer general family law information to callers who were trying to assess whether they had viable matters to pursue. In 2011-12 LSB's family law line responded to approximately 120 calls. Most of those callers were referred to a courtworker to complete a legal aid application for a legal opinion, an assessment for financial eligibility and possible assignment to counsel.

### ***Civil/Poverty Law Program***

One element of Civil/Poverty law program is the toll free law line that offers general legal information to callers seeking assistance in dealing with various civil legal issues. The civil/poverty law line responses can include an assessment on legal merit, connecting a caller to an appropriate agency or department, assessing whether an issue falls within LSB's civil law coverage, and informing callers about the application process. The law line itself offers only general information and is staffed by the civil/poverty lawyer who administers the files of approved civil clients.

This past year, approximately 350 requests for information were handled through the civil/poverty law line. LSB still does not represent Nunavummiut in complex civil litigations such as medical malpractice or personal injury files, but we do carry approximately 100 files involving landlord/tenant, employment, human rights, and related issues.

LSB expects that this program will continue to develop in the coming years and will be conducting an assessment next year to determine whether a second civil/poverty position is warranted.

## CONCLUSION

The reality for the majority of Nunavummiut called before the Nunavut Court of Justice is that they require legal aid assistance. The vast majority of legal aid applicants are financially eligible, and without a substantial private bar even those with means struggle to find representation. Access to justice in Nunavut is more than a philosophical discussion – it is a fundamental need that LSB is called on to meet every day. It is not an exaggeration to say that without the services and programs provided by LSB most Nunavummiut would be without any legal information or support.

This responsibility is taken very seriously by LSB's Directors, management and staff. The provision of quality, accessible legal resources in Nunavut is LSB's primary goal. The strengthening of our administrative and financial processes ensure that LSB is meeting that goal with transparency and accountability. LSB will continue to meet our mandate and build on the successes that were achieved this year.