



**FAMILY LAW ASSISTANCE SERVICES  
SUMMATIVE EVALUATION  
Summary, Recommendations and Management Response**

**March 2006**

**Evaluation Division  
Policy Integration and Coordination Section**



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## **1. INTRODUCTION**

The Department of Justice Canada has completed an evaluation of the Family Law Assistance Services (FLAS) Section and its three programs: the Family Orders and Agreement Enforcement Assistance (FOAEA) program, the *Garnishment, Attachment and Pension Diversion Act (GAPDA)* program and the Central Registry of Divorce Proceedings Program (CRDP).

The FLAS evaluation report addresses issues related to the rationale and continued relevance of the programs, the extent to which the programs are achieving their objectives, and their cost-effectiveness. In addition, the evaluation examined the FLAS Section itself, to consider whether its current structure and location are the most suitable for the delivery of the services.

### **1.1. Background**

The Parliament of Canada has specific constitutional jurisdiction for divorce but support enforcement is administered by the provinces and territories. Historically, payment of family support obligations was a matter of private law and support recipients were required to return to the courts to have their orders enforced when payment was not being made. In the early 1980s, the federal and provincial/territorial governments struck a committee to propose improvements to the family support enforcement system. The Committee (the Federal-Provincial/Territorial Committee on the Enforcement of Maintenance and Custody Orders) facilitated the identification of mechanisms to improve compliance with family support obligations. As a result of the Committee's work, most jurisdictions created new programs and procedures to enhance support enforcement. One of the most significant developments was the implementation of provincial/territorial maintenance enforcement programs (MEPs) that allow support recipients to register their orders and have them enforced by the government.

The federal government plays primarily a facilitative role in nation-wide support enforcement efforts. Federal government activities are designed to augment and complement the enforcement activities of the MEPs in all jurisdictions. It does so by way of its unique position of having

access to a number of federal databases and/or information that are national in scope and that are of interest and assistance to the MEPs in their enforcement efforts. To date, the federal government has supported provincial and territorial support enforcement activities by enacting legislation, and by providing operational support and financial resources. The *Family Orders and Agreements Enforcement Assistance Act* (FOAEA) Parts I and II and the *Garnishment, Attachment and Pension Diversion Act* (GAPDA) provided the MEPs with tools to trace the location of debtors and garnishee federal income sources. In 1997, amendments to the *FOAEA Act* added a Part III that enabled the federal government to suspend or deny federal licenses, including passports, as an incentive for payors to comply with support orders.

## 1.2. FLAS Profile

The FLAS Section is the operational unit responsible for family law assistance matters, primarily management and administration of support enforcement services. This section was established in the early 1990s through the amalgamation of three programs: 1) FOAEA which supports the *Family Orders and Agreements Enforcement Assistance Act*; 2) GAPDA which supports the *Garnishment, Attachment and Pension Diversion Act*; 3) and CRDP which supports the Central Registry of Divorce Proceedings regulations under the *Divorce Act*.

There are three main objectives of FLAS:

- improve the rate of support payments to parents and children under a support order or agreement;
- decrease potential conflict and unnecessary costs for the courts and between divorcing parties by preventing duplicate divorces; and
- provide accurate national divorce statistics.

The objectives are realized through the service components of the three programs.

*Family Orders and Agreements Enforcement Assistance Act (FOAEA)* - The FOAEA program is dedicated to the tracing of debtors and the garnisheeing of federal monies that are owed to a creditor. In addition, the program administers the suspension and denial of passports and federal marine and aviation licenses from individuals who are in persistent default of family support. The primary clients of the FOAEA program are the provincial/territorial maintenance

Enforcement Programs (MEPs), the courts and police, and debtors. Only general program information is provided to creditors.

The main partners for the FOAEA tracing and interception services are Human Resources Development Canada (now Social Development Canada and Human Resources and Skills Development Canada) and the Canada Revenue Agency (CRA). The main partners for license denial are the Passport Office, Transport Canada and the Royal Canadian Mounted Police.

*Garnishment, Attachment and Pension Diversion Act (GAPDA)* - The *GAPDA Act* is divided into two parts. Part I of *GAPDA* provides for the garnishment and attachment of salaries and certain other monies paid to Crown employees and public officials to facilitate the enforcement of family support obligations and judgment debts. Part II of the *Act* provides for the diversion of pension benefits to help satisfy support orders.

The primary partners of the GAPDA program are the Pay and Benefits Offices in federal departments and Public Works and Government Services Canada (PWGSC), while the main clients are the creditors, their legal representatives, and the courts and Maintenance Enforcement Programs. Treasury Board is also involved in this process, as it is responsible for overall government payroll policy.

Central Registry of Divorce Proceedings (CRDP) - was established in 1968 to administer the CRDP Regulations of the *Divorce Act*. The CRDP program maintains a national registry of divorces for the purpose of preventing duplicate divorce proceedings in different courts, as well as for monitoring divorce trends in Canada. The program involves a two-step registration process using Parts I and II of the Registration of Divorce Proceeding Form. Court representatives send Part I to CRDP to detect any duplication before the divorce proceedings while Part II is sent when the divorce file is completed, allowing the data entry in the Registry.

The CRDP program's primary clients are the courts responsible for divorce matters, while its secondary clients are persons involved in divorce proceedings and/or their representatives, Statistics Canada and other federal agencies.

### **1.3. Delivery Approach**

The FLAS section was established in 1990 within DOJ because there was no area within the Department responsible for family law program operations. The FOAEA program was

established under the responsibility of the FLAS Section in the mid 1990s. Shortly thereafter, the management of the CRDP program and the GAPDA program (National Capital Region registry) became the responsibility of the Director of FLAS. The CRDP program was placed with the FLAS because it had an operational characteristic with which FOAEA program staff had expertise. The CRDP had previously been a separate program reporting to the same Director General within the Corporate Management Sector, while GAPDA was previously housed in the Civil Litigation section.

In delivering its services, the FLAS section collaborates with several other federal departments and agencies that are the information repositories and/or receive payments. Because family support enforcement remains a provincial/territorial responsibility, the Section collaborates with the provinces and territories regarding compliance with support orders and agreements (primarily the MEPs) through formal and informal agreements.

A number of committees and subcommittees help direct the support enforcement activities of the FLAS section. For example, the Inter-Jurisdictional Support Subcommittee reports back to the Coordinating Committee of Senior Officials Family Justice (CCSO Family Justice) and provide regular updates to maintenance Enforcement Programs Directors. The Enforcement Subcommittee reports to the MEP Directors and updates the CCSO Family Justice on support enforcement activities.

#### **1.4. Reach (Key Clients and Stakeholders)**

Key clients of the FLAS include:

- Provincial/territorial Maintenance Enforcement Programs (MEPs)
- Courts responsible for divorce matters
- Persons involved in divorce proceedings and/or their representatives
- Police
- Creditors and their legal representatives
- Debtors
- Statistics Canada

Partners/Stakeholders include:

- Family Children and Youth Section
- Human Resources Development Canada (now social Development Canada and Human Resources and Skills Development Canada)
- Canada Customs and Revenue Agency (now Canada Revenue Agency and Canada Customs Border Services)
- Pay and Benefits Offices in federal departments and Public Works and Government Services Canada (PWGSC), Treasury Board (government payroll policy).

### **1.5. Evaluation Context**

Within recent years several studies of federal support enforcement activities have been conducted. The services provided, activities evaluated and results discussed from the previous studies serve to add context to the current evaluation. Previous work in the area of federal support enforcement activities include:

- A 2000 tracing needs survey of MEPs revealed that most agency personnel believed the federal trace and locate service could be improved. For example: speedier access via the Internet; better confirmation/validation of Social Insurance Number information; removal of the affidavit process; more current information; more employment information on debtors; information on self-employed debtors; and assistance in locating asset information. Additional work has been completed by the Department of Justice to address these needs.
- DoJ feasibility studies assessed the potential benefits of implementing a new “employee tracing” program in Canada to provide additional, more current employer information to the MEPs to facilitate the tracing of debtors.
- A 2001 review of CCRA databases to identify additional sources to improve the federal tracing service. It was determined that other databases at CCRA could provide useful

information to the MEPs.<sup>1</sup> The feasibility of adding the Goods and Service Tax Business Rebate to Part II of *FOAEAA* was also examined.<sup>2</sup>

- A study of the use of the licence denial program in Manitoba during the Child Support Initiative.<sup>3</sup> The DoJ has continued to enhance this program through the review of other federal licences that may be included within it. This enhancement is assisted through the review of various licence denial and suspension programs in the United States and Canada that encourage compliance with family support obligations.<sup>4</sup>

Although these studies yielded important information to enhance the effectiveness of support enforcement mechanisms generally, there have been no evaluations of the programs administered by FLAS specifically. This has been identified as a gap in two reports. A Report to Parliament (*Children Come First* 2001) reviewing the provisions and operation of the Federal Child Support Guidelines recommended that FLAS study ways of improving and expanding its services to the MEPs and other federal departments. A first step would be to complete an evaluation of current programs and service delivery models provided by FLAS. A 2001 audit of FLAS also recommended that the Director of FLAS conduct regular program evaluations to ensure that service is meeting appropriate standards. Results should be reported and if necessary, corrective action taken.

The evaluation of FLAS programs would facilitate the assessment of new support enforcement measures and procedures implemented as part of the Child-centred Family Justice Strategy announced in December 2002. They are designed to help provinces and territories focus on family justice services.

The current evaluation of FLAS was carried out in 2004/2005. It is based on the evaluation strategy included within the Results-based Management and Accountability Framework (RMAF)

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<sup>1</sup> Haug and Associates Management Consultants. Canada Customs and Revenue Agency Files and Data Elements. Department of Justice Canada. March 2001.

<sup>2</sup> Haug and Associates Management Consultants. Benefits of Expanding Part II of the Family Orders and Agreements Enforcement Assistance Act – to Include GST Business Rebate. Department of Justice Canada. March 2001.

<sup>3</sup> Goetz, Lothar. *Preliminary Findings on the Use and Impact of the New federal Enforcement Measure – Federal Licence Withholding under Part 3 of the Family Orders and Agreements Enforcement Assistance Act*. Department of Justice Canada (unpublished).

<sup>4</sup> Moyer & Associates. *Licence Suspensions and Denial: Overview of a New Mechanism for Child Support Enforcement*. Department of Justice Canada. 2001.



<sup>5</sup> for FLAS<sup>6</sup>. This framework outlines the broad evaluation issues and specific questions to be addressed and proposes potential methods and sources to address them. The following table outlines the evaluation issues and questions addressed in this report.

## 1.6. Methodology

The key elements of the methodology used to conduct the evaluation included:

- a review of relevant program documents and other Department of Justice documents;
- a review of international literature on similar functions in other countries;
- analysis of data from FLAS and MEP files and databases (only limited data were available and useful to this evaluation);
- interviews conducted with representatives of all provincial and territorial MEPs, DOJ officials, and representatives of the departments and agencies that are partners of the FLAS Section; and
- a survey of family courts.

While there are limitations of some of these methods, the blend of approaches results in a strong overall evaluation methodology that appropriately addresses the issues of relevance, delivery, success and cost-effectiveness.

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<sup>5</sup> *Results-based Management and Accountability Framework of the Family Law Assistance Services Section*, Department of Justice Canada, September, 2003.

<sup>6</sup> While the RMAF sets out a range of possible methodologies and performance indicators, time and budget considerations were also taken into account in determining an agreed-upon methodology for this evaluation.

## **2. KEY FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE**

This section of the report presents the findings, derived from the document and data review and key informant interviews, as well as the recommendations and management response. A combination of these lines of evidence, both qualitative and quantitative, used wherever possible to derive the findings.

### **Issue: FLAS Structure**

All FOAEA, GAPDA for employees in the National Capital Region, and CRDP services are provided through the FLAS section at the Department of Justice. The evaluation looked at whether the Section as it is currently constituted is the best structural arrangement for the delivery of FLAS services. Clients and DOJ strongly support a central delivery for FOAEA and GAPDA because of the close relationship among the services based on: similar objective and approaches; common client base; common legal underpinnings; and strong Provincial/territorial collaboration. The MEPs and Justice Canada policy and research officials expressed concern that a decentralized approach would create a lot more work for them by requiring a number of different contact points and a number of different sets of management and staff for them to work with, each with potentially different approaches and requirements. As well, the Department uses information from the MEPs and the FLAS databases to help inform family law policy, and this process would reportedly be made less efficient if the services were decentralized, in part because the information and data itself is now in one location.

**Recommendation 1: The FLAS section continues to function as a consolidated unit within the Department of Justice, providing FOAEA, GAPDA and CRDP services.**

### **Management Response:**

We agree that the FLAS should remain within the Department of Justice to allow it to assist the development of family law policy research, along with its role as a National program.

### **Issue: FLAS Location**

FLAS is currently located in the Corporate Services Sector of the Department of Justice, and the FLAS Director reports to the Director General of the Finance, Administration and Programs Directorate. It was reportedly placed in its current location within the Department because no other section of the Department had a similar mandate or activity, and the Finance and Administration milieu was viewed as having the expertise most suited to managing the operations. According to FLAS management and other Justice Officials, the experience to date has been largely positive. The operations are generally viewed as having implemented effectively the legislation it supports, and FLAS is seen as being well integrated with provincial and territorial enforcement efforts. The DOJ appears to be the most appropriate department to locate the three FLAS programs because of its policy interest in family and child support and family law. However, the relationship between FLAS and the Family Children and Youth (FCY) Section of the Department responsible for child and family support policy is not sufficiently formal and stable. A more formal reporting relationship between the two section is necessary in order to ensure that FLAS operations contribute to the identification of areas for improvement and innovations in supporting provincial and territorial enforcement efforts, and to a sufficient focus on the development and analysis of FLAS-based information for management and policy purposes.

The CRDP operates independently of the other FLAS services and has a different clientele; however, FLAS is the logical location for the CRDP service. This is primarily due to similarities to other services and the well-established working relationship on all family law matters and the obvious policy linkage.

**Recommendation 2: The FLAS section review its organizational location in order to address the lack of sufficient linkage between FLAS and FCY, and the need for a more strategic approach to the planning of FLAS services and collaboration with provinces/territories and partners.**

#### **Management Response:**

The FLAS and Enforcement Policy unit of the Family, Children and Youth section are currently developing a recommendation for the long term operations of the FLAS section

which will address not only this recommendation but other issues that the FLAS will face in the next five years.

**Issue: Support to the successful enforcement of child and family support orders**

The evaluation was only partially successful in determining the success of FLAS because in a number of cases the required data are not currently tracked. In several situations the evaluation had to rely on estimates of monies collected as a result of enforcement measures or on the perception of the key informants provided in interviews.

- It was not possible to demonstrate the success of FLAS tracing services in contributing to the satisfaction of support obligations because the MEPs do not track the results of traces.
- In the case of FOAEA and GAPDA interception/garnishment services, evaluators could not obtain data on the impact of the FOAEA on compliance patterns of cases for which money had been obtained from enforcement measures. However, it was clearly demonstrated that FOAEA interception provides support money to families:
  - Nationally, more than half of FOAEA interception applications result in revenue (ranging from 54% to 60% by jurisdiction)
  - FOAEA interception service is incremental. It brings in substantial revenues (approximately \$100 million) to families that otherwise would not be available to them.
- For licence denial services, data were insufficient to respond to whether or not the denials resulted in a payment from the debtor.

**Recommendation 3: FLAS take measures to ensure that data is readily available on an annual basis to document the extent to which FLAS enforcement related services are contributing to the successful enforcement of child and family support orders.**

**First, FLAS should work with the MEPs and other federal departments to ensure that:**

- **The FOAEA tracing service can document the number and percentage of tracing applications that result in successful location of a debtor or the location of his/her employment; the number and percentage of applications that result in full and partial**

**satisfaction of support obligations; the amount of revenue generated in those successful tracing cases; and corresponding data for the full MEP caseload for comparative purposes.**

- **The FOAEA license denial services can document the number of cases for which a license denial warning letter is issued and the percentage of those cases that result in a denial application; the percentage of applications that result in the revocation of an existing license or that result in a denial of new licenses; the percentage of cases for which support arrears are satisfied such that license denial is reversed, and the amount of revenue generated in those successful cases.**
- **The GAPDA service can document, nationally and by province/territory, the number and percentage of valid applications that result in a garnishment of debtor wages; and the amount of revenue generated.**

**Second, FLAS should take measures to ensure that the FLAS Section has the capacity, either internally or through a permanent arrangement with FCY, to fulfill its ongoing requirement for the development and analysis of FLAS-based data for management and policy purposes.**

### **Management Response**

It has always been recognized that although FLAS operations represents a “rich” source of data that can assist in research and policy development, but the resources have not been available to undertake the detailed research required to maximize the use of this data. Although the FCY research section does use the FLAS data, resources are not available to link that data to provincial data to allow for the full program evaluation recommended above.

The implementation of the long term operations of the FLAS section currently being developed by the FLAS and Enforcement Policy unit will address this issue.

### **Issue: Overall responsibility for GAPDA management**

GAPDA garnishment service is effective in obtaining funds to help satisfy support obligations.

- Revenues from GAPDA garnishment ranged from \$15.4 M in 1996 to \$20.5 million in 2000.
- Garnishment from federal employees is highly reliable.

There appears to be some confusion about who is responsible of the overall management of the GAPDA service.

- All parties involved in the GAPDA process reported inefficiencies related to the fact that there is no central locus of operational responsibility.

The garnishment process for GAPDA is decentralized among regional Garnishment Registry offices. The registries in Newfoundland and New Brunswick are operated by the Canada Revenue Agency, and the office in Prince Edward Island is operated by the Department of Veterans Affairs. The FLAS Section manages GAPDA for employees in the National Capital Region (NCR) and coordinates some activities nationally. This decentralized structure is unanimously seen as limiting GAPDA success and contributing to several problems. The decentralized structure appears to be the most important barrier to effective tracking, standardized delivery approach and the operation of the GAPDA garnishment service.

The evaluation also found that there is no central database to track cases and maintain a record of transactions and outcomes for management and policy purposes. GAPDA registries do not track information for any ongoing reporting.

- The lack of centralized management for GAPDA programs results in lack of a standardized case tracking approach or other ongoing information/data collection strategy in place to monitor the progress of the service and to assess program results.
- The lack of a formal national GAPDA information tracking structure is seen as a reason why some inquiries/requests from local registries are not being processed.

**Recommendation 4: DOJ clarify its role and responsibilities to manage GAPDA or consider centralizing management in order to strengthen coordination among existing GAPDA Registries and to enable regular reporting at a national level.**

**Recommendation 5: The GAPDA service document, nationally and by province/territory, the number and percentage of valid applications that result in a garnishment of debtor wages; and the amount of revenue generated.**

### **Management Response**

The lack of legislative amendments and limited resources have not allowed for any progress on the enhancement of the GAPDA process. This work will commence with the introduction of the new five year Family Law initiative.

### **Issue: Quality of CRDP data and duplicate divorce proceedings case tracking**

The CRDP program aims to prevent duplicate divorce proceedings and to provide the federal government with accurate and useful divorce data for policy and research purposes. Until the period of this evaluation, FLAS did not maintain records of the number of duplicate divorce proceedings that CRDP staff identifies. The evaluation decided to track cases over a four-week period in order to identify duplications and calculate the proportion of cases resulting in duplications. With the four-week period data, evaluators found between 3% and 4% of divorce applications duplicated existing proceedings.

However, with lack of ongoing record-keeping, there is no basis to assess how this level of duplications compared to potential levels. The evaluation was not able to clearly demonstrate the extent of value the service provides, however the courts, Statistics Canada, and DOJ report that the CRDP is a valued service.

With regard to divorce statistics, both Department of Justice and Statistics Canada reported that the CRDP data are very important in contributing to federal government policies related to children and families, but that the quality of the data housed in the CRDP system could be improved to be more useful.

**Recommendation 6: FLAS establish a system capable of tracking duplicate divorce proceedings on an ongoing basis.**

**Management Response**

Weekly reports are now produced that trace the duplicate divorce cases.

**Recommendation 7: FLAS work with Statistics Canada and Justice Research and Statistics Officials to strengthen the quality of CRDP data, and to ensure that the FLAS Section has the capacity to provide the type and quality of divorce data that its clients require.**

**Management Response**

The CRDP computer system has been reengineered which incorporated data edit check and data quality assurance measures to improve the accuracy of the information. Also, the CRDP will be available to the courts via the internet (GOL initiative) which will allow the courts to make applications directly instead of a paper based system which will significantly data quality in the CRDP system.